



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUÅHAN
P.O.BOX 2977 • HAGÁTÑA, GUAM U.S.A. 96932-2977

To All Interested Parties:

I hereby acknowledge the following **GLOBAL NOTICE: COVID-19 PANDEMIC requirements:**

To ensure the safety and well-being of personnel and prospective bidders during in-person meetings and/or conferences, please be advised of the following:

1. Six (6) feet of Social Distancing shall be practiced.
2. Mandatory face mask required for each individual.
3. Temperature checks shall be conducted upon entrance of the Gloria B. Nelson Public Service Building.
4. One (1) Personnel per Prospective Bidder to submit and attend public opening.
5. One (1) Personnel per Prospective Offeror to submit an RFP proposal.
6. Virtual meetings and/or conferences are in full effect.

COMPANY NAME:

NAME OF INDIVIDUAL:

Print / Sign

Date

BID NO.: Multi-Step RE-BID GPA-012-22

RFP NO.: _____



JOSEPH T. DUENAS
Chairman



JOHN M. BENAVENTE, P.E.
General Manager

Telephone Nos. (671) 648-3054/55 or Facsimile (671) 648-3165

Accountability	Impartiality	Competence	Openness	Value
----------------	--------------	------------	----------	-------

INVITATION FOR BID (IFB) NO.: Multi-Step RE-BID GPA-012-22

DESCRIPTION: Supply of Diesel Fuel Oil No. 2 for GPA's Water Systems Distribution (WSD) & GWA Emergency Generators

SPECIAL REMINDERS TO PROSPECTIVE BIDDERS

Bidders are reminded to read the Sealed Bid Solicitation and Instructions, and General Terms and Conditions attached to the IFB to ascertain that all of the following requirements checked below are submitted in the bid envelope. **Bidders are required to submit one (1) original and six (6) bound copies of their Technical Proposal including one (1) original and six (6) printed copies of the Qualitative Scoring Workbook. One (1) electronic copy in CD, DVD, and/or USB Flash Drive of the Qualitative Scoring Workbook. The BIDDER's Price Proposal shall be submitted in a "SEPARATE SEALED" envelope and consist of one printed copy and one electronic (CD) copy including all addenda, if any, at the closing date and time.**

(XX) BID GUARANTEE (no less than Fifty Thousand Dollars, US\$50,000.00) May be in the form of;
Reference #11 on the General Terms and Conditions

- a. Cashier's Check or Certified Check (**NOTE: Cashier's Check or Certified Check Refunds will be ONLY be made out to the name of the Bidder.**)
- b. Letter of Credit or
- c. Surety Bond – Valid only if accompanied by:
 1. Current Certificate of Authority issued by the Insurance Commissioner; or
 2. Power of Attorney issued by the Surety to the Resident General Agent or the following:
 - a. Current Sworn Annual Report (Limited Liability Company (LLC) and/or Corporation) or;
 - b. Current Renewal of Annual Limited Liability Partnership (LLP); or
 3. Power of Attorney issued by two (2) major officers of the Surety to whomever is signing on their behalf.

(XX) STATEMENT OF QUALIFICATION;

() SAMPLES;

(XX) BROCHURES/DESCRIPTIVE LITERATURE; (Shall provide detailed literature on items offered)

(XX) AFFIDAVIT OF DISCLOSURE OF OWNERSHIP; **Pursuant to Public Law 36-13**

(XX) NON-COLLUSION AFFIDAVIT; **Pursuant to Public Law 36-13**

(XX) NO GRATUITIES OR KICKBACKS AFFIDAVIT;

(XX) ETHICAL STANDARDS AFFIDAVIT;

(XX) WAGE DETERMINATION AFFIDAVIT;

(XX) RESTRICTIONS AGAINST SEX OFFENDERS AFFIDAVIT;

Note: The above Affidavits must comply with the following requirements:

- a. The affidavit must be signed within 60 days of the date the bid is due;
- b. Date of signature of the person authorized to sign the bid and the notary date must be the same.
- c. First time affidavit **must** be an **original** – If copy, indicate Bid Number/Agency where original can be obtained.

(XX) OTHER REQUIREMENTS:

A Guam Business License and/or Contractor's License with proof of Employer Identification Number (EIN) is not required in order to provide a proposal for this engagement, but is a pre-condition for entering into a contract with the Authority. Bidders MUST comply with PL 26-111 dated June 18, 2002, PL 28-165 dated January 04, 2007 and Wage Determination under the Service Contract Act (www.wdol.gov). Additionally, upon award the successful bidder must provide to GPA the most recently issued Wage Determination by the US Dept. of Labor.

The reminder must be signed and returned in the bid envelope together with the bid. Failure to comply with the above requirements will mean a disqualification and rejection of the bid.

On this _____ day of _____, 2022, I, _____, authorized representative of _____ acknowledge receipt of this special reminder to prospective bidders with the above referenced IFB.

Bidder Representative's Signature

INVITATION FOR BID

ISSUING OFFICE:

Guam Power Authority
1st. Floor, Room 101
Procurement Management Materials Supply
Gloria B. Nelson Public Service Building
688 Route 15, Mangilao, Guam 96913

for [Signature] 3/15/2022
JOHN M. BENAVENTE, P.E. DATE
General Manager

DATE ISSUED: 03/17/2022 Multi-Step
03/24/2022 BID INVITATION NO.: RE-BID GPA-012-22
BID FOR: Supply of Diesel Fuel Oil No.2 for GPA's Water Systems Distribution
WSD & GWA Emergency Generators
SPECIFICATION: See Attached
DESTINATION: See Attached
REQUIRED DELIVERY DATE: See Attached

NON-MANDATORY PRE-BID CONFERENCE: 10:00 A.M., Friday, March 25, 2022 (ChST)
Meeting place at our GPA/GWA Room 101, Procurement Office, 1st. Floor, Gloria B. Nelson Public
Service Building, 688 Route 15, Fadian Mangilao.

CUT-OFF DATE FOR RECEIPT OF QUESTIONS: 5:00 P.M., Friday April 8, 2022 (ChST)

INSTRUCTIONS TO BIDDERS:

INDICATE WHETHER: INDIVIDUAL PARTNERSHIP CORPORATION
INCORPORATED IN:

This bid shall be submitted in the form of, one (1) original and six (6) bound copies of their Technical Proposal
including one (1) original and six (6) printed copies of the Qualitative Scoring Workbook. One (1) electronic copy in
CD, DVD, and/or USB Flash Drive of the Qualitative Scoring Workbook. The BIDDER's Price Proposal shall be
submitted in a "SEPARATE SEALED" envelope and consist of one printed copy and one electronic (CD) copy
including all addenda, and sealed to the issuing office above no later than (Time) 2:00 P.M. (Guam CHamoru Standard
Time; ChST), Date: April 29, 2022 and shall be publicly opened. Bid submitted after the time and date specified above shall
be rejected. See attached General Terms and Conditions and Sealed Bid Solicitation for details.

The undersigned offers and agrees to furnish within the time specified, the articles and services at the price stated opposite
the respective items listed on the schedule provided, unless otherwise specified by the bidder. In consideration to the
expense of the Government in opening, tabulating, and evaluating this and other bids, and other considerations, the
undersigned agrees that this bid remain firm and irrevocable not less than six (6) months after the Price Proposal
Opening Date.

NAME AND ADDRESS OF BIDDER: SIGNATURE AND TITLE OF PERSON
AUTHORIZED TO SIGN THIS BID:

AWARD: CONTRACT NO.: AMOUNT: DATE:

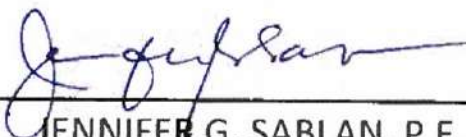
ITEM NO(S). AWARDED:

CONTRACTING OFFICER:

JOHN M. BENAVENTE, P.E. DATE
General Manager

NAME AND ADDRESS OF CONTRACTOR: SIGNATURE AND TITLE OF PERSON

Invitation For Multi-Step Bid
RE-BID GPA-012-22
Supply of Diesel Fuel Oil No.2
GPA WATER SYSTEMS DISTRIBUTION (WSD)
AND
GWA EMERGENCY GENERATORS



JENNIFER G. SABLAN, P.E.

MANAGER

STRATEGIC PLANNING OPERATIONS AND RESEARCH DIVISION (SPORD)



JOHN J. CRUZ, JR., P.E.

ASSISTANT GENERAL MANAGER

ENGINEERING AND TECHNICAL SERVICES (AGMETS)



JOHN M. BENAVENTE, P.E.

GENERAL MANAGER



GUAM POWER AUTHORITY
ATURIDÁT ILEKTRESEDÁT GUAHAN
P.O. BOX 2977, HÅGATÑA, GUAM 96932-2977

Dear Interested Bidder:

The Guam Power Authority (GPA) is inviting interested firms to participate in a Multi-Step Re-Bid for the supply of Diesel Fuel Oil No.2 for GPA's Water System Distribution (WSD) emergency generators. The Contract shall be for three (3) years, to commence on or about July 01, 2022 with two (2) year extension options, renewable annually, with the mutual agreement of both parties.

Minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color, and national origin in consideration for an award. The right is reserved to reject any or all bids and to waive any imperfection in the bids in the interest of the Guam Power Authority and its ratepayers.

All interested parties are advised to read the instructions carefully and tender their proposals in conformance to the material aspects of the Invitation.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Benavente".

for **John M. Benavente, P.E.**
GENERAL MANAGER

Invitation For Multi-Step Bid

RE-BID GPA-012-22

Supply of Diesel Fuel Oil No.2



GPA WATER SYSTEMS DISTRIBUTION (WSD)

AND

GWA EMERGENCY GENERATORS

Volume I

Commercial Terms and Conditions

TABLE OF CONTENTS

Section	Description	Page
1.	INTRODUCTION	1
1.1.	Invitation for Bid (IFB) Document Organization	3
1.2.	Overview and Scope	3
1.2.1.	CONTRACT TERM	3
1.2.2.	CONTRACT PRICE	3
2.	INSTRUCTIONS TO BIDDERS	3
2.1.	Introduction.....	3
2.2.	Language and Correspondence	4
2.3.	Technical and Functional Requirements Examination	4
2.4.	Facility Tours.....	4
2.5.	Solicitation Amendment.....	5
2.6.	Familiarity With Laws	5
2.7.	Cost of Bidding.....	5
2.8.	Price/Cost Data	5
2.9.	Documents Executed Outside of Guam.....	5
2.10.	Proposal Submittal	5
2.10.1.	Technical Proposal Requirements	6
2.10.2.	Price Proposal Requirements	8
2.10.3.	Non-Repudiation Issues.....	9
2.10.4.	Signature of Bidder.....	9
2.10.5.	Cut-Off Date for Receipt of Proposals	10
2.10.6.	Receipt and Handling of Proposals.....	10
2.10.7.	Proposal Changes During Bid Process	10
2.11.	STEP ONE PROCEDURES	10
2.11.1.	Evaluation of Technical Proposals	10
2.11.2.	Scoring of Technical Proposals	11
2.11.3.	Discussions of Proposals.....	11
2.11.4.	Notice of Unacceptable Proposal	11
2.12.	STEP TWO PROCEDURES	11
2.12.1.	Opening of Price Proposals.....	12
2.12.2.	Proposal Changes During Bid Process	12
2.12.3.	Proposal Validity.....	12
2.12.4.	Preliminary Examination of Price Proposal	12
2.12.5.	Evaluation Criteria and Comparison of Priced Offers	12
2.13.	Award of Contract	12
2.14.	Bid Bond and Performance Bond Requirements.....	13
2.14.1.	Performance Bond Form, Amount and Duration	13
2.14.2.	Performance Bond Execution by a Guam Licensed Surety Company	13
2.14.3.	Bid Bond Form and Amount	13
2.15.	General Proposal Guidelines and Requirements.....	14
2.15.1.	Amendments to the Bid Documents	14
2.15.2.	Proprietary Data	14
2.15.3.	Acceptance of Proposals	14
2.15.4.	Solicitation Cancellation or Delay.....	14
2.15.5.	Disqualification of BIDDER.....	15
2.15.6.	False Statements In Proposal	15

TABLE OF CONTENTS

Section	Description	Page
2.15.7.	Prohibition Against Gratuities, Kickbacks, and Favors to the Territory	15
2.15.8.	Restriction against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues	15
3.	REQUIRED FORMS AND SUPPLEMENTAL INFORMATION	16
3.1.	Technical Proposal Forms	16
3.1.1.	Proposal Checklists	16
3.1.2.	Ownership & Interest Disclosure Affidavit	17
3.1.3.	Non-collusion Affidavit	17
3.1.4.	No Gratuities or Kickbacks Affidavit	17
3.1.5.	Ethical Standards Affidavit	17
3.1.6.	Declaration of Compliance with US DOL's Wage Determination	17
3.1.7.	Restriction Against Sex Offenders	17
3.1.8.	Bid Bond Form	17
3.1.9.	Local Procurement Preference Application	17
3.2.	Qualitative Proposal Workbook	17
3.3.	Price Proposal Form	18
4.	PROPOSAL SCORING MECHANISM	18
4.1.	Overview	18
4.2.	Qualitative Proposal Evaluation	18
4.3.	Price Proposal Evaluation	20
5.	CONDITIONS OF CONTRACT	20
5.1.	Definitions	20
5.2.	Accounting	20
5.3.	Documentation	20
5.4.	Language and Trade Terms	20
5.5.	Release of Information	20
5.6.	Limitations of Clause	20

Volume I: Commercial Terms and Conditions

1. INTRODUCTION

The Guam Power Authority (GPA), hereinafter referred to as GPA, is a public utility corporation that provides electric power service throughout the entire island of Guam. GPA, in conjunction with Private Partners, operates and maintains 13 power plants, with a total rated capacity of 552.4 MW.

GPA is inviting interested Firms to participate in a Multi-Step Bid for the Supply of Diesel Fuel Oil No.2. The Contract shall be for three (3) years to commence on or about **July 1, 2022** with two (2) year extension options, renewable annually upon mutual agreement of both parties. All interested parties are hereby on notice that minority business enterprises will be afforded full opportunity to submit bids in response to the invitation and will not be discriminated against on the grounds of race, color and national origin in consideration for an award. The right is reserved to reject any or all bids and to waive any imperfection in the bids in the interest of the Guam Power Authority.

Table 1: Bid Milestones indicate the projected start and end dates for the milestones in the Bid Process. **GPA reserves the right to change the Bid Milestones at its sole discretion.** Bidders are encouraged to confirm with GPA any of the scheduled milestones via an official letter to GPA.

Table 1: Bid Milestones

Bid Process Milestones		From	To
Bid Announcement		03/17/2022	04/01/2022
Pre-bid Conference (Non-mandatory)		03/25/2022 10:00 AM Guam CHamoru Standard Time	
Submit Questions		03/18/2022	04/08/2022
Cut Off Date for Receipt of Questions		04/08/2022 5:00 P.M. Guam CHamoru Standard Time	
GPA Review and Answer Questions		03/18/2022	04/15/2022
Vendor Prepare Bids		03/18/2022	04/29/2022
Cut Off Date for Receipt of Proposals (Technical and Price Proposals)		04/29/2022 2:00 PM Guam CHamoru Standard Time	
EVALUATION Step One:	Evaluation of Technical Proposal	05/02/2022	05/06/2022
	Determine & Notify Qualified Bidders	05/06/2022	05/11/2022
EVALUATION Step Two:	Opening of Price Proposal	05/27/2022 2:00 PM Guam CHamoru Standard Time	
	Evaluation of Price Proposal	05/30/2022	06/03/2022
Determine & Notify Qualified Bidders		TBD	
Contract Approval & Award		TBD	
Contract Signing		TBD	
Contract Mobilization		TBD	
CONTRACT Commencement		TBD	

1.1. Invitation for Bid (IFB) Document Organization

Invitation for Bid (IFB) documents are organized into three separate volumes, as follows:

Volume I	—	Commercial Terms and Conditions
Volume II	—	Contract
Volume III	—	Appendices

In addition, the IFB documents include two (2) sets of electronic spreadsheets (MS Excel Workbooks):

- Qualitative Proposal Scoring.xls
- Price Proposal Evaluation.xls.

1.2. Overview and Scope

The CONTRACTOR shall provide GPA with Diesel Fuel Oil No.2 in compliance with the requirements specified in Volume II (CONTRACT) of this bid. The CONTRACTOR shall also provide qualified and trained personnel to safely, efficiently and legally deliver the services required by the Authority under this IFB.

The estimated total diesel fuel oil requirement is approximately 100,000 gallons per year. Quality specification is prescribed in Volume II (Contract) - Section 9 and Schedule A of the solicitation package.

1.2.1. CONTRACT TERM

The Contract Term for the base period shall be for THREE (3) years and shall commence on or about after 0:00 hour on July 1, 2022, and shall continue until midnight of June 30, 2025 with options to extend for TWO (2) additional One (1) year term, upon mutual agreement of both parties.

The first delivery of fuel oil pursuant to the Contract is anticipated to be on or about July 1, 2022.

1.2.2. CONTRACT PRICE

The total contract price in U.S. Dollars per U.S. Gallon for all diesel fuel oil delivered to GPA shall be inclusive of all costs and liabilities incurred prior to delivery. The contract price structure is described in detail in Volume II (Contract) – Section 4 of the solicitation package.

2. INSTRUCTIONS TO BIDDERS

2.1. Introduction

This is a Multi-Step Bid Procurement. The **Technical and Price Proposals should both be submitted on or before the Cut-off Date of Receipt of Proposals.**

In Step One, only the submitted Technical Proposals will be evaluated and determined whether Acceptable or Unacceptable. BIDDERS whose Technical Proposals are determined to be Acceptable shall qualify for Step Two. BIDDERS whose Technical Proposals are Unacceptable shall be notified, and the unopened Price Proposal packages shall be returned.

In Step Two, the Price Proposals of the Bidders whose Technical Proposals that are determined to be Acceptable, either initially or as a result of discussions, will be considered for award.

2.2. Language and Correspondence

The official language of Guam is English. The bid and all accompanying documents shall be in English. Any prospective BIDDER desiring an explanation or interpretation of the solicitation, commercial terms, Technical Specification, etc., must make a request in writing to GPA at the address listed below, referencing the Invitation for Bid No.

ATTENTION: JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

TELEPHONE NOS.: 1 (671) 648-3054/55

FAX NO.: 1 (671) 648-3165

EMAIL: jpangelinan@gpagwa.com

Attention: JAMIE LYNN C. PANGELINAN
Supply Management Administrator

The written request may also be sent via-email by sending an electronic copy of the written request to the Procurement Officer handling the IFB.

Any information given to a prospective BIDDER concerning a solicitation will be furnished promptly to all parties recorded by Procurement as having received the Invitation for Bid as an amendment to the solicitation if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective BIDDERS. Oral explanations or instructions given will not be binding.

2.3. Technical and Functional Requirements Examination

BIDDERS are required to carefully examine all tender documents inclusive of all technical and functional requirements and to inform themselves of all conditions and requirements of the solicitation in accordance with the laws and regulations of the Territory of Guam. Ignorance on the part of BIDDERS of any part of the tender documents and Technical and Functional Requirements will in no way relieve them of the obligations and responsibilities assumed under the contract.

2.4. Facility Tours

All prospective BIDDERS shall, at their own expense, visit Guam and GPA's Fuel Bulk Storage and other RFO Receiving Facilities to study local conditions, facilities available, craft wages, roads, communications, and transport facilities available. BIDDERS should also acquaint themselves with the relevant laws, rules, and regulations of Guam.

For the purpose of familiarizing BIDDERS with the delivery sites, BIDDERS may request GPA for a scheduled Facility Tour. All requests must be submitted as specified in Section 2.2. Upon approval and subject to the availability of the facility, GPA shall coordinate with the BIDDER regarding the tour details.

2.5. Solicitation Amendment

Any amendment, modification or addendum issued by the Guam Power Authority, prior to the opening of the proposals, for the purpose of changing the intent of the Technical and Functional Requirements, clarifying the meaning or changing any of the provisions of this Invitation for Bid, shall be binding to the same extent as if written in the tender documents. Any addendum issued will be made available to all BIDDERS via mail, fax, e-mail or posting to the ftp site.

Announcements regarding any Amendment shall also be posted at the GPA Website at http://www.guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php. BIDDERS shall acknowledge receipt of the amendment by a signature on one copy, which is to be returned to the GPA Supply Management Administrator. Acknowledgement may also be made by fax or e-mail.

2.6. Familiarity With Laws

The BIDDER shall be familiar with all Federal (U.S.) and local laws, ordinances, rules and regulations of Guam that in any manner affect the work. Ignorance of law on the part of the BIDDER will not relieve the BIDDER from responsibility.

2.7. Cost of Bidding

BIDDERS shall bear all costs associated with the preparation and submission of its proposal. GPA will not be responsible or liable for those costs, regardless of the outcome of the IFB process.

2.8. Price/Cost Data

BIDDERS shall provide prices/costs in U.S. Dollars. BIDDERS are required to furnish **a bid price for each year of the contract specified in the price proposal form of the IFB documents.**

Technical and Price Proposals shall be submitted on or before the Cut-off Date for Receipt of Proposals, with the Price Proposal on a separate sealed envelope marked "PRICE PROPOSAL" and indicating the date and time of bid package remittance.

2.9. Documents Executed Outside of Guam

The Power of Attorney, performance bond guarantee, and documents defining the constitution of the joint venture, consortium, company or firm, if executed outside Guam, whether required to be submitted with the proposals or after the award of the contract, must be authenticated by a Notary Public or other official authorized to witness sworn statements.

2.10. Proposal Submittal

This section outlines the requirements for proposal submittals, including the proposal package format and content required by GPA. The BIDDERS are advised to keep a copy of all documents submitted, including the Workbooks, and test electronic copies on disk prior to submission to GPA.

2.10.1. Technical Proposal Requirements

Each BIDDER's Technical Proposal Package shall include, but is not limited to, the following:

- Complete printed copies of the Technical Proposal;
- Complete printed responses and supporting information to the questions raised in the Qualitative Proposal Scoring Workbook;
- Complete printed and electronic copies of the Qualitative Proposal Scoring Workbook in a separate sealed envelope marked "TECHNICAL (UNPRICED) PROPOSAL";
- Checklist forms defined in Appendix A;
- All other required forms defined in Volume III Appendices; and
- Supplementary information as described below.

The Technical Proposal Package shall be submitted in the format and quantities described below.

2.10.1.1 Technical Proposal

Each BIDDER's Technical Proposal shall include the following:

a. Business Structure and Business Approach

The CONTRACTOR shall provide company information such as name, local address, corporate headquarters (if any) and affiliate company in support for the performance of its contractual obligations. The business structure and nature of services provided shall be provided together with the company information. A copy of the Articles of Incorporation and By-Laws or other applicable forms concerning the business organization is also requested. The CONTRACTOR shall outline business concepts to be used in order to perform, meet, and achieve the objectives of this solicitation.

b. Experience and Qualification

The contractor shall provide supporting information showing extensive and reliable experience in the supply or distribution of diesel fuel oil. The CONTRACTOR shall demonstrate its experience and expertise in the supply of Diesel Fuel Oil No.2 by providing the following:

- Supporting information outlining and/or illustrating past and current successful experience in the supply of Diesel Fuel Oil No.2. Include list of clients for the last five (5) years.
- Experience with Fuel Handling.

Contractor shall also provide documentary evidence of conformity with the Quality Specifications set in Volume II Section 9 and Schedule A for the types of fuel to be supplied.

c. Statement of Qualification/ Organizational Structure

The CONTRACTOR shall illustrate its approach in supplying Diesel Fuel Oil No.2 to GPA. The CONTRACTOR shall provide an organizational structure including the names and designations of personnel to be assigned in this contract, including a brief description of the qualifications and responsibilities of each personnel.

The contractor shall also provide its qualifications, and its affiliates' qualifications in the performance of the requirements of this contract.

d. Financial Information

The CONTRACTOR shall provide documentation to illustrate its financial position and capability.

e. Federal and Regulatory Compliance

The CONTRACTOR shall provide supporting documents showing knowledge and experience in complying with federal regulations and other applicable laws on Guam.

f. Client references

At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERS (include the Client Name, Position, Company and copies of contracts with the BIDDERS or AFFILIATES). At least three (3) client reference letters shall be provided, along with a letter describing the relationship with the BIDDER, and the BIDDER's contract performance.

g. Mobilization Capability

The BIDDER shall provide proof of capability to mobilize full support services no later than 30 days after contract signing.

2.10.1.2. Qualitative Proposal Scoring Workbook

The bidder shall submit copies of the Qualitative Proposal Scoring Workbook, prepared as instructed in the **Proposal Instructions** tab. Quantities shall follow the requirements specified in Section 2.10.1.5 of this Volume. For each checklist item, the bidder shall provide references on the responses and supporting documents.

2.10.1.3. Required Forms

Submittal of required forms as specified in Section 3 of this volume, as well as in Volume III Appendices, is mandatory. GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms listed below:

1. A copy of the BIDDER's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;
2. Certificate of Good Standing to conduct business in jurisdiction of residence;
3. Information regarding outstanding claims against the BIDDER;
4. Ownership & Interest Disclosure Affidavit (Appendix C);
5. Non-collusion Affidavit (Appendix D);
6. No Gratuities or Kickbacks Affidavit (Appendix E);
7. Ethical Standards Affidavit (Appendix F);
8. Declaration of Compliance with US DOL's Wage Determination (Appendix G);
9. Restriction Against Sex Offenders (Appendix H);
10. Bid Bond Form (Appendix I);
11. Local Procurement Preference Application (Appendix J); and,
12. A valid business license.

2.10.1.4. Marking and Packaging of Technical Proposal

The TECHNICAL PROPOSAL shall be submitted in a separate sealed package with the following information clearly marked on the outside of each side:

- 1) "TECHNICAL PROPOSAL";
- 2) "SUPPLY OF DIESEL FUEL OIL NO.2";
- 3) The BIDDER's Name;
- 4) Invitation for Bid Number;
- 5) Closing Date and Time (Guam Standard Time);
- 6) Addressed to, as follows:

ATTENTION : JOHN M. BENAVENTE, P.E.
GENERAL MANAGER

GUAM POWER AUTHORITY
POST OFFICE BOX 2977
HAGATNA, GUAM 96932-2977

If the BIDDER's proposal cannot fit within one box or chooses to submit more than one box, each box must be labeled with the following:

- 1) Box number within the Set of Submitted Boxes
- 2) The Total Number of Boxes Submitted

2.10.1.5. Technical Proposal Submittal Quantity

BIDDERS are required to submit one (1) original and six (6) bound copies of their technical proposal including one (1) original and six (6) printed copies of the Qualitative Scoring Workbook. One (1) electronic copy of the Qualitative Scoring Workbook should also be submitted.

2.10.2. Price Proposal Requirements

The PRICE PROPOSAL shall be submitted in a separate sealed package with the following information clearly marked on the outside of each side:

- (1) "PRICE PROPOSAL";
- (2) "SUPPLY OF DIESEL FUEL OIL NO.2";
- (3) The BIDDER's Name;
- (4) Invitation for Bid Number;
- (5) Closing Date and Time (Guam Standard Time);
- (6) Addressed to, as follows:

ATTENTION : JOHN M. BENAVENTE, P.E.
 GENERAL MANAGER

 GUAM POWER AUTHORITY
 POST OFFICE BOX 2977
 HAGATNA, GUAM 96932-2977

If the BIDDER's proposal cannot fit within one box or chooses to submit more than one box, each box must be labeled with the following:

- 1) Box number within the Set of Submitted Boxes
- 2) The Total Number of Boxes Submitted

2.10.3. Non-Repudiation Issues

GPA has structured both its Manual and Electronic IFB submittal procedures to ensure non-repudiation of the submitted proposals. In this IFB, non-repudiation is strong and substantial evidence of the identity of the sender and owner of the proposal and of proposal's integrity in so far as it being unaltered from its original sent state, sufficient to prevent a party from successfully denying the origin, submission or delivery of the proposal and the integrity of its contents. Non-repudiation applies to both parties to this IFB transaction. It binds the sender as well as precludes the recipient from denying the exchange of information and material upon the receipt of secure acknowledgement from the recipient.

GPA and the BIDDER shall manage the Manual IFB Submittal Process to address non-repudiation, security and confidentiality inclusive but not limited to the following:

- Manually executed signatures and printed media documents;
- Chain of custody receipts;
- Manual time-stamps for receipt of IFB materials;
- Machine generated Fax confirmation reports;
- Secure notification e-mail;
- Physical delivery of printed material proposals;
- Physically secured area storage of IFB materials.

2.10.4. Signature of Bidder

A duly authorized person must sign the BIDDER's proposals. All names shall be typed or printed below the signature. A proposal submitted by a corporation must bear the seal of the corporation, be attested to by its Secretary, and be accompanied by necessary Power-of-Attorney documentation.

Associated companies or joint ventures shall jointly designate one Power-of-Attorney person authorized to obligate all the companies of the association or joint venture. A proposal submitted by a joint venture must be accompanied by the document of formation of the joint venture, duly registered and authenticated by a Notary Public, in which is defined precisely the conditions under which it will function, its period of duration, the persons authorized to represent and obligate it, the participation of the several firms forming the joint venture, the principal member of the joint venture, and address for

correspondence for the joint venture. BIDDERS are advised that the joint venture agreement must include a clause stating that the members of the joint venture are severally and jointly bound.

Wherever a legal signature is required, receipt of an electronic signature will suffice to meet the submittal deadline for those electing to use the Electronic Proposal Submittal process. The original signed documents must be reproduced electronically and be placed in the submitted compressed archive file. However, the original documents must be sent to GPA via post or courier and post-marked no later than the bid-opening date. In addition, GPA will accept an electronic scanned copy of Notarized documents with the compressed archive submitted will suffice to meet the proposal deadline. However, the original documents must be sent to GPA via post or courier and post-marked no later than the bid-opening date.

2.10.5. Cut-Off Date for Receipt of Proposals

The Technical and Price Proposals have to be submitted on or before the GPA Cut-off Date for Receipt of Proposals specified in Table 1 (Bid Milestones).

Price Proposals shall be returned, unopened, to the BIDDERS whose Technical Proposals are deemed Not Acceptable.

2.10.6. Receipt and Handling of Proposals

Upon receipt, each Proposal submittal package will be time-stamped. The only acceptable evidence to establish the time of receipt at the GPA is the date/time stamp of the Guam Power Authority's procurement office on the wrapper or other documentary evidence of receipt maintained by GPA. Proposals will be stored in a secure place until the date and time set for proposal opening.

GPA procurement personnel and the BIDDERS must ensure that the outside of the sealed package is stamped received using the GPA Procurement Stamp. In addition, GPA procurement personnel must officially log the time and date that the BIDDER's sealed proposal package has been received. GPA makes no warranties on these submittal processes, manual or electronic.

2.10.7. Proposal Changes During Bid Process

Changes may be made by the BIDDERS to the Technical Proposal and Price Proposal prior to the Cut-off Date, and the proposals including corrections or changes made must be re-submitted on or before the Cut-off Date.

2.11. STEP ONE PROCEDURES

2.11.1. Evaluation of Technical Proposals

After the Close of the Proposal submission date, the GPA Evaluation Committee shall evaluate the Technical Proposals. Each of the responses and supporting information shall be evaluated and scored, in accordance with the scoring methodology described in the Qualitative Proposal Scoring Worksheet.

2.11.2 Scoring of Technical Proposals

GPA will use the score from the Qualitative Scoring Workbook to evaluate the contents of Proposals and categorize the Proposals as:

- a. **Acceptable;**
- b. **Potentially Acceptable**, that is reasonable susceptible of being made acceptable; or
- c. **Unacceptable or Not Acceptable.** GPA shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

GPA shall evaluate and score each BIDDER using the methodology as described in Section Four of this volume. At the conclusion of the evaluation, GPA shall establish a Qualified Bidders List (QBL), and the Procurement Officer or his designee may initiate Step Two if there are sufficient acceptable Technical (Unpriced) Proposals to assure effective price competition in the second phase without technical discussions. If the Procurement Officer or his designee finds that such is not the case, the Procurement Officer shall issue an amendment to this Invitation for Bid or engage in technical discussions with BIDDERS as set forth below.

2.11.3. Discussions of Proposals

The Procurement Officer or his designee may conduct discussions with any bidder who submits acceptable or potentially acceptable Technical Offer. During the course of such discussions, the Procurement Officer or his designee shall not disclose any information derived from one Unpriced Technical Proposal to any other BIDDER.

GPA may conduct discussions or request for additional information or documentation with any BIDDER to determine such BIDDER's qualifications for further consideration and explore with the BIDDER the scope and nature of the required services, method of performance and the relative utility of alternative methods of approach. BIDDERS are required to provide the responses within the time period specified at that time by GPA. **If GPA does not receive any response by the deadline specified, GPA shall consider the lack of a response as the BIDDER's response.** During the course of such discussions, the Procurement Officer shall not disclose any information derived from a technical offer to any other BIDDER.

Each BIDDER is requested not to contact GPA on any matter relating to its proposal, from the time of submission of the Proposals to the time the contract is awarded, except to respond to inquiries by GPA.

2.11.4. Notice of Unacceptable Proposal

A notice of unacceptability will be forwarded to the BIDDER upon completion of the Technical Proposal evaluation and final determination of unacceptability. When the Procurement Officer or his designee determines a BIDDER's Technical Proposal to be unacceptable, such BIDDER shall not be afforded an additional opportunity to supplement its technical offer.

2.12. STEP TWO PROCEDURES

Upon completion of evaluation of Technical Proposals, qualified bidders will be notified and GPA will proceed with Step Two of the multi-step bid. GPA shall return the Price Proposal Packages submitted by BIDDERS whose Technical Proposals did not qualify for Step Two.

2.12.1. Opening of Price Proposals

Each selected BIDDER from the Qualified Bidders list will be notified of the Price Proposal Opening date. BIDDERS may be present during the Bid Opening.

2.12.2. Proposal Changes During Bid Process

No changes may be made between Notification of Acceptable Proposal and Price Proposal Opening date.

2.12.3. Proposal Validity

All price/cost data submitted with the BIDDERS' proposals shall remain firm and open for acceptance for a period of not less than six (6) months after the Price Proposal Opening Date and thereafter shall be subject to renewal by mutual agreement between the BIDDER and GPA. BIDDER shall state the actual date of expiration in their proposal.

2.12.4. Preliminary Examination of Price Proposal

GPA will examine the Price Proposal on the opening date to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Priced Offers are generally in order.

Arithmetical errors will be rectified on the following basis:

- If there is discrepancy between the unit price and the total price, including any discounts, that is obtained by multiplying the unit priced and quantity, the unit price shall prevail and the total price shall be corrected.
- If the Bidder does not accept the correction of the error, its bid will be rejected. If there is a discrepancy between words and figures, the amount in words will prevail.

2.12.5. Evaluation Criteria and Comparison of Priced Offers

GPA will evaluate and compare the Priced Offers for Bidder's Technical Proposals that were determined during Step One to be responsive to the tender document requirements. The Scoring Mechanism is further explained in Section Four.

2.13. Award of Contract

The contract will be awarded to the BIDDER evaluated as being qualified and with the best-priced proposal.

The successful BIDDER will be notified by GPA through official written correspondence of the intent to award the contract (Notice of Intent to Award). The written correspondence may be sent by GPA via official letter, e-mail and fax.

The BIDDER will be required to send to Guam, within fourteen (14) days of the date of receipt of such notice, a representative or representatives with proper Power-of-Attorney for the purpose of executing a contract with such alterations or additions thereto as may be required to adopt such contract to the

circumstances of the proposal. The successful BIDDER shall provide the required Performance Bond within fourteen (14) working days of receipt of the GPA Notice of Intent to Award.

Failure on the part of the successful BIDDER to provide a Performance Bond and other required documents and/or to enter into a contract with GPA shall be sufficient grounds for the annulment of the award. GPA may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

2.14. Bid Bond and Performance Bond Requirements

2.14.1. Performance Bond Form, Amount and Duration

The required performance bond shall be in the form as prescribed in Appendix B. At the beginning of the CONTRACT and at the beginning of each GPA Fiscal Year during which the CONTRACT is in effect, the CONTRACTOR shall provide and maintain a performance bond in the amount **equivalent to one hundred percent (100%) of the annual contract cost** for that full or partial fiscal year within the term of the contract. If the CONTRACTOR is declared by GPA to be in default under the CONTRACT, GPA may exercise any or all rights and remedies it possesses under the provisions of the performance bond. The GPA Fiscal Year begins on October 1 and ends on September 30 of the following calendar year.

2.14.2. Performance Bond Execution by a Guam Licensed Surety Company

The CONTRACTOR shall provide a Performance Bond executed by a surety company licensed to do business on Guam. .

2.14.3. Bid Bond Form and Amount

A bid bond for an amount of **no less than Fifty Thousand Dollars (US\$50,000.00)** is required and may be in the following form:

- a. Cash, Bank Draft or Certified Check made payable to the Guam Power Authority;
- b. By wire transfer to Guam Power Authority. Account information shall be sent to the bidders upon request.
- c. Letter of Credit;
- d. Surety Bond – valid if accompanied by:
 - (1) Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation;
 - (2) Power of Attorney issued by the Surety to the Resident General Agent
 - (3) Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bonds submitted as Bid Guarantee without signatures and supporting documents are invalid and bids will be rejected. If a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Appendix I.

2.15. General Proposal Guidelines and Requirements**2.15.1. Amendments to the Bid Documents**

GPA may elect to change the IFB documents in whole or part. GPA shall send all Amendments to the IFB documents via fax and/or e-mail. In addition, GPA will make all Amendments available on the Internet at: http://guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php.

2.15.2. Proprietary Data

For the purposes of this solicitation and submitted proposals, the laws, rules and regulations of Territory of Guam governing confidentiality shall govern. BIDDERS may designate those portions of the Proposal that contain trade secrets or other proprietary data that are to remain confidential.

The Procurement Officer or his designee shall examine the proposals to determine the validity of any request for nondisclosure of trade secrets and other proprietary data identified in writing. If the BIDDER and GPA do not agree as to the disclosure of data, the Procurement Officer or his designee shall inform the BIDDER in writing and in e-mail within five working days of the closing date for Proposal submittal what portions of the Proposal will be disclosed and that, unless the BIDDER protests under the Conditions of Contract Disputes clause the information will be so disclosed.

The proposal shall be opened to public inspection subject to any continuing prohibition of the disclosure of confidential data.

2.15.3. Acceptance of Proposals

GPA reserves the right to reject any or all proposals and to waive minor informalities if it appears in GPA's best interest to do so. Any effort by a BIDDER to influence GPA in the proposal evaluation, proposal comparison or contract award decisions may result in the rejection of the proposal. Once GPA has arrived at a decision regarding the award of the contract, it will notify promptly the successful BIDDER through official written correspondence, and shall include information advising the proponents of the timing of the bid milestones such as Contract Finalization, Awarding and Mobilization. Potential Bid Awardees shall await this notification from GPA prior to commencement of any Contract Terms Finalization.

2.15.4. Solicitation Cancellation or Delay

The Guam Power Authority reserves the right to delay award or to cancel the Invitation for Bid, or to reject all proposals or any individual proposal in whole or in part, at any time prior to the final award. When a bid is canceled or rejected prior to final award, notice of cancellation or rejection shall be sent to all BIDDERS and all proposal materials will be promptly returned. The reasons for cancellation or rejection shall be made a part of the procurement file that is available for public inspection.

After opening, but prior to award, all proposals may be rejected in whole or in part when the Procurement Officer or his designee determines that such action is in the Territory's best interest for reasons including but not limited to:

- a) The supplies and services being provided are no longer required;
- b) The solicitation did not provide consideration of other factors of significance to the Territory;
- c) All otherwise acceptable proposals received have clearly unreasonable price/cost data;

- d) There is reason to believe that the proposals may not have been independently arrived at in open competition, may have been collusive and may have been submitted in bad faith;

Any individual proposal may be rejected in whole or in part when in the best interest of the Territory.

2.15.5. Disqualification of BIDDER

When, for any reason, collusion or other anticompetitive practices are suspected among BIDDERS, a notice of the relevant facts shall be transmitted to the Guam Attorney General. BIDDERS suspected of collusion or other anticompetitive practices may be suspended or debarred from participating in future procurement opportunities for a specified period.

2.15.6. False Statements In Proposal

BIDDERS must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in any proposal or bid is prescribed in 18 U.S.C. 1001 and Title 9, Guam Code Annotated. Note, by use of a digital signature to sign the proposal, the BIDDER agrees that this act legally binds the BIDDER to his proposal.

2.15.7. Prohibition Against Gratuities, Kickbacks, and Favors to the Territory

Pursuant to GCA 5 Section 5630 (c), this clause is conspicuously set forth to alert all parties in this procurement that *Guam Public Law Title 5 § 5630. Gratuities and Kickbacks* prohibits against gratuities, kickbacks and favors to the Territory.

2.15.8. Restriction against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues

GCA 5 §5253(b) restricts the PROPONENT against employing convicted sex offenders from working at Government of Guam venues. It states:

All contracts for services to agencies listed herein shall include the following provisions:

(1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, 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; and

(2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA 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.

3. REQUIRED FORMS AND SUPPLEMENTAL INFORMATION

GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms listed below:

- A copy of the BIDDER's Articles of Incorporation or other applicable forms concerning business organization (i.e. partnership, sole proprietorship, etc.) and By-Laws;
- Audited financial information on BIDDER's firm for the last 3 years.
- Certificate of Good Standing to conduct business in jurisdiction of residence;
- Information regarding outstanding claims against the BIDDER;
- Required affidavits (Ownership & Interest Disclosure; Non Collusion; No Gratuities or Kickbacks; Ethical Standards; Declaration of Compliance with US DOL's Wage Determination; Restriction Against Sex Offenders Affidavit)
- Proposal Checklist
- Bid Bond
- A current Business License. Although it is not required in order to provide a Bid for this engagement, obtaining a Business License is a pre-condition for entering into a contract with the Authority.

The following forms and workbooks will be available on the GPA Website's Procurement Page, in *Volume III Appendices*. Appendices A, C, D, E, F, G, and H and the MS EXCEL Workbooks Qualitative Proposal Worksheet.xls and Price Proposal must be completed:

- Appendix A: Proposal Checklists
- Appendix B: Performance Bond
- Appendix C: Ownership & Interest Disclosure Affidavit
- Appendix D: Non-collusion Affidavit
- Appendix E: No Gratuities or Kickbacks Affidavit
- Appendix F: Ethical Standards Affidavit
- Appendix G: Declaration of Compliance with US DOL's Wage Determination
- Appendix H: Restriction Against Sex Offenders
- Appendix I: Bid Bond and Instructions
- Qualitative Proposal Worksheet.xls
- Price Proposal

3.1. Technical Proposal Forms

The following referenced forms shall be completed and submitted with the Proposal.

3.1.1. Proposal Checklists

The BIDDER shall complete Form A-1 by acknowledging the receipt of the Invitation For Bid Documents received from Guam Power Authority, including the latest IFB Amendments received. Acknowledgement of receipt shall be given by signing or putting an initial beside each line item received. This Form is an acknowledgement of receipt, review and understanding of the IFB documents.

During the submission of the Proposals, the BIDDER shall complete Form A-2. This Form provides an inventory of documents submitted by the BIDDER in response to the Proposal requirements.

3.1.2. Ownership & Interest Disclosure Affidavit

The BIDDER shall fill out the Ownership & Interest Disclosure Affidavit form in Appendix C and submit it with its Proposal.

3.1.3. Non-collusion Affidavit

The BIDDER shall fill out the Non-collusion Affidavit form in Appendix D and submit it with its Proposal.

3.1.4. No Gratuities or Kickbacks Affidavit

The BIDDER shall fill out the No Gratuities or Kickbacks Affidavit Form in Appendix E and submit it with its Proposal.

3.1.5. Ethical Standards Affidavit

The BIDDER shall fill out the Ethical Standards Affidavit Form in Appendix F and submit it with its Proposal.

3.1.6. Declaration of Compliance with US DOL's Wage Determination

The BIDDER shall fill out the for the Declaration of Compliance with DOL's Wage Determination Appendix G and submit it with its Proposal.

3.1.7. Restriction Against Sex Offenders

The BIDDER shall complete the form, *Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property* Appendix H and submit it as part of the Technical Proposal.

3.1.8. Bid Bond Form

As stated in section 2.14.3, if a BIDDER desires to submit a bid bond with an acceptable bonding company, the BIDDER must submit original copies of Appendix I.

3.1.9. Local Procurement Preference Application

The BIDDER shall fill out and sign the Local Procurement Preference Application in Appendix J and submit it with the Technical Proposal.

3.2. Qualitative Proposal Workbook

The BIDDER shall complete the Qualitative Proposal Workbook in accordance with the instructions given in the workbook's Instructions tab. The workbook shall be submitted as part of the Technical Proposal.

3.3. Price Proposal Form

The qualified BIDDERS shall provide prices/costs in U.S. Dollars. BIDDERS are required to furnish a BID PRICE OFFER as specified in the PRICE PROPOSAL FORM. BID PRICE OFFER for optional contract years may also be provided; doing so allows GPA to calculate the cost of the contract should it be extended.

4. PROPOSAL SCORING MECHANISM

4.1. Overview

GPA will use the Proposal Scoring Mechanism described in this Section of the Invitation for Bid (IFB) to qualify BIDDERS for the participation in the final bid stage. The Proposal Scoring Mechanism provides the BIDDERS the opportunity to highlight their qualifications to bid in terms of their resources, skills, operating philosophy and commitments to perform specific tasks and originality. The IFB proposal evaluation shall be based on such specifications and based on the relative ranking of each BIDDER's qualifications.

4.2. Qualitative Proposal Evaluation

The qualitative proposal scoring is designed to assess the quality of the BIDDER's resources, skills, comprehensiveness and responses to specific questions or requirements. GPA may elect to have up to five (5) evaluators for this IFB. Each evaluator shall assess and review the Bidder's Technical Proposal documents. Each GPA evaluator shall score each BIDDER separately under a point system to determine the acceptability of each Proposal. The majority of the determinations of GPA evaluators shall prevail in the decision to Qualify or not Qualify a BIDDER for Step 2 — Price Proposal.

The instructions for filling out the Qualitative Proposal Scoring Workbook are listed in the **Proposal Instructions** tab in the Workbook. The BIDDER must complete all entries in the **Part 1- Qual Support References** tab of the Workbook. The tab, **CONTRACTOR Qualifications Checklist** is automatically populated once BIDDER completes all entries in **Part 1- Qual Support References**. Each GPA evaluator will be provided a copy of Part 1 – Qual Support References as well as the BIDDER's technical proposal materials. Evaluators shall review and evaluate BIDDER responses in **Part 1- Qual Support References** worksheet tab, and fill out the **Part 2 – Qual Eval Scoresheet** tab using the following steps:

- 1) Each evaluator shall review BIDDER's response to each question on the CONTRACTOR Checklist Items. The Evaluator shall be guided by information provided by the bidder regarding location of responses to each question in Part 1 – Qual Support References tab.
- 2) In **Part 2 – Qual Eval Scoresheet tab**, Evaluator shall assign a Raw Rating Score for each BIDDER's response to each question. The Evaluator shall be guided by the Checklist Weight and Proposal Scoring Information provided in the **Proposal Scoring Information** tab.
- 3) Each evaluator shall determine BIDDER's weighted average raw score using pre-specified weights for each question. Part 2 – Qual Eval Scoresheet tab has been formatted to automatically populate the Evaluated CONTRACTOR Qualifications Score.

The evaluators will use the supporting information on Price Proposal Worksheet. The Total Qualitative Points for a 100% Score is specified in the **Proposal Scoring Information** tab and **CONTRACTOR Qualifications Checklist** tab. Each GPA evaluator will analyze the contents of the Proposals and categorize the Proposals as:

Volume I: Commercial Terms and Conditions

- Acceptable: Score \geq 80%
- Potentially Acceptable, that is reasonably susceptible of being made Acceptable: 80% > Score \geq 75%
- Unacceptable: Score < 75%.

A percent score of less than 75% indicates that a GPA evaluator has determined that the BIDDER has not supplied sufficient evidence of qualifications and should not be allowed to participate in Step 2 – Price Proposal.

After each GPA evaluator has completed the evaluation and scoring of BIDDERS, GPA shall complete the Table below. The Procurement Officer will enter for each GPA evaluator and BIDDER one and only one of the following in the appropriate table cell below:

- Acceptable
- Potentially Acceptable
- Unacceptable.

The Procurement Officer or his designee may initiate Step Two if there are sufficient acceptable Unpriced Technical Proposals to assure effective price competition in the second phase without technical discussions. If the majority of the GPA evaluators rate the BIDDER as Acceptable, that BIDDER is determined to be Qualified and will be allowed to participate in Step 2– Price Proposal.

If the Procurement Officer or his designee finds that such is not the case, the Procurement Officer or his designee shall issue an amendment to this Invitation for Bid or engage in technical discussions with BIDDERS who are rated by a majority of the GPA evaluators as Acceptable or Potentially Acceptable. During the course of such discussions, the Procurement Officer or his designee shall not disclose any information derived from one Technical Proposal to any other BIDDER.

Once discussions are begun, any BIDDER who has been notified that its Offer has been finally found acceptable may submit supplemental information amending its Technical Proposal at any time. Such submission may be made at the request of the Procurement Officer or upon the BIDDER’s own initiative.

BIDDERS who are rated by the majority of the GPA evaluators as Unacceptable is determined to be Not Qualified and will not be allowed to participate in Step 2– Price Proposal. The Procurement Officer shall record in writing the basis for finding a Bidder Not Qualified and make it part of the procurement file.

Table 1. Final Evaluation of Bidder Qualification

GPA Evaluator	BIDDER 1	BIDDER 2	BIDDER 3	BIDDER 4	BIDDER 5
1					
2					
3					
4					
5					

4.3. Price Proposal Evaluation

GPA will award the Contract to the BIDDER whose proposal yields the lowest overall CONTRACT price **for the contract base year period.**

5. CONDITIONS OF CONTRACT**5.1. Definitions**

Wherever used in these General Conditions or in the other Contract Documents, the terms used have the meanings indicated which are applicable to both the singular and plural thereof.

5.2. Accounting

For accounting purposes and for use in establishing property records, GPA may require CONTRACTOR to provide a reasonable price breakdown of the total price into separate prices applying to the individual items supplied under the Agreement.

5.3. Documentation

GPA shall have the right to reproduce any prints, or other data or documents received from CONTRACTOR.

5.4. Language and Trade Terms

All communications, documents, and execution of services hereunder, unless otherwise designated, shall be in the English language. INCOTERMS (International Rules for the Interpretation of Trade Terms) published by the International Chamber of Commerce in 1980 and any subsequent revisions thereto shall govern interpretation of trade terms in the Contract Documents

5.5. Release of Information

The CONTRACTOR shall not release any information including the contract price concerning this project or any part thereof in any form, including advertising, news releases, or professional articles, without written permission of GPA.

5.6. Limitations of Clause

Nothing herein contained shall excuse the CONTRACTOR from compliance with any rules of law precluding GPA and its officers and any CONTRACTORS from acting in collusion or bad faith in issuing or performing change orders that are clearly not within the scope of the contract.

Multi-Step Invitation for Bid

RE-BID GPA-012-22

SUPPLY OF DIESEL FUEL OIL NO.2



**GPA WATER SYSTEMS DISTRIBUTION &
GWA EMERGENCY GENERATORS**

Volume II

CONTRACT

TABLE OF CONTENTS

Section	Description	Page
SECTION 1.	DEFINITIONS	5
SECTION 2.	FUEL OIL TO BE SUPPLIED	7
SECTION 3.	CONTRACT TERM	8
SECTION 4.	CONTRACT PRICE	8
SECTION 6.	FUEL OIL DELIVERY	11
SECTION 7.	TERMS OF PAYMENT	11
SECTION 8.	WARRANTY AND CLAIMS	12
SECTION 9.	PRODUCT AND QUALITY	12
SECTION 10.	QUANTITY AND QUALITY ASSURANCE	12
SECTION 11.	QUANTITY DETERMINATION	14
SECTION 12.	SECURITY OF SUPPLY	14
SECTION 13.	GOVERNMENT LAWS AND REGULATIONS	14
SECTION 14.	PERMITS AND RESPONSIBILITIES	15
SECTION 15.	FORCE MAJEURE	15
SECTION 16.	NOTICE TO OTHER PARTY	17
SECTION 17.	PAYMENT REQUIRED	17
SECTION 18.	PRORATION OR EQUITABLE ALLOCATION	17
SECTION 19.	ALTERNATE SUPPLY	17
SECTION 20.	RESUMPTION OF PERFORMANCE	18
SECTION 21.	GOVERNING LAW AND DISPUTES	18
SECTION 22.	CONTRACTOR'S INSURANCE	19
SECTION 23.	INDEMNITY	22
SECTION 25.	FAILURE TO SUPPLY	23
SECTION 26.	FAILUE TO PAY	23
SECTION 27.	FAILURE TO COMPLY WITH LAWS	24
SECTION 28.	DEFAULT	24
SECTION 29.	ATTORNEYS FEES	25
SECTION 30.	TERMINATION FOR CONVENIENCE	25
SECTION 31.	REMEDIES CUMMULATIVE	27
SECTION 32.	COVENANT AGAINST CONTIGENT FEES	27
SECTION 33.	NOTICE	27
SECTION 34.	INTEREST OF OTHER PARTIES	28
SECTION 35.	ASSIGNMENT	28
SECTION 36.	TIME	29
SECTION 37.	SPECIFICATIONS	29

SECTION 38. AMENDMENT AND WAIVER	30
SECTION 39. DESCRIPTIVE HEADINGS	30
SECTION 40. RELATIONSHIP OF PARTIES	30
SECTION 41. NUMBER AND GENDER	30
SECTION 42. SUCCESSORS IN INTEREST	31
SECTION 43. PARTIAL INVALIDITY	31
SECTION 44. EQUAL OPPORTUNITY CLAUSE	31
SECTION 45. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY.	32
SECTION 46. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES	32
SCHEDULE A: PRODUCT QUALITY SPECIFICATION	34
SCHEDULE B: DELIVERY SITE LOCATIONS.....	35

FORMAL CONTRACT

This Agreement and Formal Contract (“Contract”), is made and entered into on the ____ day of _____, 2022 by and between:

_____, hereinafter referred to as “**CONTRACTOR**”,

with its principal address at

_____;

- and -

GUAM POWER AUTHORITY, hereinafter referred to as the “**Authority**” or “**GPA**”, a Public Corporation with its office located at the Gloria Nelson Public Service Building, 688 Route 15, Fadian Mangilao Guam;

RECITALS

WHEREAS, the current contract for the supply of diesel fuel oil will expire on March 31, 2022; and

WHEREAS, GPA seeks to procure a new Diesel Fuel Oil No.2 Contractor for the supply of diesel fuel oil to the GPA power generating plants; and

WHEREAS, GPA has issued an Invitation For a Multi-Step Bid for the Supply of Diesel Fuel Oil No.2 under IFB RE-BID GPA-012-22; and

WHEREAS, CONTRACTOR submitted a bid in response to the Invitation for Bid for the Supply of Diesel Fuel Oil No.2; and

WHEREAS, GPA, upon evaluation of the submitted bid proposals, determined that **CONTRACTOR** is the lowest responsive and responsible bidder.

WHEREAS, the Consolidated Commission on Utilities has determined that the (CONTRACTOR) is a preferred option for GPA to supply the Diesel Fuel Oil No.2 requirements for the Authority; and

NOW, THEREFORE, in consideration of the above premises and the mutual promises set forth herein and the terms and conditions hereinafter set forth and for other good and valuable consideration, receipt of which is hereby acknowledged; **CONTRACTOR** and GPA hereby agree as follows:

SECTION 1. DEFINITIONS

“\$” shall refer to currency in U.S. dollars.

“ASTM” shall mean the American Society for Testing and Materials.

“API” shall mean the American Petroleum Institute.

“Barrel” shall mean a volume equivalent to 42 U.S. gallons.

“Gallon” shall mean a volume in U.S. gallons equivalent to 3.78 liters or 231 cubic inches.

“Contract” shall mean the Diesel Fuel Oil No.2 Supply Contract executed as a result of IFB RE-BID GPA-012-22.

“Contract Agreement (Agreement)” shall mean the written agreement between GPA and CONTRACTOR covering the Supply of Diesel Fuel Oil No.2 any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

“Contract Documents” shall mean the Contract Agreement, Bonds (where required), these General Conditions, any Supplementary Conditions, the Specifications, and any other documents specifically identified in the Contract Agreement, together with all Modifications issued after execution of the Contract Agreement.

“Contracting Officer” shall mean the General Manager of the Guam Power Authority and shall include his authorized representatives.

“CONTRACTOR” shall mean the party or parties who or which shall have duly entered into a contract with the Guam Power Authority to perform the work herein contemplated or his or their authorized assignee.

“Day” shall mean a calendar day of twenty-four (24) hours measured from midnight to the next midnight.

“Delivery Time” shall mean the total number of days or the dates stated in the Agreement for furnishing the product.

“General Manager” shall mean the General Manager is the Chief Executive Officer of the Guam Power Authority. The office and title of General Manager shall apply to any person acting in a regular or in an acting capacity as the Chief Executive Officer of the Guam Power Authority.

“Notice” shall mean and include all written notice demands, instructions, claims, approvals and disapprovals required to obtain compliance with contract requirements. Any written notice by either party to the contract shall be sufficiently given if delivered to or at the last known business address of the person, firm, or corporation constituting the other party to the contract, or to his, their, or its

duly authorized agent, representative, or officers, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mail box and file the same with the Contracting Officer.

“Procurement Officer” shall mean the General Manager of the Guam Power Authority or the General Manager’s designee.

“PURCHASER” shall mean the Guam Power Authority with whom CONTRACTOR has entered into the Contract Agreement.

“Seller” shall mean the CONTRACTOR.

“Territory” shall refer to the Territory of Guam.

“OPA’90” shall mean the Oil Pollution Act of 1990 by the U.S. Congress.

“Platt’s Asia-Pacific/ Arab Gulf Marketscan” shall refer to the source document for the fuel Contract pricing.

“Metric Ton” shall mean the unit of mass equal to 1,000 kilograms (2,205 pounds)

“Fuel oil” shall mean a liquid hydrocarbon product satisfying the specifications in Section 9.

“Gallon” shall mean a U.S. standard gallon of 231 cubic inches at sixty degrees Fahrenheit.

“Receiving facility” shall mean the GPA fuel oil receiving facility.

SECTION 2. FUEL OIL TO BE SUPPLIED

CONTRACTOR agrees to furnish and **GPA** agrees to accept and pay for all of **GPA's** fuel oil requirements for power generating plants in Guam for the term of the Contract. The **estimated**

total annual fuel oil requirement is approximately 100,000 gallons and is subject to change. GPA shall reasonably notify the Contractor for any changes in the fuel oil requirements.

The first delivery of fuel oil pursuant to the Contract is anticipated to be on or about **July 1, 2022**.

SECTION 3. CONTRACT TERM

The Contract Term shall be for three (3) years to commence on July 1, 2022 and shall continue until midnight of June 30, 2025 and with GPA's option to extend the contract for two (2) additional one (1) year term, renewable annually, with mutual agreement of both parties.

SECTION 4. CONTRACT PRICE

The Contract price in U.S. dollars per gallon (\$/gal) for all diesel fuel oil delivered to **GPA** shall be inclusive of all costs and liabilities required to fulfill the contract. The **BID PRICE** is the sum of the **FIXED SERVICE FEE** plus the **BID REFERENCE PRICE**.

The Contract price shall increase or decrease on a cent-for-cent basis by the amount per gallon based from Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm, (Conversion Factor: 42 gallons per barrel).

The **BID REFERENCE PRICE** shall be the average of the effective price posted in the Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm (Conversion Factor: 42 gallons per barrel) for November 02, 2021.

BID REFERENCE PRICE

Asia-Pacific/Arab Gulf Marketscan

Price Posting for November 02, 2021

Asia Products (FOB Singapore)

Product Commodity Index : Gasoil 10 ppm

Gasoil 10 ppm	Low	High	MOPS
(\$/bbl)	95.94	95.98	95.960

Bid Reference Price = \$95.960 per barrel
= \$2.285 per U.S. gallon

The BID REFERENCE PRICE shall be \$2.285 per U.S. gallon.

BID PRICE OFFER (SUPPLY AND DELIVERY):

ULTRA-LOW SULFUR DIESEL (ULSD)	3-year Base Period (\$ in 3 decimals)			2-Year Extension Options (\$ in 3 decimals)	
	1st year	2nd year	3rd year	1st Year Extn	2nd Year Extn
BID PRICE (\$/gal)					
REFERENCE PRICE (\$/gal)					
FIXED SERVICE FEE (\$/gal)					

The CONTRACT FIXED SERVICE FEE in \$/U.S. gallon shall be for all Fuel Oil delivered to the locations identified on Schedule B hereto.

The Contract price in U.S. dollars per gallon (\$/gal) for all diesel fuel oil delivered to **GPA** shall be inclusive of all costs and liabilities required to fulfill the contract. The **CONTRACT PRICE** is the sum of the **FIXED SERVICE FEE** plus the **REFERENCE PRICE**.

The **CONTRACT PRICE** shall increase or decrease on a cent-for-cent basis with the **REFERENCE PRICE**.

The **REFERENCE PRICE** for the Fuel Oil delivered in any month shall be the daily average of the effective price reported for the previous month in the Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm.

SECTION 5. INVOICE PRICE DETERMINATION

The price invoiced to the Guam Power Authority shall be adjusted according to the periodic price changes in Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm.

The invoice price for the fuel delivered in any month shall be the daily average of the effective spot prices reported for the previous month in the Platt's Asia-Pacific/ Arab Gulf Marketscan FOB Singapore Price Assessment for Gasoil 10 ppm (referred to as the Reference Price), plus the Fixed Service Fee described above.

All price postings are at the "Price effective dates."

INVOICE PRICE CALCULATION FORMULA

INVOICE PRICE = Reference Price + Fixed Service Fee

Sample data and calculation:

Delivery Month: November 2021

(1) Sample Calculation of Reference Price:

Reference Price = Average of Previous Month's Daily MOPS
 MOPS (Mid-of-Platts) = average of high and low price assessments
 Previous Month: October 2021

Average of the Daily MOPS for October 2021: \$95.498 per barrel

Average Price: \$2.274 per gallon (rounded to three decimal places)

Reference Price: \$2.274 per gallon

(2) Fixed Service Fee (Sample) = \$0.750 per gallon

(3) Invoice Price

Invoice Price = Reference Price + Fixed Service Fee

Invoice Price = (\$2.274 + \$0.750) per gallon

Invoice Price = \$3.024 per gallon

This is the invoice price for fuel delivered to GPA for the sample month.

SECTION 6. FUEL OIL DELIVERY

All fuel must be delivered to the plant sites covered in this contract. GPA shall provide the **CONTRACTOR** safe access to its facility. Title to the fuel shall pass from the **CONTRACTOR** to **GPA** when the fuel oil has passed the **GPA** pipeline flange connecting the tanker truck delivery hose and the **GPA** storage tanks. The **CONTRACTOR** shall be available to deliver the fuel to the point of delivery as designated by GPA within twenty-four (24) hours notice of receiving a request. **CONTRACTOR** must be available to receive and accept delivery requests during the hours of 7:00 A.M. and 5:00 P.M. daily, including weekends and holidays. The **CONTRACTOR** shall provide transfer pumps at its delivery trucks and/or whatever else may be necessary to deliver fuel to **GPA** storage tanks to the height of 45 feet. Fuel deliveries shall be on an "on call" basis and shall be during the hours of 7:00 A.M. and 11:00 P.M. daily, including weekends and holidays. **CONTRACTOR** must exercise its best efforts to deliver fuel to **GPA** to meet operational requirements regardless of the estimates provided by **GPA**.

All risk of loss, cost and liabilities prior to the time of passage of title of the fuel oil shall be on the **CONTRACTOR**.

SECTION 7. TERMS OF PAYMENT

Invoices for fuel oil delivered pursuant to quantity (fuel oil receipts) and quality prescribed under the terms of this contract shall be submitted no more frequently than weekly, based on the number of gallons of fuel delivered to GPA during the preceding period. The invoices must be supported by fuel oil receipts or receiving tickets including a receipt acknowledgement from a GPA representative. The payment terms are 30 days (net) beginning on the date the invoice is received by the GPA accounts payable section. All payments shall be based on the delivered

quantity, corrected to volume (net) at 60 degrees F.

SECTION 8. WARRANTY AND CLAIMS

CONTRACTOR warrants that the fuel oil shall meet the specification prescribed herein under Section 9 and other pertinent sections. If the fuel oil fails to meet the specifications herein, **CONTRACTOR** shall be liable for any direct damages resulting therefrom.

CONTRACTOR shall be solely responsible for any damages caused by the **CONTRACTOR** or its agents during the process of oil supply and delivery.

Claims against the **CONTRACTOR** for direct costs incurred on account of their negligent actions shall be given in writing together with all supporting documents, invoices and correspondence by **GPA** within thirty days (30) from date of delivery of fuel oil as specified in Section 4.

SECTION 9. PRODUCT AND QUALITY

Test Methods shall be in conformance with the prescribed procedures set forth by the American Society For Testing and Materials (ASTM) Standards for Petroleum Products, Lubricants, and Fossil Fuels, or alternative tests acceptable and subject to prior authorization by **GPA**.

The fuel oil delivered to **GPA** shall have the physical and chemical characteristics as described in **Schedule A**.

Quality determination shall be performed and certified by an independent third party laboratory facility acceptable to **GPA**. Certificate of Quality (COQ) shall be representative of the product in the Contractor's storage facility in Guam.

SECTION 10. QUANTITY AND QUALITY ASSURANCE

CONTRACTOR'S 'Terminal Loading Rack' meters shall be utilized to determine the quantity of fuel delivered to **GPA** and shall be the basis for the Bill of Lading (BOL). **CONTRACTOR** shall have such meters calibrated no less than annually and shall furnish **GPA** a copy of the certificate of newly calibrated meter(s) within 10 days after the calibration date.

In the event of a dispute over the accuracy of the **CONTRACTOR'S** meters, an independent

third party mutually agreeable to both parties will be brought in to perform a recalibration. In the event of a miscalibration, the costs shall be borne by the **CONTRACTOR**. Any loss incurred by **GPA** as a result of miscalibration of meters shall be negotiated and returned to the **AUTHORITY**.

Quantity shall be corrected to the volume at sixty degrees Fahrenheit. Conversion shall be made in accordance with the ASTM-IP Petroleum Measurement Tables (IP-200), Table 6B (latest edition).

Appropriate Certificate of Quality (COQ) reports shall also accompany each delivery and must be presented to the GPA receiving facility. GPA may also secure a sample of the product in the **CONTRACTOR**'s delivery truck for visual inspection and retention in the event of dispute over the quality of the fuel. Quality must conform with the requirements specified under Section 9 and schedule A as a condition for acceptance of delivery.

In the event of a dispute over the quality of fuel received by **GPA**, an inspection of fuel oil will be conducted by an appointed third party inspector mutually acceptable to **GPA** and the **CONTRACTOR**. This shall include sampling and quality determination of the product in the **CONTRACTOR**'s delivery tanker truck.

CONTRACTOR is required to install security seals on valves and compartments of the delivery tanker trucks after product loading is completed. Seals shall remain intact upon inspection by the GPA receiving facility. Seal numbers shall be recorded in the delivery receipt and initialed by an authorized terminal representative. GPA reserves the right to reject deliveries with tampered or missing seals.

CONTRACTOR shall provide a comprehensive summary of the fuel delivery reports. Contractor shall tailor its reports to GPA's needs. Contractor shall submit copy(ies) of all Certificates of Quality (COQ) for the delivery month. Reports shall be submitted to the GPA within five (5) working days after each report month. Contractor shall also submit other reports and/or documentations that is relevant to the contract as may be required by the Authority.

SECTION 11. QUANTITY DETERMINATION

In the event of the variances between the BOL quantity and the GPA receipts, The **AUTHORITY** shall pay (absorb) a quantity shortfall up to ONE-FOURTH (0.25 %) of the gallons established quantity; shortages beyond the 0.25% tolerance shall be covered by the **CONTRACTOR**.

GPA reserves the right to require the intervention of a third party independent inspector for quantity determination. Such inspector shall be mutually acceptable to **GPA** and the **CONTRACTOR**. All quantities shall be corrected to volume at sixty degrees Fahrenheit (60 °F) in accordance with the ASTM-IP Petroleum Measurement Table, Table 6B, the latest edition published shall be applicable. A copy of the load port shore tank measurements shall be included as supplemental documents.

Quantity certification prepared by independent inspector shall be final and binding upon both parties.

SECTION 12. SECURITY OF SUPPLY

CONTRACTOR reserves the right to supply fuel oil meeting **GPA** specifications from any source. In the event that supplies are taken from such other places, then the price to Guam will remain the same as established in Section 4 above.

CONTRACTOR must submit a month-end diesel fuel inventory report to GPA.

GPA reserves the right to audit the Contractor for safety fuel inventory stock compliance. Such audit shall be in accordance with generally accepted accounting practices. ”

SECTION 13. GOVERNMENT LAWS AND REGULATIONS

(a) If at any time during the term of the Contract the Government of the United States or the Territory of Guam enacts laws or issues regulations which would prevent **GPA** from burning the type of fuel oil to be supplied hereunder, **GPA** shall use its best efforts to obtain an exemption. In the event **GPA** cannot obtain an exemption from such laws and regulations, **CONTRACTOR**

shall use his best efforts to furnish **GPA** substitute fuel oil which complies with such governmental laws and regulations at the same price set out herein, or if unreasonable, at a price to be renegotiated by the parties. If the substitute fuel oil causes an increase or decrease in **CONTRACTOR**'s cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from date of receipt by **CONTRACTOR** of the notification of substitute fuel oil in compliance with Government laws, rules and regulations. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Governing Law and Disputes"(Section 21). However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract fuel oil specifications as changed in order to comply with Government laws, rules and regulations. Only in the event that the parties cannot mutually agree upon the price at which **CONTRACTOR** is to furnish such substitute fuel oil, and **CONTRACTOR** refuses to provide such substitute fuel oil at the Contract price set out herein shall **GPA** then have the option of purchasing from other sources fuel oil at a lower price than that offered by **CONTRACTOR** in such negotiations which complies with such laws and regulations, but in any event, the **CONTRACTOR** shall have no recourse, other than those specified herein.

(b) **CONTRACTOR** shall at all times comply with all applicable laws and regulations of the Territory of Guam and the Federal Government and their respective agencies.

SECTION 14. PERMITS AND RESPONSIBILITIES

The **CONTRACTOR** shall, without additional expense to **GPA**, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal and Territorial laws, codes and regulations necessary for performance of the Contract by **CONTRACTOR**.

SECTION 15. FORCE MAJEURE

No failure or omission by either party to carry out or to observe any of the terms, provisions or conditions of the Contract shall, except in relation to obligations to make payments under the Contract, give rise to any claim by one party against the party in question or be deemed to be a breach of the Contract if such failure or omission arises from any cause reasonably beyond the control of the party, including but without prejudice to the generality of the foregoing:

- (a) War, etc. War, hostilities, acts of public enemy or belligerents, sabotage, blockade, revolution, insurrection, riot or disorder;
- (b) Restraints. Arrest or restraint of princes, rulers or peoples;
- (c) Confiscation. Expropriation, requisition, confiscation or nationalization;
- (d) Rationing. Embargoes, export or import restrictions or rationing or allocation, whether imposed by law, decree or regulation or by voluntary cooperation of industry at the insistence or request of any governmental authority or person purporting to act therefore;
- (e) Regulations. Interference by restriction or onerous regulations imposed by civil or military authorities, whether legal or de facto and whether purporting to act under some constitution, decree, law or otherwise;
- (f) Acts of God. Acts of God, fire, frost or ice, earthquake, storm, lightning, tide, tidal wave, or peril of the sea, accident of navigation or breakdown or injury of vessels;
- (g) Loss for Tankers. Loss of tanker tonnage due to sinking by belligerents or to governmental taking whether or not by formal requisition;
- (h) Accidents. Accidents to or adjuncts of shipping navigation;
- (i) Strikes. Epidemics, quarantine, strikes or combination of workmen, lockouts, or other labor disturbances;
- (j) Explosions. Explosion, accidents by fire or otherwise to wells, pipes, storage facilities, refineries, installations, machinery;
- (k) Taking by Government. Unavailability of fuel because of the election of the government of the country of its origin to take royalty product in kind;
- (l) Other Events. Any event, matter or thing wherever occurring and whether or not of the same class or kind as those set forth, which shall not be reasonably within the control and without the fault or negligence of the party affected thereby.

No failure or omissions to carry out or to observe any of the terms, provisions or conditions of the Contract shall give rise to any claim by one party against the other, or be deemed to be a breach

of the Contract from the time of and to the extent occasioned by the Force Majeure, not from the date of notice of the Force Majeure is received.

SECTION 16. NOTICE TO OTHER PARTY

Either party whose obligations may be affected by any of the forces or causes set out in Section 15, supra, shall promptly notify the other party in writing, giving full particulars thereof as soon as possible after the occurrence of such force or cause. Such party shall exercise due diligence to remove such cause with all reasonable dispatch and to resume performance at the earliest practicable time.

SECTION 17. PAYMENT REQUIRED

Notwithstanding the provisions of Section 15, supra, **GPA** shall not be relieved of any obligation to make payments for any fuel delivered to Guam dock/**GPA** tanks hereunder; however, during the force majeure condition the obligation shall be suspended, except for fuel oil deliveries made prior to the force majeure condition.

SECTION 18. PRORATION OR EQUITABLE ALLOCATION

If any of the events enumerated in Section 15, supra, have occurred, **CONTRACTOR** shall prorate or otherwise allocate in a fair and equitable manner among its customers, including **GPA**, the supplies of fuel oil **CONTRACTOR** has available for delivery at the time of the occurrence or for the duration of such event taking into account **GPA**'s unique situation as Guam's total dependence on fuel oil. **CONTRACTOR** shall also seek an alternative source of fuel oil to fulfill its contractual obligations.

SECTION 19. ALTERNATE SUPPLY

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of Section 15, supra, **GPA** may at its sole discretion seek an alternative source of fuel oil so long as such condition shall exist.

In the event **CONTRACTOR** is unable to fulfill its obligations under this Contract as a result of any negligence on the part of the Contractor, **GPA** may at its sole discretion seek an alternative

source of fuel oil so long as such condition of negligence shall exist. If the cost of fuel during such period of negligence shall exceed the Contract price as provided in Section 4, the **CONTRACTOR** shall be liable to **GPA** for the difference, which may be taken from the Performance Bond.

SECTION 20. RESUMPTION OF PERFORMANCE

If **CONTRACTOR** is prevented from delivering or **GPA** is prevented from receiving all or any fuel to be sold under the Contract for the reasons which fall within the provisions of Section 15, supra, then the party so prevented shall, as to the remainder of the fuel not affected thereby, promptly resume performance of the Contract. No curtailment or suspension of deliveries or payment under the causes listed in Section 15, supra, shall operate to extend the term of or terminate the Contract unless the occurrence of force majeure will materially impair, for an indefinite period of time, the parties' ability to perform the Contract.

SECTION 21. GOVERNING LAW AND DISPUTES

- (a) All controversies between **GPA** and the **CONTRACTOR** which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement, shall be decided by **GPA** pursuant to Guam Procurement laws and regulations.
- (b) **CONTRACTOR** may pursue applicable remedies under the Guam Procurement Law and regulations and the Government Claims Act.
- (c) The **CONTRACTOR** shall comply with any decision of **GPA** 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; provided, however, that in any event the **CONTRACTOR** shall proceed diligently with the performance of the Contract where the General Manager of **GPA** has made a written determination that continuation of work under the Contract is essential to the welfare of the territory.

This Contract is made under, and shall be governed and construed in accordance with, the laws, statutes and regulations of the Territory of Guam, to the exclusion of all other legal systems. Wherever a term defined by the Uniform Commercial Code is used in the Contract the definition contained in the Uniform Commercial Code of Guam will control, unless otherwise specified.

The parties expressly submit to the jurisdiction of the Superior Court of the Territory of Guam,

for the resolution of any dispute or difference or claims between the parties in connection with the Contract, and to service of process by registered mail. The **CONTRACTOR** agrees to accept the jurisdiction of the Superior Court of the Territory of Guam for the resolution of any claims including but not limited to, claims for consequential, special or punitive damages. Judgment upon any award rendered by the Superior Court of the Territory of Guam may be entered in any court of any country having jurisdiction, and such award shall be binding upon the parties. The **CONTRACTOR** waives all rights against **GPA** to claim consequential, special or punitive damages.

SECTION 22. CONTRACTOR'S INSURANCE

Contractor shall not commence work under this contract until he has obtained all insurance required under this section and such insurance has been approved by GPA, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all similar insurance required of the Subcontractor has been so obtained and approved.

The Contractor shall provide a copy of their Insurance Policy to GPA within the period prescribed by GPA. All updates or revisions after contract commencement shall also be forwarded to GPA.

Failure on the part of the Contractor to provide the required documents and/or to enter into a contract with GPA shall be sufficient grounds for the annulment of the award. GPA may determine the bidder to be non-responsive to the bid, and may proceed with sending a Notice of Intent to Award to the next most qualified BIDDER.

A. WORKMEN'S STATUTORY COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY

INSURANCE: The **CONTRACTOR** shall take out and maintain during the life of this Contract the applicable statutory Workmen's Compensation Insurance with an insurance company authorized to write such insurance and in the applicable State or Territory including the Territory of Guam covering all his employees, and in the case of any work sublet, the **CONTRACTOR** shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees. The **CONTRACTOR** shall secure and maintain, during the life of this Contract, Employer's Liability Insurance with a limit of \$1,000,000 with an insurance company authorized to write such insurance in all states or territories including the Territory of Guam where the Contractor will have employees located in the performance of this Contract. **CONTRACTOR** shall provide a Waiver of Subrogation in

favor of **GPA** via endorsement to the Workers Compensation policy. This coverage shall be on a primary and non-contributory basis.

B. COMMERCIAL GENERAL LIABILITY:

1. The **CONTRACTOR** shall maintain, during the life of this Contract, such Commercial General Liability as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise from operations under this Contract whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided Liability Insurance shall be as follows:

Bodily Injury Limits:	\$ 1,000,000 Each Person
Property Damage Limits:	\$ 1,000,000 Each Occurrence
	\$ 2,000,000 Aggregate

2. The Commercial General Liability required by the preceding Subparagraph 1 shall include the following extensions of coverage:

- i. The property damage coverage shall include a Broad Form Property Damage Endorsement.
- ii. Contractual Liability coverage shall be included.
- iii. Protective Liability coverage shall be included to protect the **CONTRACTOR** against claims arising out of operations performed by his Subcontractors.
- iv. Products Liability and/or Completed Operations coverage shall be included.
- v. **GPA** shall be an additional insured on the Commercial General Liability policy.
- vi. This coverage shall be on a primary and non-contributory basis.
- vii. **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**.

C. AUTOMOBILE LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, such Automobile Liability insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage, which may arise

from the operations of any owned, hired or non-owned automobiles used by or for him in any capacity in connection with the carrying out of this Contract. **GPA** shall be an additional insured on Auto Liability policy. **CONTRACTOR** will grant Waiver of Subrogation in favor of **GPA**. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits:	\$ 1,000,000 Each Person
	\$ 1,000,000 Each Occurrence
Property Damage Limits:	\$ 1,000,000 Each occurrence

This coverage shall be on a primary and non-contributory basis.

D. POLLUTION LIABILITY INSURANCE:

The **CONTRACTOR** shall take out and maintain during the life of the Contract, Pollution Liability Insurance with minimum limits of \$5,000,000 that provides coverage for third party bodily injury, third party property damage, and clean-up cost whether ordered by a government entity or not ordered by a government entity. Grant waiver of subrogation in favor of **GPA**. **GPA** is to be an additional insured.

This coverage shall be on a primary and non-contributory basis.

E. EXCESS LIABILITY

Excess Liability with limits of \$5,000,000 over the General Liability, Auto Liability, and workers compensation policies. **GPA** shall be named as an additional insured. **CONTRACTOR** shall grant Waiver of Subrogation in favor of **GPA**. This coverage shall be on a primary and non-contributory basis.

Cancellation Clause:

All policies above shall contain the following Cancellation clause:

The insurance company shall notify in writing the Guam Power Authority (insured) a minimum of 60 days prior to any material changes or cancellation of coverage.

F. CERTIFICATE OF INSURANCE:

The **CONTRACTOR** shall furnish **GPA** with two (2) copies of a Certificate of Insurance evidencing policies required in Paragraphs A, B, C, D, and E above. Such certificates shall

specifically indicate that the Commercial General Liability Insurance includes all extensions of coverage required in Paragraph B., Subparagraph 2. above. Such certificate shall specifically state that the insurance company or companies issuing such insurance policies shall give **GPA** at least sixty (60) days written notice in the event of cancellation of or material change in any of the policies. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Contract, the **CONTRACTOR** shall furnish a Certificates of Insurance evidencing renewal of such coverage to **GPA**. The Certificates of Insurance shall clearly show this Contract number.

The **CONTRACTOR** shall provide a copy of their Insurance Policy to **GPA** as part of the bid requirements. All updates or revisions after contract commencement shall also be forwarded to **GPA**.

G. SUBCONTRACTOR'S INSURANCE:

The **CONTRACTOR** shall require each of his Subcontractors to take out and maintain during the life of his Subcontract, the same insurance coverage required of the **CONTRACTOR** under Paragraphs A, B, C, D, and E above, including the extensions of coverage required under Paragraph B., Subparagraph 2, above. Each Subcontractor shall furnish to the **CONTRACTOR** two (2) copies of a Certificate of Insurance and such certificate shall contain the same information required in Paragraph B. above. The **CONTRACTOR** shall furnish one (1) copy of the certificate to **GPA**.

H. INSURANCE COMPANY AND AGENT:

All insurance policies herein required of the **CONTRACTOR** shall be written by a company duly authorized to do business in the Territory of Guam and where supply under this Contract is being performed and be executed by some agent thereof duly licensed as an agent in said State or Territory.

SECTION 23. INDEMNITY

CONTRACTOR shall indemnify and hold **GPA** harmless from all damages to persons or property or to receiving facilities and delivery facilities, regardless of ownership, including the

cost of enforcement of the indemnity, actually and proximately caused by **CONTRACTOR** or its agents in making deliveries hereunder. **CONTRACTOR** shall be responsible for cleaning up any oil spillage caused by it or its agent or **CONTRACTORS** during the process of oil delivery. **CONTRACTOR** shall carry at all times appropriate levels of insurance as determined by **GPA** to cover any such damage. The **CONTRACTOR** shall ensure that any vessel owned or chartered by the Contractor for deliveries under this agreement shall meet the requirements of the U.S. Oil Pollution Act of 1990 (OPA 90).

SECTION 24. TRANSPORTATION

CONTRACTOR shall arrange for the transportation of the fuel oil to GPA.

All risk of loss, cost and liabilities prior to the time of passage of title of the fuel oil to shall be on the **CONTRACTOR**.

CONTRACTOR 's and **GPA**'s rights and duties under Section 23 and Section 24 do not supersede or control the provisions of Section 15 Force Majeure.

SECTION 25. FAILURE TO SUPPLY

If the **CONTRACTOR** refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure the timely delivery of fuel oil supply or commits any other substantial breach of this Contract, **GPA** may notify the **CONTRACTOR** in writing of the delay or non-performance and if not cured within THIRTY (30) days of the date of notification, **GPA** may terminate the Contract in whole or such part of the Contract as to which there has been a delay or a failure to properly perform. In the event of termination in whole or in part, **GPA** reserves the right to procure fuel oil supply from another source immediately upon issuance of such notification or whenever it deems appropriate.

SECTION 26. FAILUE TO PAY

Failure to pay an invoice and any late penalties, if any, within a period of THIRTY (30) days from the due date of such invoice, shall be a default and should such a default not be cured within THIRTY (30) days of default, **CONTRACTOR** may, at its option, do either of the following:

(a) Terminate the Contract forthwith or forthwith suspend delivery under the contract until further notice, on notifying GPA orally or by notice in writing; or

(b) Continue to supply fuel oil and bring suit in the Superior Court of Guam for amounts past due and as they become due.

SECTION 27. FAILURE TO COMPLY WITH LAWS

In the event the **CONTRACTOR** or any person or entity identified as principals in the offer submitted in connection with the bid shall be found by any court or administrative agency having jurisdiction over the subject matter of the violation, to have violated any law, rule or regulation in connection with **CONTRACTOR**'s performance of the obligations under the Contract in any manner whatsoever directly or indirectly which violation shall constitute a breach of the peace, or an act involving moral turpitude or otherwise constitute endangerment of the health, safety and welfare of the citizens of the Territory of Guam, **GPA** may at its sole discretion terminate this Contract upon **THRITY** (30) days written notice.

SECTION 28. DEFAULT

“If the PARTY refuses or fails to perform any of their obligations under this agreement, non-breaching PARTY shall notify the PARTY either by e-mail or in writing within thirty (30) days of the breach. If the PARTY does not remedy the breach within thirty (30) days after the date of notification, non-breaching PARTY may by giving notice to the other PARTY terminate the Agreement in whole or suspend taking of delivery under the Contract.

In the event of partial termination or suspension under this provision, GPA reserves the right to procure fuel supply from another source upon notification to **CONTRACTOR** either by e-mail or in writing. Fuel to be procured shall be at the prevailing market price at the time of partial termination or suspension.

In the event of termination because of GPA's default, the **CONTRACTOR** shall not be liable for the difference between the contract price and the prevailing market price at the time of termination.

SECTION 29. ATTORNEYS FEES

Should a default by either party result in litigation, the successful party shall be entitled to recover its reasonable attorney's fees from the defaulting party.

SECTION 30. TERMINATION FOR CONVENIENCE**(a) Termination.**

The delivery of fuel oil supply under this Contract may be terminated by **GPA** in accordance with this clause in whole, or from time to time in part.

Any such termination shall be effected by delivery to the **CONTRACTOR** of a written Notice of Termination specifying the extent to which supply of fuel oil under the Contract is terminated, and the Contract shall be terminated effective THREE HUNDRED SIXTY (360) days after receipt of notice by **CONTRACTOR**.

In the case of termination of this Contract, **GPA** shall reimburse the **CONTRACTOR** of all the expenses related to the period of the Performance Bond that were not used.

(b) CONTRACTOR's Obligations.

The **CONTRACTOR** shall incur no further obligations in connection with the terminated fuel oil supply delivery and on the date set in the Notice of Termination the **CONTRACTOR** will stop delivery of fuel oil to the extent specified. The **CONTRACTOR** shall also terminate outstanding orders and Contracts, if any, as they relate to the terminated Contract for fuel oil supply. The **CONTRACTOR** shall settle the liabilities and claims arising out of the termination of orders and Contracts, if any, connected with the terminated fuel oil supply delivery. **GPA** may direct the **CONTRACTOR** to assign the Contractor's right, title and interest under the terminated orders or Contracts to **GPA**. The **CONTRACTOR** must still deliver fuel oil supply not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

(c) Right to Supplies.

GPA may require the **CONTRACTOR** to transfer title of fuel oil cargo in transit to Guam at the time of receipt by Contractor of **GPA's** Notice of Termination.

(d) **Compensation.**

- (1) The **CONTRACTOR** shall submit a termination claim specifying the amounts due because of the termination for convenience. If the **CONTRACTOR** fails to file a termination claim within ONE (1) year from effective date of termination, **GPA** may pay the **CONTRACTOR**, if at all, an amount set in accordance with subparagraph (3) of this paragraph.
- (2) **GPA** and the **CONTRACTOR** may agree to a settlement provided the **CONTRACTOR** has filed a termination claim supported by cost or pricing data to the extent required by Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by **GPA**, the proceeds of any sales of supplies and manufacturing materials under the Guam Uniform Commercial Code, and the Contract price of the fuel supply not terminated.
- (3) Absent complete agreement under subparagraph (1) of this paragraph, **GPA** may pay the **CONTRACTOR** the following amounts, provided payments agreed to under subparagraph (2) shall not duplicate payments under this subparagraph:
 - (i) Fuel oil Contract prices for supplies or services accepted under the Contract by **GPA**;
 - (ii) Costs incurred in preparing to perform and performing the terminated portion of the delivery of fuel oil plus a fair and reasonable profit on such portion of the delivery (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted fuel oil 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 Contracts or orders pursuant to paragraph (2) of this clause. These costs must not include costs paid in accordance with subparagraph (3)(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 Contracts thereunder, 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 Uniform Commercial Code.

SECTION 31. REMEDIES CUMMULATIVE

Each and all remedies available to a party in the event of the other party's failure to comply timely with any or all the terms and conditions of the Contract may be exercised independently or in combination (such rights being nonexclusive one with the other). The remedies set forth in the Contract are in addition to, and not in lieu of, all of the remedies available at law or in equity.

SECTION 32. COVENANT AGAINST CONTIGENT FEES

The **CONTRACTOR** warrants no person or selling agency has been employed or retained to solicit or secure the Contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agency maintained by the **CONTRACTOR** for the purpose of securing business. For breach or violation of this warranty, **GPA** shall have the right to annul the Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 33. NOTICE

Except as otherwise expressly specified herein, any notice to be given hereunder by either party to the other shall be deemed sufficiently given if in writing and enclosed in an envelope properly stamped and addressed to the party at the address set forth in this section, and deposited in the

United States mail. Either party may change its address by giving FIFTEEN (15) days prior written notice to the other party. Such address until further notice shall be:

GPA: General Manager
Guam Power Authority
Post Office Box 2977
Hagatna, Guam 96932-2977
TELEFAX: (671) 648-9225

CONTRACTOR: _____

SECTION 34. INTEREST OF OTHER PARTIES

CONTRACTOR warrants that no member of the governing body of **GPA**, and no other officer, employee, or agent of **GPA** who exercises any functions or responsibilities in connection with the work to which the Contract pertains, and no employee, agent or member of the Guam Legislature or other public official of the Government of Guam, has or shall have any personal economic or financial interest, direct or indirect, in the Contract.

SECTION 35. ASSIGNMENT

CONTRACTOR declares that the only persons or parties interested in the Contract as principals are named herein and that the Contract is made without participation by or benefit to any other person, firm or corporation, except as specified herein.

CONTRACTOR agrees that it will not assign to nor permit Contract participation in whole or in part by any other person, firm or corporation not specified as a principal without the prior written consent of **GPA**. If such assignment is permitted, **CONTRACTOR** will guarantee the performance of all terms and obligations of the Contract, and such assignment shall not alter

CONTRACTOR's obligations hereunder. No assignee of **CONTRACTOR** shall have the right to assign the Contract without **GPA's** consent which may be given or refused at **GPA's** absolute discretion.

CONTRACTOR and **GPA** shall not transfer or assign its rights and obligations under this contract, in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, the **CONTRACTOR** may transfer or assign its rights and obligations under this contract, in whole or in part, to a US based affiliate (as defined hereinafter), with ninety (90) days prior notice to and at the consent of **GPA**. For the purpose of this contract, "US based affiliate" means any company or legal entity based in the United States of America which (a) controls either directly or indirectly a party hereto, or (b) is controlled directly or indirectly by such party, or (c) is directly or indirectly controlled by a company or entity which directly or indirectly controls such party. "Control" for purposes of the previous sentence means the ability to direct the management and policies of a company or legal entity, whether through ownership of securities, by contract or otherwise.

SECTION 36. TIME

Time is of the essence in the Contract and in every part hereof.

SECTION 37. SPECIFICATIONS

Should **GPA** wish to alter any of the specifications set out in Section 9 and Schedule A, method and terms of delivery, for good cause, it shall give written notice to **CONTRACTOR** within thirty (30) days. If such changes causes an increase or decrease in **CONTRACTOR's** cost of performance of Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim by **CONTRACTOR** for adjustment under this section must be asserted in writing within thirty (30) days from the date of receipt by **CONTRACTOR** of the notification of changed specifications. **CONTRACTOR** and **GPA** shall, in good faith, negotiate an equitable adjustment pursuant to the change in specifications. If **CONTRACTOR** and **GPA** fail to agree on the adjustment to be made within thirty (30) days after **CONTRACTOR** receives notice of altered specifications, or if **CONTRACTOR** is unwilling to meet the altered specifications, the parties shall be subject to the provisions under Section 21 (Governing Law and Disputes) clause. However, nothing in this clause shall excuse the **CONTRACTOR** from proceeding with the Contract fuel oil specifications as changed.

SECTION 38. AMENDMENT AND WAIVER

Neither the Contract nor any provision hereof may be changed, waived, altered, amended, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, alteration, amendment, discharge or termination is sought. For purposes of this Contract, the signature of the Chairman or his designee, of the Consolidated Commission on Utilities is required to bind the **AUTHORITY**.

Failure by either party to object to any failure of performance by the other party of any provision of the Contract shall not constitute a waiver of, or estoppel against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppel with respect to any succeeding failure of performance.

SECTION 39. DESCRIPTIVE HEADINGS

The descriptive headings of the several Sections and Subsections in this Invitation are inserted for convenience only and shall not be deemed to affect the meaning or construction of any provision hereof.

SECTION 40. RELATIONSHIP OF PARTIES

Nothing contained in the Contract shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between **CONTRACTOR** and **GPA**, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between **GPA** and **CONTRACTOR**, other than the relationship of buyer and seller.

SECTION 41. NUMBER AND GENDER

In the Contract the masculine gender includes the feminine and neuter, the singular number includes the plural, and the word "person" includes corporation, partnership, firm or association wherever the context so requires.

SECTION 42. SUCCESSORS IN INTEREST

Each and all of the covenants, conditions, and restrictions in the Contract shall inure to the benefit of and shall be binding upon the permitted assignees and successors in interest of either party.

SECTION 43. PARTIAL INVALIDITY

Should any part of the Contract for any reason be declared to be invalid, such decision shall not affect the validity of any remaining portion thereof, which remaining portion shall remain in force and effect as if the Contract had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Contract without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.

SECTION 44. EQUAL OPPORTUNITY CLAUSE

During the performance of the Contract the **CONTRACTOR** agrees as follows:

(a) The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, political opinion or affiliation, or national origin. The **CONTRACTOR** will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, political opinion or affiliation, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The **CONTRACTOR** agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **GPA** setting forth the provisions of this equal opportunity clause.

(b) The **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of the **CONTRACTOR**, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, political opinion or affiliation, or national origin.

SECTION 45. PROHIBITION AGAINST GRATUITIES, KICKBACKS, AND FAVORS TO THE TERRITORY.

GCA 5 §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION 46. RESTRICTIONS AGAINST CONTRACTOR EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

GCA 5 §5253(b) restricts the CONTRACTOR against employing convicted sex offenders from working at Government of Guam venues. It states:(b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the CONTRACTOR has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, 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; and (2) that if any person providing services on behalf of the CONTRACTOR is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA 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.

SECTION 47. CONTRACT BINDING EFFECT

All EXHIBITS attached hereto are incorporated herein by reference in its entirety.

This Contract is binding upon the **CONTRACTOR** only if **CONTRACTOR** has been awarded the Contract in response to the **IFB RE-BID GPA-012-22**. This Contract shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

For the **Guam Power Authority (GPA):**

John M. Benavente, P.E.
General Manager

DATE

For **(CONTRACTOR):**
(Company Seal)

CONTRACTOR, Duly Authorized
REPRESENTATIVE OF COMPANY

DATE

APPROVED AS TO FORM:

Graham Botha, Legal Counsel
Guam Power Authority

DATE

SCHEDULE A: PRODUCT QUALITY SPECIFICATION**DIESEL FUEL Oil No. 2 ^A**

Property	ASTM Test Method ^B	Alternate Method ASTM	Unit of Measure	Limits
Flash Point	D93		°C	52 Min
Water & Sediment	D2709		% vol	0.05 Max
Distillation Temp, °C 90%, recovered	D86		% vol	282 Min 360 Max
Kinematic Viscosity	D-445		mm ² at 40°C	1.9 Min 4.1 Max
Ash	D482		% mass	0.01 Max
Sulfur	D5453		ppm (µg/g)	15 Max
Copper Strip Corrosion Rating (3hrs min at 50°C)	D130			No.1 Max
Cetane Index	D 613	D976-80 D 4737		46 Min
Aromaticity	D1319		% vol	35 Max
Carbon Residue on 10% distillation residue	D524	D4530 D6371	% mass	0.20 Max
Lubricity, HFRR @ 60°C	D6079		Micron	460 Max
Conductivity	D2624	D4308	pS/m	50 Min
Density @ 15°C	D1298	D4052	Kg/m ³	820 Min 850 Max
Gravity, API @ 60°F	D1295	D4052		35 Min 41 Max
Color	D1500		ASTM	2.0 Max
Strong Acid No.	D974		mg KOH/g	NIL
Total Acid No.	D974		mg KOH/g	0.5 Max
Stability (Oxidation), 16Hrs	D2274		mg/L	25 Max
Appearance @ 25degC, Haze Rating	D4176			1
Guaranteed Heating Value (HHV)	D240		MMBTU/bbl	5.70 Min

^A Follows the minimum requirements for **Ultra-Low Diesel Fuel Oils (ULSD)** listed under ASTM 975-10.

^B These test methods are specified in 40CFR Part 80. Test methods must follow the latest version.

^C Appearance must be clear at ambient temperature and free from undissolved water and sediment.

The Authority may require the supplier to conduct additional test as may be required for plant's performance/efficiency evaluation.

SCHEDULE B: DELIVERY SITE LOCATIONS**GUAM POWER AUTHORITY WATER SYSTEMS DIESEL****A. Northern Wells and Pump Stations**

No.	Unit	Feeder	Location	Tank Capacity
1	WBP-21	67	SANTA ROSA BSTR PUMP	350
2	D-10	87	Y SENGSONG ROAD	1020
3	D-12	87	Y SENGSONG ROAD	1020
4	D-1-2	87	DEDEDO BEHIND GWA LAB (GICC)	1680
5	D-13	87	SWAMP ROAD - DEDEDO	1020
6	D-19	87	SWAMP ROAD- DEDEDO	1020
7	D-20	87	SWAMP ROAD- DEDEDO	01020
8	D-21	87	SWAMP ROAD- DEDEDO	01020
9	D-3	87	DEDEDO BEHIND GWA LAB (GICC)	1020
10	D-4	87	DEDEDO BEHIND GWA LAB	1020
11	D-5	87	GUAM INT'L COUNTRY CLUB DEDEDO	1020
12	D-6	87	DEDEDO BEHIND GWA LAB	1020
13	D-7	87	Y SENGSONG ROAD	1020
14	D-8	87	Y SENGSONG ROAD	1020
15	D-9	87	Y SENGSONG ROAD	1020
16	EX-5	87	BEHIND GWA LAB DEDEDO (GOLF	1020
17	F-1	87	FINEGAYAN-POL RTE.3 NCTS	1020
18	F-10	87	FINEGAYAN- POL RTE 3 NCS	1020
19	F-11	87	FINEGAYAN- POL RTE 3 NCS	1020
20	F-12	87	Y SENGSONG MACHANAO C&H FARM	1020
21	F-13	87	BONGBONG MACHANO	
22	F-15	87	CORAZON MACHANO	
23	F-16	87	CORAZON MACHANO	
24	F-17	87	CORAZON MACHANO	
25	F-18	87	CORAZON MACHANO	
26	F-2	87	FINEGAYAN-POL RTE.3 NCS	1020
27	F-3	87	FINEGAYAN-POL RTE.3 NCS	1020

28	F-4	87	FINEGAYAN-POL RTE.3 NCS	1020
29	F-5	87	ASTUMBO COMMUNITY CENTER	1020
30	F-6	87	INTERSECTION OF RTE 3 & Y SENG	1020
31	F-7	87	MAPAS STREET ENTRANCE	1020
32	F-8	87	Y SENGSONG - MACHANAO	1020
33	F-9	87	Y SENGSONG-ENTRANCE MAGIC MT	1020
34	D-11	88	DEDEDO BEHIND GWA LAB	1020
35	D-14	88	DEDEDO - ACROSS WINCHELLS	1020
36	D-15	88	DEDEDO MIDDLE SCHOOL	1020
37	D-16	88	SANTA MONICA-DEDEDO WETTENGEL	1020
38	D-17	88	SANTA MONICA-DEDEDO PUBLIC	1020
39	D-18	88	SANTA MONICA-DEDEDO PUBLIC	1020
40	GHURA 501	89	GHURA 501 HOUSING, DEDEDO	1020
41	ND-4	89	YPAOPAO ESTATE PUMP STATION	620
42	H-1	270	HARMON CLIFF LINE	1020
43	NTP	111	NORTHERN TREATMENT PLANT	15000
44	WBP-17	270	NORTHERN BOOSTER PUMP	350
45	M-14	270	LIGUAN TERRACE, DEDEDO	1020
46	AG-1	330	AGAFA GUMAS	1020
47	AG-2	330	AGAFA GUMAS	
48	WBP-13	330	MATAGUAC BOOSTER PUMP STA	620
49	ND-1	331	YIGO PUMP STATION	2020
50	WBP-9	331	GAYINERO BSTR PUMP STA	350
51	Y-1-2	331	ROUTE 1, YIGO	1680
52	Y-3	331	YIGO MAYOR'S OFFICE	1020
53	Y-4	331	YIGO AMUSEMENT PARK	1020
54	Y-5	331	SIMON SANCHEZ HIGH SCHOOL,YIGO	1020
55	Y-6	331	GHURA 506 HOUSING, YIGO	1020
56	Y-7	331	GAYINERO RD, YIGO ELEM SCHOOL	4650
57	Y-9	331	GAYINERO RD, YIGO ELEM SCHOOL	
58	Y-10	89	AGA BLVD., YPAO ESTATE	
59	Y-12	89	BATULO ST. DEDEDO	
60	Y-14	331	BACK OF ACE HARDWARE	
61	Y-15	67	BEFORE BACK GATE TO ANDERSON	
62	Y-16	89	BEFORE ACE HARDWARE	

	Y-17		JUST PAST YIGO CT	
63	Y-21	89	BEORE ACE HARDWARE	
64	Y-23	331	CHALAN PAHARU, YIGO	

B. CENTRAL WATER WELLS & PUMPS

No.	Unit	Feeder	Location	Tank Capacity
1	A-15	210	UNTALAN MIDDLE SCHOOL-BARRIGAD	1020
2	A-21	210	MANGILAO - MAYOR OFFICE	1020
3	CD-2	210	ASMUYAO MANGILAO PUMP STATION	1020
4	CD-3	210	ASPENGO - BARRIGADA	1680
5	A-28	212	LEYANG BARRIGADA	1020
6	A-14	232	MANGILAO- INTERS. RTE 10 & 15	
7	A-1	250	RT 4 CHALAN PAGO/CHAOT BRIDGE	1020
8	A-10	250	DAIRY ROAD-MAIMAI (DOC)	1020
9	A-11	250	ORDOT-DUMP ROAD	1020
10	A-12	250	ORDOT-DUMP ROAD	1020
11	A-13	250	DAIRY RD. MAIMAI, RTE 4 TO DOC	1020
12	A-18	250	DAIRY RD- DEPT OF AGRICULTURE	1020
13	A-2	250	DAIRY ROAD-MAIMAI	1020
14	A-29	250	AGANA SPRINGS	1020
15	A-3	250	AFAME SINAJANA- RT4 FRONT KUAM	1020
16	A-4	250	DAIRY ROAD - MAIMAI	1020
17	A-5	250	AFAME SINAJANA	1020
18	A-6	250	AFAME SINAJANA	1020
19	A-7	250	RT 4 CHALAN PAGO/ORDOT	1020
20	A-8	250	RT 4 ORDOT-ACROSS GOGUE STORE	1020
21	A-9	250	DAIRY ROAD-MAIMAI (DOC)	1020
22	CD-11	251	MAITE EJECTOR	350
23	A-23-25	252	RT4 McDONALD TO SINAJANA CLIFF	1020
24	CD-13	252	SINAJANA PUMP STATION	620
25	A-26	253	MONGMONG TOTO SOFTBALL FIELD	350
26	M-16	272	RTE 15, MANGILAO	1020

27	ATP	282	AGANA TREATMENT PLANT	15000
28	A-31	283	AGANA HEIGHTS RESERVOIR	1020
29	A-32	283	AGANA HEIGHTS USNH INCINERATOR	1020
30	A-17	294	PUBLIC HEALTH- MANGILAO	1020
31	A-19	294	RTE 4 PAGO - MANIBUSAN'S PLACE	1020
32	CD-10	294	TAI MANGILAO PUMP STATION	3250
33	M-12	310	HARMON LOOP ROAD	1020
34	M-17A	311	PEREZ QUARRY, BELOW BARRIGADA	1680
	M-20-A	311	PEREZ QUARRY, BELOW BARRIGADA	
	M-21	311	AIRPORT ROAD, NEXT TO GAS STA.	
35	M-17B	311	PEREZ QUARRY, BELOW BARRIGADA	1680
36	EX-11	322	LATTE HEIGHTS ESTATE, MANGILAO	1020
	M-23	322	CARNATION LANE	
37	M-1	322	LATTE HEIGHTS, MANGILAO	1020
38	M-2	322	LATTE HEIGHTS, MANGILAO	1020
39	M-3	322	LATTE HEIGHTS, MANGILAO	1020
40	M-4	322	LATTE HEIGHTS, MANGILAO	1020
41	M-5-15	322	BELOW LATTE HEIGHTS,	1680
42	M-6	322	BELOW LATTE HEIGHTS,	1020
43	M-7	322	BELOW LATTE HEIGHTS,	1020
44	M-8	322	CARNATION ROAD TO RTE. 15	1020
45	ND-11	322	LATTE HEIGHTS VILLAGE PUMP STA	350
46	ND-2	322	MACHECHE SUBDIVISION PUMP STA	620
47	ND-5	322	LATTE HEIGHTS DOUBLE TROUBLE	620
48	ND-6	322	LATTE HEIGHTS SUNRISE VILLA	350
49	ND-7	322	LATTE HEIGHTS SUBMARINE PUMP	350
50	WBP-11	322	LATTE HEIGHTS BSTR PUMP STA	620
51	WBP-4	322	BARRIGADA BOOSTER PUMP STA	
52	M-9	322	RTE. 15, LATTE HEIGHTS	
53	M-18	310		
54	M-21	311		
55	M-23	322		1020

C. SOUTHERN WATER WELLS & PUMPS

No.	Unit	Feeder	Location	Tank Capacity
1	WBP-18	294	PAGO BOOSTER PUMP STATION	2020
2	WBP-22	220	SINIFA WATER BOOSTER PUMP	620
3	WBP-20	223	SANTA RITA SPRING BSTR PUMP	1020
4	WBP-23	223	TRUMAN BOOSTER PUMP	1020
5	WBP-25	260	WINDWARD HILL BOOSTER PUMP	1680
6	MJ-1	261	MALOJLOJ, INARAJAN	350
7	WBP-12	261	MALOJLOJ BOOSTER PUMP STA	1020
8	WBP-5	262	BRIGADE BOOSTER PUMP STA	1680
9	SD-10	340	UMATAC-MERIZO PUMP STATION 17	350
10	SD-11	340	UMATAC-MERIZO PUMP STATION 18	350
11	SD-12	340	UMATAC-MERIZO PUMP STATION 19	1020
12	SD-13	340	UMATAC-MERIZO PUMP STATION 20	620
13	SD-6	340	UMATAC-MERIZO PUMP STATION 13	620
14	SD-7	340	UMATAC-MERIZO PUMP STATION 14	620
15	SD-8	340	UMATAC-MERIZO PUMP STATION 15	620
16	SD-9	340	UMATAC-MERIZO PUMP STATION 16	350
17	WBP-14	340	MERIZO BOOSTER PUMP	1020
18	WBP-15	340	TUGUAN BOOSTER PUMP- UMATAC	350
19	SD-4	341	UMATAC-MERIZO PUMP STATION 11	620
20	SD-5	341	UMATAC-MERIZO PUMP STATION 12	620
21	WBP-1	341	AGAT-UMATAC BSTR PUMP STA.	350
22	WBP-2	341	AGAT-UMATAC BSTR PUMP STA.	350
23	WBP-24	341	UMATAC VILLAGE BOOSTER PUMP	1020
24	CD-1	P-7	ASAN PUMP STATION	1020
25	CD-19	P-7	PITI PUMP STATION	620

D. PORTABLE GENERATOR UNITS

No.	Unit	Feeder	Location	Tank Capacity
1	2412		DEDEDO COMPOUND	150
2	2413		AGANA POWER PLANT	150
3	2414		AGANA POWER PLANT	150
4	2415		AGANA POWER PLANT	150
5	2416		AGANA POWER PLANT	150
6	2417		AGANA POWER PLANT	150
7	2418		AGANA POWER PLANT	150
8	2419		AGANA POWER PLANT	150
9	2420		AGANA POWER PLANT	150
10	2421		AGANA POWER PLANT	200

Multi-Step Invitation for Bid

RE-BID GPA-012-22

SUPPLY OF DIESEL FUEL OIL NO.2



GPA WATER SYSTEMS DISTRIBUTION (WSD)

&

GWA EMERGENCY GENERATORS

Volume III

Appendices

APPENDIX A

Proposal Checklists

**IFB RE-BID GPA-012-22 (Diesel Fuel Oil No.2 Supply to WSD)
Appendix A-Proposal Checklists**

DOCUMENT RECEIPT CHECKLIST

Document Title	Proponent Initial
Volume I Commercial Terms and Conditions	_____
Volume II CONTRACT	_____
Volume III Schedules	_____
Volume IV Appendices	_____
APPENDIX A – Proposal Checklist	_____
APPENDIX B – Performance Bond	_____
APPENDIX C – Ownership & Interest Disclosure Affidavit	_____
APPENDIX D – Non-Collusion Affidavit	_____
APPENDIX E – No Gratuities and Kickbacks Affidavit	_____
APPENDIX F – Ethical Standards Affidavit	_____
APPENDIX G– Declaration Re Compliance with US DOL’s Wage Determination	_____
APPENDIX H – Restriction Against Sex Offenders	_____
APPENDIX I – Bid Bond Form and Instructions	_____
APPENDIX J – Local Procurement Preference Application	_____
APPENDIX K – Bidder Proposal	_____
Qualitative Proposal Scoring.xls	_____
Price Proposal Evaluation	_____
Contiguous Amendment Notifications From Amendment No. 1 through	_____
Others:	_____

**IFB RE-BID GPA-012-22 (Diesel Fuel Oil No.2 Supply to WSD)
Appendix A-Proposal Checklists**

DOCUMENT SUBMISSION CHECKLIST

PROPOSAL SUBMITTAL CHECKLIST¹

	ITEM	QUANTITY (ORIGINALS)	QUANTITY (COPIES)	GPA INITIAL
1	Technical Proposal	_____	_____	_____
2	Price Proposal	_____	_____	_____
3	Supplementary Information:			
	3.1. Articles of Incorporation and By-Laws	_____	_____	_____
	3.2. Certificate of Good Standing to Conduct Business in Jurisdiction of Residence	_____	_____	_____
	3.3. Information regarding outstanding claims against BIDDER	_____	_____	_____
	3.4. Ownership & Interest Disclosure Affidavit	_____	_____	_____
	3.5. Non-collusion Affidavit	_____	_____	_____
	3.6. No Gratuities or Kickbacks Affidavit	_____	_____	_____
	3.7. Ethical Standards Affidavit	_____	_____	_____
	3.8. Declaration of Compliance with US DOL's Wage Determination	_____	_____	_____
	3.9. Restriction Against Sex Offenders	_____	_____	_____
	3.10. Bid Bond Form	_____	_____	_____
	3.11. Local Procurement Preference Application	_____	_____	_____

¹ Quantities supplied for each item must comply with minimums established in Volume I of the Invitation for Bid documents.

APPENDIX B

Performance Bond

PERFORMANCE BOND NUMBER: _____

KNOW ALL MEN BY THESE PRESENTS that _____ , as Principal, hereinafter called **CONTRACTOR**, and _____ , a corporation hereinafter called **SURETY**, are held and firmly bound unto the **GUAM POWER AUTHORITY** as Obligee, in the amount of _____ **U.S. Dollars (US\$ _____)**, an amount negotiated for the first partial **GUAM POWER AUTHORITY** fiscal year within the term of the **CONTRACT**, for the payment whereof **CONTRACTOR** and **SURETY** bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, **CONTRACTOR** has by written agreement dated _____, 2022, entered into a **CONTRACT TO SUPPLY DIESEL FUEL OIL NO.2** with the **GUAM POWER AUTHORITY** through midnight of _____, 20____, with the **AUTHORITY's** option to extend the **CONTRACT** for an additional three-year term beginning _____, 20____, in accordance with forms and specifications prepared by the **GUAM POWER AUTHORITY** which **CONTRACT** is by reference made a part hereof, and is hereinafter referred to as the "**CONTRACT**".

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if **CONTRACTOR** shall promptly and faithfully perform said **CONTRACT** then this obligation shall be null and void; otherwise it shall remain in full force and effect. The **SURETY** hereby waives notice of any alteration or extension provided the same is within the scope of the **CONTRACT**. Whenever **CONTRACTOR** shall be and is declared by the **GUAM POWER AUTHORITY** to be in default under the **CONTRACT**, **GUAM POWER AUTHORITY** having performed its obligation thereunder, the **SURETY** may promptly remedy the default or shall promptly:

- (1) Complete the **CONTRACT** in accordance with its terms and conditions; or,
- (2) Obtain a bid or bids for completing the **CONTRACT** in accordance with its terms and conditions and upon determination by the **GUAM POWER AUTHORITY** and the **SURETY** jointly of the lowest responsive, responsible **BIDDER**, arrange for a **CONTRACT** between such **BIDDER** and the **GUAM POWER AUTHORITY** and make available as work progresses (even though there should be a default or a succession of defaults under the **CONTRACT** or **CONTRACTS** of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the **CONTRACT** price; but not exceeding, including other costs and damages for which the **SURETY** may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "balance of the **CONTRACT** price", as used in this paragraph shall mean the total amount payable by the **GUAM POWER AUTHORITY** to **CONTRACTOR** under the **CONTRACT** for the current fiscal year and any amendments thereto, less the amount properly paid by the **GUAM POWER AUTHORITY** to **CONTRACTOR** for that partial or full fiscal year.

The term fiscal year shall mean the time between October 1 in the calendar year to September 30 of the next calendar year.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the **GUAM POWER AUTHORITY** or successors of the **GUAM POWER AUTHORITY**.

Signed and sealed this _____ day of _____, 20_____.

(Principal) (Seal)

(Witness) _____
(Bonding Company)

(Title) _____
(Title)

(Witness) By: _____
(Attorney-In-Fact)

APPENDIX C

Ownership & Interest Disclosure Affidavit



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUÅHAN
P.O.BOX 2977 • HAGÁTÑA, GUAM U.S.A. 96932-2977

SPECIAL PROVISION FOR OWNERSHIP DISCLOSURE AFFIDAVIT

All Bidders/Offerors are required to submit a current affidavit as required below. Failure to do so will mean disqualification and rejection of the Bid/RFP.

5 GCA §5233 (Title 5, Section 5233) states:

Disclosure of Ownership, Financial, and Conflicts of Interest

- (a) Purpose. The disclosure required by this Section are intended to reveal information bearing on the responsibility of a bidder, and can be obtained by an inquiry regarding responsibility prior to award.
- (b) Definitions.
As used herein, the term “person” shall be interpreted liberally to include the definition found in 1 GCA § 715, and in § 5030(n) of this Chapter, and includes a natural person as well as every entity of whatever form or composition (an “artificial person”) recognized under the laws of Guam other than a natural person, who is a prospective contractor under a bid, offer, proposal, or other response to a solicitation, or is a contractor under a contract with the government of Guam, and subject to the provisions of this Chapter.
- (c) Public Disclosure of Ownership.
 - (1) The ownership interests to be disclosed under this Section include the interests of a natural or artificial person who owns all or any part of a prospective contractor, bidder, or offeror, whether as proprietor, a partner, limited or otherwise, a shareholder of any class, in which case the percentage ownership interest test shall be based on each class, a member of an association or company, limited or otherwise, and any person owning a beneficial legal interest in any trust, and any other person having the power to control the performance of the contract or the prospective contractor.
 - (2) Prior to award, every person who is a prospective contractor, bidder, or offeror of a contract to be acquired under any method of source selection authorized by this Chapter shall submit a Disclosure Statement, executed as an affidavit under oath, disclosing the name of each person who currently or has owned an ownership interest in the prospective contractor, bidder, or offeror greater than ten percent (10%) at any time during the twelve (12) month period immediately preceding the date of the solicitation (the “relevant disclosure period”). If a prospective contractor, bidder, or offeror is an artificial person, the Disclosure Statement shall disclose the name of each person who has owned an ownership interest in such artificial person (a “second tier owner”) greater than twenty-five percent (25%) at any time during the relevant disclosure period. If any such second tier owner is also an artificial person, the Disclosure Statement shall disclose the name of each person who has owned an ownership interest in such second tier owner (a “third tier owner”) of forty-nine percent (49%) or more during the relevant disclosure period. If the name of no natural person has been identified as an owner, or a second or third tier owner of the prospective contractor, bidder, or offeror, the Disclosure Statement shall identify the name, position, address, and contact information of the

natural person having the authority and responsibility for the performance of the prospective contract, and the name of any natural person who has the authority and power to remove and replace the designated responsible person or otherwise control the performance of the prospective contract.

- (d) Disclosure of Financial Interest. A prospective contractor shall execute an affidavit disclosing the name of any person who has received or is entitled to receive a commission, gratuity, contingent fee or other compensation to solicit, secure, or assist in obtaining business related to the solicitation by means of a Disclosure Statement, executed as an affidavit under oath, disclosing such interest and shall also contain the amounts of any such commission, gratuity, contingent fee or other compensation.
- (e) Disclosure of Conflict of Interest. A prospective contractor shall disclose the name of any person who directly or indirectly participates in any solicitation if such person is also an employee of the government of Guam, or of the government of the United States if federal funds are used in payment of the contract.
- (f) Every disclosure of an ownership or financial interest of any person required to be identified by this Section shall name the person required to be disclosed and the street address of their principal place of business. All information disclosed or meant to be disclosed under this Section is public procurement data and shall be kept as part of the public record of each procurement.
- (g) Continuing Duty of Disclosure. Notwithstanding any other provision of this Chapter, the duty to disclose the information required under this Section shall be, upon award a continuing duty of a contractor of every contract subject to this Chapter, and all such information shall become part of the procurement record required by § 5249 of this Chapter. Throughout the term of a contract subject to the terms of this Chapter, the contractor shall promptly make any disclosures not made previously and update changes in the identities or other required information, interests, or conflicts of the persons required to be disclosed herein. Failure to comply with this Section shall constitute a material breach of contract.”

Section 2. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

1. **If the affidavit is a copy, indicate the BID/RFP number and where it is filed.**
2. **Affidavits must be signed within 60 days of the date the bids or proposals are due.**

4. That if no natural person has been identified as an owner in Section 1-3 above, the natural person having the authority and responsibility for the performance of the prospective contract:

<u>Name & Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
_____	_____	_____
_____	_____	_____

The natural person having the authority and power to remove and replace the designated responsible person or otherwise control the performance of the prospective contract:

<u>Name & Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
_____	_____	_____

5. Persons who have received or are entitled a commission, gratuity or other compensation for procuring or assisting in obtaining business related to the Bid/RFP for which this Affidavit is submitted are as follows:

<u>Name</u>	<u>Address</u>	<u>Amount of Commission, Gratuity, or other Compensation</u>
_____	_____	_____
_____	_____	_____

6. Persons who directly or indirectly participated in this solicitation, if government of Guam employees (or government of the United States employees, if federal funds are used in payment of the contract):

<u>Name & Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
_____	_____	_____
_____	_____	_____

Further, affiant sayeth naught.

Date: _____

 Signature of individual if bidder/offeror is a sole Proprietorship; Partner, if the bidder/offeror is a Partnership Officer, if the bidder/offeror is a corporation.

Subscribe and sworn to before me this _____ day of _____, 20_____.

Notary Public _____

In and for the Territory of Guam

My Commission expires _____.

APPENDIX D

Non-Collusion Affidavit

NON-COLLUSION AFFIDAVIT

Guam)
)ss:
Hagatna)

I, _____ first being duly sworn, depose and say:
(Name of Declarant)

1. That I am the _____ of _____.
(Title) (Name of Bidding/RFP Company)
2. That in making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or shame, that said bidder/offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham or to refrain from bidding or submitting a proposal and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid of affiant or any other bidder, or to secure any overhead, project or cost element of said bid price, or of that of any bidder, or to secure any advantage against the GUAM POWER AUTHORITY or any person interested in the proposed contract; and
3. That all statements in said proposal or bid are true.
4. This affidavit is made in compliance with Guam Administrative Rules and Regulations §§3126(b).

(Declarant)

SUBSCRIBED AND SWORN to me before this _____ day of _____ 20__.

)Seal(

Notary Public

APPENDIX E

No Gratuities or Kickbacks Affidavit

NO GRATUITIES OR KICKBACKS AFFIDAVIT

AFFIDAVIT

(Offeror)

TERRITORY OF GUAM)

HAGATNA, GUAM)

SS:

_____, being first duly sworn, deposes and says:

As the duly authorized representative of the Offeror, that neither I nor of the Offeror's officers, representatives, agents, subcontractors, or employees has or have offered, given or agreed to give any government of Guam employee or former employee, any payment, gift, kickback, gratuity or offer of employment in connection with Offeror's proposal.

Signature of Individual if Proposer is a Sole Proprietorship;
Partner, if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__.

Notary Public
In and for the Territory of Guam
My Commission Expires:

APPENDIX F

Ethical Standards Affidavit

ETHICAL STANDARDS AFFIDAVIT

AFFIDAVIT

(Proposer)

TERRITORY OF GUAM)

)

SS:

HAGATNA, GUAM)

)

_____, being first duly sworn, deposes and says:

That I am (the Sole Proprietor, a Partner or Officer of the Offeror)

That Offeror making the foregoing Proposal, that neither he or nor of the Offeror's officers, representatives, agents, subcontractors, or employees of the 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, and promises that neither he nor any officer, representative, agent, subcontractor, or employee of Offeror will knowingly influence any government of Guam employee to breach any ethical standard set for in 5 GCA Chapter 5 Article 11.

Signature of Individual if Proposer is a Sole Proprietorship;
Partner, if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__.

Notary Public
In and for the Territory of Guam
My Commission Expires:

APPENDIX G

**Declaration of Re-Compliance
With U.S. Department of Labor Wage Determination**

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

Procurement No.: _____

Name of Offeror Company: _____

_____ hereby certifies under penalty of perjury:

- (1) That I am _____ (the offeror, a partner of the offeror, an officer of the offeror) making the bid or proposal in the foregoing identified procurement;
- (2) That I have read and understand the provisions of 5 GCA § 5801 and § 5802 which read:

§ 5801. Wage Determination Established.

In such cases where the government of Guam enters into contractual arrangements with a sole proprietorship, a partnership or a corporation ('contractor') for the provision of a service to the government of Guam, and in such cases where the contractor employs a person(s) whose purpose, in whole or in part, is the direct delivery of service contracted by the government of Guam, then the contractor shall pay such employee(s) in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the government of Guam.

The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

§ 5802. Benefits.

In addition to the Wage Determination detailed in this Article, any contract to which this Article applies shall also contain provisions mandating health and similar benefits for employees covered by this Article, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.

- (3) That the offeror is in full compliance with 5 GCA § 5801 and § 5802, as may be applicable to the procurement referenced herein;

Signature of Individual if Proposer is a Sole Proprietorship;
Partner, if the Proposer is a Partnership;
Officer, if the Proposer is a Corporation

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__.

Notary Public
In and for the Territory of Guam
My Commission Expires:

APPENDIX H

**Restrictions Against Sex Offenders Employed by
Service Providers to Government of Guam from
Working on Government of Guam Property**

SPECIAL PROVISIONS

Restriction Against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property

GCA 5 §5253 Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues:

- (a) No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the Government of Guam other than public highway.
- (b) All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, 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; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA 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.
- (c) Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or Requests for Proposals shall state all the conditions in § 5253(b).
- (d) Any contractor found in violation of § 5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.

SOURCE: *Added by P.L. 28-024:2 (Apr. 21, 2005). Amended by P.L. 28-098:2 (Feb. 7, 2006).*

Signature of Bidder Date

Proposer, if an individual;
Partner, if a partnership;
Officer, if a corporation.

Subscribed and sworn before me this _____ day of _____, 2022.

Notary Public

APPENDIX I

Bid Bond Form and Instructions



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUÅHAN
P.O.BOX 2977 • HAGÁTÑA, GUAM U.S.A. 96932-2977

Telephone Nos. (671) 648-3054/55 Fax: 648-3165

Lourdes A. Leon Guerrero
I Maga 'håga

Joshua F. Tenorio
I Sigundo Maga 'låhi

BID BOND

NO.: _____

KNOW ALL MEN BY THESE PRESENTS that _____, as

Principal Hereinafter called the Principal, and (Bonding Company), _____
A duly admitted insurer under the laws of the Territory of Guam, as Surety, hereinafter called the Surety are
Held firmly bound unto the Territory of Guam for the sum of _____ Dollars
(\$ _____), for Payment of which sum will and truly to be made, the said Principal and the said
Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for (identify project by number and brief description)

NOW, THEREFORE, if the Territory of Guam shall accept the bid of the Principal and the Principal shall enter into a Contract with the Territory of Guam in accordance with the terms of such bid, and give such bond or bonds as my be specified in bidding or Contract documents with good and sufficient surety for the faithful performance of such Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Territory of Guam the difference not to exceed the penalty hereof between the amounts specified in said bid and such larger amount for which the Territory of Guam may in good faith contract with another party to perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain full force and effect.

Signed and sealed this _____ day of _____ 2022.

(PRINCIPAL) (SEAL)

(WITNESS)

(TITLE)

(MAJOR OFFICER OF SURETY)

(TITLE)

(TITLE)

(RESIDENT GENERAL AGENT)

SEE INSTRUCTIONS FOR SUPPORTING DOCUMENTS REQUIRED.

INSTRUCTION TO PROVIDERS:

NOTICE to all Insurance and Bonding Institutions:

The Bond requires the signatures of the Vendor, two (2) major Officers of the Surety and Resident General Agent, if the Surety is a foreign or alien surety.

When the form is submitted to the Guam Power Authority, it should be accompanied with copies of the following:

1. Current Certificate of Authority to do business on Guam issued by the Department of Revenue and Taxation.
2. Power of Attorney issued by the Surety to the Resident General Agent or the following:
 - a. Current Sworn Annual Report (Limited Liability Company (LLC) and/or Corporation) or;
 - b. Current Renewal of Annual Limited Liability Partnership (LLP)

The following reference links below are for reference:

https://www.govquamdocs.com/revtax/docs/SwornAnnualReport_LLC_0609.pdf
https://www.govquamdocs.com/revtax/docs/SwornAnnualReport_Corporations.pdf
https://www.govquamdocs.com/revtax/docs/Renewal_LLP_Registration_r1106.pdf

3. Power of Attorney issued by two (2) major officers of the Surety to whoever is signing on their behalf.

Bonds, submitted as Bid Guarantee, without signatures and supporting documents are invalid and Bids will be rejected.

APPENDIX J

Local Procurement Preference Application



GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUÅHAN
 P.O.BOX 2977 • HAGÁTÑA, GUAM U.S.A. 96932-2977

Lourdes A. Leon Guerrero
 I Maga 'håga

Telephone Nos. (671) 648-3054/55 Fax: 648-3165

Joshua F. Tenorio
 I Sigundo Maga 'låhi

Accountability · Impartiality · Competence · Openness · Value

LOCAL PROCUREMENT PREFERENCE APPLICATION

Based on the law stipulated below, please place a checkmark or an "X" on the block indicating the item that applies to your business:

5GCA, Chapter 5, Section 5008, "Policy in Favor of Local Procurement" of the Guam Procurement Law states:

All procurement of supplies and services shall be made from among businesses licensed to do business on Guam and that maintains an office or other facility on Guam, whenever a business that is willing to be a contractor is:

- () (a) A licensed bona fide manufacturing business that adds at least twenty-five percent (25%) of the value of an item, not to include administrative overhead, suing workers who are U.S. Citizens or lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their former citizenship in the Trust Territory for the Pacific Islands; or
- () (b) A business that regularly carries an inventory for regular immediate sale of at least fifty percent (50%) of the items of supplies to be procured; or
- () (c) A business that has a bona fide retail or wholesale business location that regularly carries an inventory on Guam of a value of at least one half of the value of the bid or One Hundred Fifty Thousand Dollars (\$150,000.0) whichever is less, of supplies and items of a similar nature to those being sought; or
- () *(d) A service actually in business, doing a substantial business on Guam, and hiring at least 95% U.S. Citizens, lawfully admitted permanent residents or national of the United States, or persons who lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

- Bidders indicating qualification under (d) may be considered QUALIFIED for the Local Procurement Preference **only if** the Government's requirement is for service. Service is defined Pursuant to 5 GCA Government Operations Subparagraph 5030 entitled DEFINITIONS under Chapter 5 of the Guam Procurement Law.

1. I _____, representative for _____, have read the requirements of the law cited above and do hereby qualify and elect to be given the LOCAL PROCUREMENT PREFERENCE for Bid No.: GPA _____. By filling in this information and placing my signature below, I understand that the Guam Power Authority will review this application and provide me with a determination whether or not the 15% preference will be applied to this bid.
2. I _____, representative for _____, have read the requirements of the law cited above, and do not wish to apply for the Local Procurement Preference for Bid No.: GPA _____.

 Bidder Representative Signature

 Date

NOTE:
 Prospective Bidders not completing this form will automatically be not considered for Local Procurement Preference. Non-completion of this form is not a basis for rejection of the bid or proposal.

APPENDIX K

Bidder's Proposal

[BIDDER NAME]

On this ____ day of _____, 20____, I, _____ (Name of Representative) _____,
authorized representative of _____ (Name of Company) _____,
a/an (Individual / Partnership / Corporation / Other: _____) incorporated
in _____ hereby submit our Qualitative Proposal and Price Proposal for

**Multi-Step Re-Bid GPA-012-22 SUPPLY OF DIESEL FUEL OIL NO. 2 FOR THE
WATER SYSTEMS DISTRIBUTION (WSD) and GWA GENERATORS**

Signature and Title of Person
Authorized to Sign this Bid:

DATE:

Name and Address of BIDDER;

Multi-Step Invitation for Bid

RE-BID GPA-012-22

SUPPLY OF DIESEL FUEL OIL NO.2



GPA WATER SYSTEMS DISTRIBUTION

&

GWA EMERGENCY GENERATORS

Step 1

Qualitative/Technical Proposal Scoresheet

IFB RE-

QUALITATIVE / TECHNICAL PROPOSAL INSTRUCTIONS

MS IFB RE-BID GPA-012-22: Supply of Diesel Fuel Oil No. 2 for WSD & GWA Generators

Task 0: Replace this Text with Bidder's Name.

INSTRUCTIONS

BIDDERS will be given an electronic copy of this Qualitative Proposal Scoring Worksheet which shall be used during evaluation. Bidders
 are required to fill in Part 1 and Part 2 of this worksheet as part of Qualitative Proposal Evaluation.

The **Proposal Scoring Information** tab contains information on the Maximum Score and Weight of each Checklist Item.

BIDDERS must fill in the **Part 1 - Checklist Item References** tab. GPA will review the proposals to ensure that the references truly comply with the Bid Requirements.

BIDDERS may use the **Proposal Scoring Information** and **Part 2- Qualitative Proposal Score** tabs of this workbook to evaluate the strength of their submittals. However, **only GPA's Evaluation Committee Scores will count.**

This Task is for PROPONENT to Complete

Task1 BIDDER shall complete *Part 1 - Checklist Item References*. Information on this sheet will be used by GPA Evaluators in referring to BIDDER's qualitative proposal for the responses to each Checklist Item.

Step	Directions
------	------------

- | | |
|---|---|
| 1 | Go to "Part 1 - Checklist Item References" worksheet. |
| 2 | In Column C, cite the Volume / Chapter / Section / Page Number , etc. pertaining to the section of the Qualitative Proposal where supporting information for each Checklist item can be found. BIDDERS should be as specific as possible. Leaving the spaces blank will mean the BIDDER has no supporting document for the checklist item - GPA Evaluator will then score this item as "0". |

The Succeeding Tasks are for GPA to Complete

Task 2 GPA shall review the Proponent's entries made under Task 1.

Step	Directions
------	------------

- | | |
|---|---|
| 1 | Review BIDDER's inputs to Part 1 Checklist Item References worksheet. Check supporting documents and verify if responses are given to each Checklist Item. |
| 2 | Checklist Items left blank on Part 1 - Checklist Item References worksheet will be automatically scored "0" in Part 2 - Qualitative Proposal Score worksheet. |

Task 3 GPA shall evaluate the BIDDER's qualifications based on the submittals.

Step	Directions
------	------------

- | | |
|---|---|
| 1 | Go to Part 2 - Qualitative Proposal Score . |
| 2 | Check to see that all Checklist Items without references in Part 1 - Checklist Item References worksheet are scored "0". |
| 3 | Review each Checklist Item by referring to the submittals. In Column C of Part 2 - Qualitative Proposal Score worksheet, rate the BIDDER's qualifications. |

#REF!

IFB RE-BID GPA-012-22: Qualitative Proposal Scoring: Proposal Scoring Information

Item	Bidder Checklist Items	Checklist Weight	Maximum Raw Rating Score	Maximum Weighted Score	Percent of Maximum Possible Points For Item	Percent of Total Weighted Score
MS IFB RE-						
1	Business Structure and Business Approach	6		30		12.5%
	Company Information for Bidder and its affiliates	1	5	5	16.7%	
	Supporting information showing Business Structure (Company Literature, etc.)	1	5	5	16.7%	
	Supporting information showing Nature of Services Provided (for BIDDER and its affiliates)	1	5	5	16.7%	
	Supporting information describing Business Concepts and Business approach to be used in performing, meeting and achieving objectives of this solicitation	2	5	10	33.3%	
	A copy of Articles of Incorporation and By-Laws, or other applicable forms concerning business organization (for BIDDER and affiliates)	1	5	5	16.7%	
2	Experience and Qualification	20		100		41.7%
	Supporting information showing extensive and reliable experience in the safe and reliable distribution of fuel oil. Information should include, at least, the following: • Successful completion or on-going contracts for the supply and delivery of Diesel Fuel Oil No. 2, within the last five (5) years. Total annual delivered fuel quantity must be similar or greater than the Solicitation volume requirements.	20	5	100	100.0%	
3	Organizational Structure and Qualifications	5		25		10.4%
	Organizational structure including names and designations of personnel to be assigned on this contract, including a brief description of the qualifications and responsibilities of each personnel.	5	5	25	100.0%	
4	Financial Information Checklist	5		25		10.4%
	Brief description of company's financial position and capability.	5	5	25	100.0%	
5	Local, Federal and Regulatory Compliance	3		15		6.3%
	Supporting documents showing knowledge and experience in complying with local regulations, federal regulations and other applicable laws on Guam.	3	5	15	100.0%	
6	Client References	6		30		12.5%
	At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERS (include the Client Name, Position, Company and copies of contracts with the BIDDERS or AFFILIATES).	2	5	10	33.3%	
	At least three (3) client reference letters describing relationship with Bidder, and Bidder's contract performance.	4	5	20	66.7%	
7	Mobilization Capability Checklist	3		15		6.3%
	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing	3	5	15	100.0%	
BIDDER Qualifications Score		48		240	100.0%	100.0%

A. BIDDER Qualifying Score	240
-----------------------------------	------------

B. Compliance with quality specifications set in Volume II Section 10 & Schedule A. (Yes = 1 ; No = 0) Bidders shall provide Documentary Evidence (a written statement) of conformity with all of the Quality Specifications set in Volume II Section 10 and Schedule A.	1
--	----------

C. No exceptions, addendums to contract requirements (Yes = 1 ; No = 0)	1
--	----------

FINAL QUALIFICATIONS SCORE (A x B x C)	240
---	------------

Minimum Score - Potentially Acceptable Proposal	180.00
Minimum Score - Acceptable Proposal	192.00
Maximum Compliance Score	240.00
Minimum Percent Score - Potentially Acceptable Proposal	75.0%
Minimum Percent Score - Acceptable Proposal	80.0%

RATINGS GUIDE:

- 5 - Excellent and plentiful relevant qualifications and project experience. Very highest client references.
- 3 - Average relevant qualifications and project experience. Average client references.
- 1 - Poor relevant qualifications and few relevant projects. Fair Client references.
- 0 - No substantial relevant experience.

IFB RE-BID GPA-012-22: Qualitative Proposal Scoring: Proposal Scoring Information

Note: **BIDDER** Checklist Items left blank will be scored as zero points in the **BIDDER** Qualifications Checklist Score.

Diesel Fuel Oil No. 2 for WSD & GWA Generators

Item	Bidder Checklist Items	Replace this text with BIDDER's Name- Supporting Information Referenced in Proposal.
0		
1	Business Structure and Business Approach Company Information for Bidder and its affiliates Supporting information showing Business Structure (Company Literature, etc.) Supporting information showing Nature of Services Provided (for BIDDER and its affiliates) Supporting information describing Business Concepts and Business approach to be used in performing, meeting and achieving objectives of this solicitation A copy of Articles of Incorporation and By-Laws, or other applicable forms concerning business organization (for BIDDER and affiliates)	
2	Experience and Qualification Supporting information showing extensive and reliable experience in the safe and reliable distribution of fuel oil. Information should include, at least, the following: • Successful completion or on-going contracts for the supply and delivery of Diesel Fuel Oil No. 2, within the last five (5) years. Total annual delivered fuel quantity must be similar or greater than the Solicitation volume requirements.	
3	Organizational Structure and Qualifications Organizational structure including names and designations of personnel to be assigned of this contract, including a brief description of the qualifications and responsibilities of each personnel. Include structure of logistics crew delivering fuel to GPA plants.	
4	Financial Information Checklist Brief description of company's financial position and capability.	
5	Local, Federal and Regulatory Compliance Supporting documents showing knowledge and experience in complying with local regulations, federal regulations and other applicable laws on Guam.	
6	Client References At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERS (include the Client Name, Position, Company and copies of contracts with the BIDDERS or AFFILIATES). At least three (3) client reference letters describing relationship with Bidder, and Bidder's contract performance.	
7	Mobilization Capability Checklist Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing	

IFB RE-BID GPA-012-22: Qualitative Proposal Scoring: Proposal Scoring Information
BID EVALUATOR :

MS IFB RE-BID GPA-012-22: Supply of Diesel Fuel Oil No. 2 for WSD & GWA Generators

Part 2- Qualifications Evaluation Scoresheet (Replace this Text with Bidder's name)

	Bidder Checklist Items	Checklist Weight	Raw Rating Score	Weighted Score
	Business Structure and Business Approach	6		0
1	Company Information for Bidder and its affiliates	1		
	Supporting information showing Business Structure (Company Literature, etc.)	1		
	Supporting information showing Nature of Services Provided (for BIDDER and its affiliates)	1		
	Supporting information describing Business Concepts and Business approach to be used in performing, meeting and achieving objectives of this solicitation	1		
	A copy of Articles of Incorporation and By-Laws, or other applicable forms concerning business organization (for BIDDER and affiliates)	2		
	Experience and Qualification	20		0
2	Supporting information showing extensive and reliable experience in the bulk supply and safe distribution of fuel oil. Information should include, at least, the following: • Successful completion or on-going contracts for the supply and delivery of Diesel Fuel Oil No. 2, within the last five (5) years. Total annual delivered fuel quantity must be similar or greater than the Solicitation volume requirements.	20		
	Organizational Structure and Qualifications	5		0
3	Organizational structure including names and designations of personnel to be assigned on this contract, including a brief description of the qualifications and responsibilities of each personnel. Include structure of logistics crew delivering fuel to GPA plants.	5		
	Financial Information	5		0
4	Brief description of company's financial position and capability.	5		
	Federal and Regulatory Compliance	3		0
6	Supporting documents showing knowledge and experience in complying with local regulations, federal regulations and other applicable laws on Guam.	3		
	Client References	6		0
7	At least three (3) client references for similar or larger contracts shall be submitted by the BIDDERS (include the Client Name, Position, Company and copies of contracts with the BIDDERS or AFFILIATES).	2		
	At least three (3) client reference letters describing relationship with Bidder, and Bidder's contract performance.	4		
	Mobilization Capability	3		0
8	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing	3		
A. BIDDER Qualifying Score				0

B. Compliance with quality specifications set in Volume II Section 10 & Schedule A.
(Yes = 1 ; No = 0)

Bidders shall provide Documentary Evidence (a written statement) of conformity with all of the Quality Specifications set in Volume II Section 10 & Schedule A.

C. No exceptions, addendums to contract requirements
(Yes = 1 ; No = 0)
FINAL QUALIFICATIONS SCORE (A x B x C)
0

Minimum Score - Potentially Acceptable Proposal	180.00
Minimum Score - Acceptable Proposal	192.00
Maximum Compliance Score	240.00
Minimum Percent Score - Potentially Acceptable Proposal	75.0%
Minimum Percent Score - Acceptable Proposal	80.0%

RATINGS GUIDE:

5 - Excellent and plentiful relevant qualifications and project experience. Very highest client references.

3 - Average relevant qualifications and project experience. Average client references.

1 - Poor relevant qualifications and few relevant projects. Fair Client references.

0 - No substantial relevant experience.

Multi-Step Invitation for Bid

RE-BID GPA-012-22

SUPPLY OF DIESEL FUEL OIL NO.2



GPA WATER SYSTEMS DISTRIBUTION

&

GWA EMERGENCY GENERATORS

Step 2

Price Proposal

BID PRICE PROPOSAL

On this ____ day of _____, 20____, I, _____ (Name of Representative) _____,
 authorized representative of _____ (Name of Company) _____,
 a/an (Individual / Partnership / Corporation / Other: _____) incorporated
 in _____ hereby submit our Price Proposal for

**MS IFB RE-BID GPA-012-22: SUPPLY OF DIESEL FUEL OIL NO. 2
 WATER SYSTEMS DISTRIBUTION (WSD)
 and GWA GENERATORS**

BID PRICE PROPOSAL:

Supply & Delivery

3-Year Base Period			2-Year Extension Option	
1 st of 3 years	2 nd of 3 years	3 rd of 3 years	1 st Yr Extn	2 nd Yr Extn
In Figures (3 decimals) \$/_____/gal	In Figures (3 decimals) \$/_____/gal	In Figures (3 decimals) \$/_____/gal	In Figures (3 decimals) \$/_____/gal	In Figures (3 decimals) \$/_____/gal
In words	In words	In words	In words	In words

Signature and Title of Person
Authorized to Sign this Bid:

Name and Address of BIDDER:

GOVERNMENT OF GUAM

GENERAL TERMS AND CONDITIONS

SEALED BID SOLICITATION AND AWARD

Only those Boxes checked below are applicable to this bid.

- [X] 1. **AUTHORITY:** This solicitation is issued subject to all the provision of the Guam Procurement Act (5GCA, Chapter 5) And the Guam Procurement Regulations (copies of both are available at the Office of the Complier of laws, Department of Law, copies available for inspection at the Guam Power Authority). It requires all parties involved in the Preparation, negotiation, performance, or administration of contracts to act in good faith.
- [X] 2. **GENERAL INTENTION:** Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and conditions for the bidder to provide the Government of Guam (Government) with specified services or with materials, supplies or equipment completely assembled and ready for use.
- [X] 3. **TAXES:** Bidders are cautioned that they are subject to Guam Income Taxes as well as all other taxes on Guam Transactions. Specific information on taxes may be obtained from the Director of Revenue and Taxation.
- [X] 4. **LICENSING:** Bidders are cautioned that the Government will not consider for award any offer submitted by a bidder who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.
- [X] 5. **LOCAL PROCUREMENT PREFERENCE:** All procurement of supplies and services where possible, will be made from among businesses licensed to do business on Guam in accordance with section 5008 of the Guam Procurement Act (5GCA, Chapter 5) and Section 1-104 of the Guam Procurement Regulations.
- [X] 6. **COMPLIANCE WITH SPECIFICATIONS AND OTHER SOLICITATION REQUIREMENTS:** Bidders shall comply with all specifications and other requirements of the Solicitation.
- [] 7. **“ALL OR NONE” BIDS:** Unless otherwise allowed under this Solicitation. “all or none” bids may be deemed to be non-responsive. If the bid is so limited, the Government may reject part of such proposal and award on the remainder.

NOTE: By checking this item, the Government is requesting all of the bid items to be bided or none at all. **The Government will not award on an itemized basis.** Reference: Section 3-101.06 of the Guam Procurement Regulations.

- [X] 8. **INDEPENDENT PRICE DETERMINATION:** The bidder, upon signing the Invitation for Bid, certifies that the prices in his bid were derived at without collusion, and acknowledge that collusion and anti-competitive practices are prohibited by law. Violations will be subject to the provision of Section 5651 of that of the Guam Procurement Act. Other existing civil, criminal or administrative remedies are not impaired and may be in addition to the remedies in Section 5651 of the Government code.
- [X] 9. **BIDDER’S PRICE:** The Government will consider not more than two (2) (Basic and Alternate) item prices and the bidder shall explain fully each price if supplies, materials, equipment, and/or specified services offered comply with specifications and the products origin. Where basic or alternate bid meets the minimum required specification, cost and other factors will be considered. Failure to explain this requirement will result in rejection of the bid.
- [X] 10. **BID ENVELOPE:** Envelope shall be sealed and marked with the bidder’s name, Bid number, time, date and place of Bid Opening.
- [X] 11. **BID GUARANTEE REQUIREMENT:** Bidder is required to submit a Bid Guarantee Bond or standby irrevocable Letter of Credit or Certified Check or Cashier’s Check in the same bid envelope to be held by the Government pending award. The Bid Guarantee Bond, Letter of Credit, Certified Check or Cashier’s Check must be issued by any local surety or banking institution licensed to do business on Guam and made payable to the Guam Power Authority in the amount of **no less than Fifty Thousand Dollars (US \$50,000.00)**. The Bid Bond must be submitted on Government Standard Form BB-1 (copy enclosed). Personal Checks will not be accepted as Bid Guarantee. If a successful Bidder (contractor) withdraws from the bid or fails to enter into contract within the prescribed time, such Bid guarantee will be forfeited to the Government of Guam. Bids will be disqualified if not accompanied by Bid Bond, Letter of Credit, Certified Check or Cashier’s check. Bidder must include in his/her bid, valid copies of a Power of Attorney from the Surety and a Certificate of Authority from the Government of Guam to show proof that the surety company named on the bond instrument is authorized by the Government of Guam and qualified to do business on Guam. For detailed information on bonding matters, contact the Department of Revenue and Taxation. Failure to submit a valid Power of Attorney and Certificate of Authority on the surety is cause for rejection of bid. (GPR Section 3-202.03.3) **Pursuant to Public Law 27-127, all competitive sealed bidding for the procurement of supplies or services exceeding \$25,000.00 a 15% Bid Security of the total bid price must accompany the bid package.**
- [X] 12. **PERFORMANCE BOND REQUIREMENT:** The Bidder may be required to furnish a Performance Bond on Government Standard Form BB-1 or standby irrevocable Letter of Credit or Certified Check or Cashier’s Check payable to the Guam Power Authority issued by any of the local Banks or Bonding Institution in the amount **equivalent to one hundred percent (100%) of the annual contract cost for that full or partial fiscal year within the term of the contract** as security for the faithful performance and proper fulfillment of the contract. In the event that any of the provisions of this contract are violated by the contractor, the Chief Procurement Officer shall serve written notice upon both the contractor and the Surety of its intention to terminate the contract. Unless satisfactory arrangement or correction is made within ten (10) days of such notice the contract shall cease and terminate upon the expiration of the ten (10) days. In the event of any such termination, the Chief Procurement Officer shall immediately serve notice thereof upon the Surety. The Surety shall have the right to take over and perform the

contract, provided, however, that if the Surety does not commence performance thereof within 10 days from the date of the mailing of notice of termination, the Government may take over and prosecute the same to complete the contract or force account for the account and at the expense of the contractor, and the contractor and his Surety shall be liable to the Government for any excess cost occasioned the Government thereby (GPR Section 3-202.03.4).

- [X] 13. **PERFORMANCE GUARANTEE:** Bidders who are awarded a contract under this solicitation, guarantee that goods will be delivered or required services performed within the time specified. Failure to perform the contract in a satisfactory manner may be cause for suspension or debarment from doing business with the Government and to enforce Section 23 of these General Terms and Conditions. In addition, the Government will hold the Vendor liable and will enforce the requirements as set forth in Section 41 of these General Terms and Conditions.
- [X] 14. **SURETY BONDS:** Bid and Performance Bonds coverage must be signed or countersigned in Guam by a foreign or alien surety's resident general agent. The surety must be an Insurance Company, authorized by the government of Guam and qualified to do business in Guam. Bids will be disqualified if the Surety Company does not have a valid Certificate of Authority from the Government of Guam to conduct business in Guam.
- [X] 15. **COMPETENCY OF BIDDERS:** Bids will be considered only from the such bidders who, in the opinion of the Government, can show evidence of their ability, experience, equipment, and facilities to render satisfactory service.
- [X] 16. **DETERMINATION OF RESPONSIBILITY OF BIDDERS:** The Chief Procurement Officer reserves the right for securing from bidders information to determine whether or not they are responsible and to inspect plant site, place of business; and supplies and services as necessary to determine their responsibility in accordance with Section 15 of these General Terms and Conditions (GPR Section 3-401).
- [X] 17. **STANDARD FOR DETERMINATION OF LOWEST RESPONSIBLE BIDDER:** In determining the lowest responsible offer, the Chief Procurement Officer shall be guided by the following:
- a) Price of items offered.
 - b) The ability, capacity, and skill of the Bidder to perform.
 - c) Whether the Bidder can perform promptly or within the specified time.
 - d) The quality of performance of the Bidder with regards to awards previously made to him.
 - e) The previous and existing compliance by the Bidder with laws and regulations relative to procurement.
 - f) The sufficiency of the financial resources and ability of the Bidder to perform.
 - g) The ability of the bidder to provide future maintenance and services for the subject of the award.
 - h) **The compliance with all of the conditions to the Solicitation.**
- [X] 18. **TIE BIDS:** If the bids are for the same unit price or total amount in the whole or in part, the Chief Procurement Officer will determine award based on Section 3.202.15.2, or to reject all such bids (GPR Section 3-202.15.2).
- [] 19. **BRAND NAMES:** Any reference in the Solicitation to manufacturer's Brand Names and number is due to lack of a satisfactory specification of commodity description. Such preference is intended to be descriptive, but not restrictive and for the sole purpose of indicating prospective bidders a description of the article or services that will be satisfactory. Bids on comparable items will be considered provided the bidder clearly states in his bid the exact articles he is offering and how it differs from the original specification.
- [] 20. **DESCRIPTIVE LITERATURE:** Descriptive literature(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The literature furnished must clearly identify the item(s) in the Bid. The descriptive literature is required to establish, for the purpose of evaluation and award, details of the product(s) the bidder proposes to furnish including design, materials, components, performance characteristics, methods of manufacture, construction, assembly or other characteristics which are considered appropriate. Rejection of the Bid will be required if the descriptive literature(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the descriptive literature(s) by the time specified in the Solicitation will require rejection of the bid.
- [] 21. **SAMPLES:** Sample(s) of item(s) as specified in this solicitation must be furnished as a part of the bid and must be received at the date and time set for opening Bids. The sample(s) should represent exactly what the bidder proposes to furnish and will be used to determine if the item(s) offered complies with the specifications. Rejection of the Bid will be required if the sample(s) do not show that the product(s) offered conform(s) to the specifications and other requirements of this solicitation. Failure to furnish the sample(s) by the time specified in the Solicitation will require rejection of the Bid.
- [] 22. **LABORATORY TEST:** Successful bidder is required to accompany delivery of his goods with a Laboratory Test Report indicating that the product he is furnishing the Government meets with the specifications. This report is on the bidder's account and must be from a certified Testing Association.
- [X] 23. **AWARD, CANCELLATION, & REJECTION:** Award shall be made to the lowest responsible and responsive bidder, whose bid is determined to be the most advantageous to the Government, taking into consideration the evaluation factors set forth in this solicitation. No other factors or criteria shall be used in the evaluation. The right is reserved as the interest of the Government may require to waive any minor irregularity in bid received. The Chief Procurement Officer shall have the authority to award, cancel, or reject bids, in whole or in part for any one or more items if he determines it is in the public interest. Award issued to the lowest responsible bidder within the specified time for acceptance as indicated in the solicitation, results in a bidding contract without further action by either party. In case of an error in the extension of prices, unit price will govern. It is the policy of the Government to award contracts to qualified local bidders. The government reserves the right to increase or decrease the quantity of the items for award and make additional awards for the same type items and the vendor agrees to such modifications and additional awards based on the bid prices for a period of thirty (30) days after original award. No award shall be made under this solicitation which shall require advance payment or irrevocable letter of credit from the government (GPR Section 3-202.14.1).

- [] 24. **MARKING:** Each outside container shall be marked with the Purchase Order number, item number, brief tem description and quantity. Letter marking shall not be less than 3/4" in height.
- [] 25. **SCHEDULE FOR DELIVERY:** Successful bidder shall notify the **Guam Power Authority, Dededo Warehouse at (671) 653-2073**, Information Technology Division at (671) 648-3060, GPA Transportation Supply at (671) 300-8318 and/or Guam Power Authority Cabras Warehouse at (671) 475-3319 at least twenty-four (24) hours before delivery of any item under this solicitation.
- [] 26. **BILL OF SALE:** Successful supplier shall render Bills of Sale for each item delivered under this contract. Failure to comply with this requirement will result in rejection of delivery. The Bill of Sale must accompany the items delivered but will not be considered as an invoice for payment. Supplier shall bill the Government in accordance with billing instructions as indicated on the Purchase Order.
- [] 27. **MANUFACTURER'S CERTIFICATE:** Successful bidder is required, upon delivery of any item under this contract, to furnish a certificate from the manufacturer indication that the goods meet the specifications. Failure to comply with this request will result in rejection of delivery payment. Supplier shall bill the Government in accordance with billing instructions as indicated on the Purchase Order.
- [X] 28. **INSPECTION:** All supplies, materials, equipment, or services delivered under this contract shall be subject to the inspection and/or test conducted by the Government at destination. If in any case the supplies, materials, equipment, or services are found to be defective in material, workmanship, performance, or otherwise do not conform with the specifications, the Government shall have the right to reject the items or require that they be corrected. The number of days required for correction will be determined by the Government.
- [] 29. **MOTOR VEHICLE SAFETY REQUIREMENTS:** The Government will only consider Bids on motor vehicles which comply with the requirements of the National Traffic and Motor Vehicle safety Act of 1966 (Public Law 89-563) and Clean Air Act as amended (Public Law 88-206), that are applicable to Guam. Bidders shall state if the equipment offered comply with these aforementioned Federal Laws.
- [] 30. **SAFETY INSPECTION:** All motor vehicles delivered under this contract must pass the Government of Guam Vehicle Inspection before delivery at destination.
- [X] 31. **GUARANTEE:**
- a) **Guarantee of Vehicle Type of Equipment:**
The successful bidder shall guarantee vehicular type of equipment offered against defective parts, workmanship, and performance, for a period of not less than one (1) year after date of receipt of equipment. Bidder shall also provide service to the equipment for at least one (1) year. Service to be provided shall include, but will not be limited to tune ups (change of spark plugs, contact points and condensers) and lubrication (change of engine and transmission oil). All parts and labor shall be at the expense of the bidder. All parts found defective and not caused by misuse, negligence or accident within the guarantee period shall be repaired, replaced, or adjusted within six (6) working days after notice from the Government and without cost to the Government. Vehicular type of equipment as used in this context shall include equipment used for transportation as differentiated from tractors, backhoes, etc.
- b) **Guarantee of Other Type of Equipment:**
The successful bidder shall guarantee all other types of equipment offered, except those mentioned in 31a, above, against defective parts, workmanship, and performance for a period of not less than three (3) months after date of receipt of equipment. Bidder shall also provide service to the equipment for at least three (3) months. All parts found defective within that period shall be repaired or replaced by the Contractor without cost to the Government. Repairs, adjustments or replacements of defective parts shall be completed by the contractor within six (6) working days after notice from the Government.
- c) **Compliance with this Section is a condition of this Bid.**
- [X] 32. **REPRESENTATION REGARDING ETHICS IN PUBLIC PROCUREMENT:** The bidder or contractor represents that it has not knowingly influenced and promises that it will not knowingly influence a Government employee to breach any of the ethical standards and represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth on Chapter 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.
- [X] 33. **REPRESENTATION REGARDING CONTINGENT FEES:** The contractor represents that it has not retained a person to solicit or secure a Government contract 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 (GPR Section 11-207).
- [X] 34. **EQUAL EMPLOYMENT OPPORTUNITY:** Contractors shall not discriminate against any employee or applicant of employment because of race, color, religion, se, or national origin. The contractor will take affirmative action to ensure that employees are treated equally during employment without regards to their race, color, religion, sex, or national origin.
- [X] 35. **COMPLIANCE WITH LAWS:** Bidders awarded a contract under this Solicitation shall comply with the applicable standard, provisions, and stipulations of all pertinent Federal and/or local laws, rules, and regulations relative to the performance of this contract and the furnishing of goods.
- [X] 36. **CHANGE ORDER:** Any order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-03.1 of the Guam Procurement Regulations.
- [X] 37. **STOP WORK ORDER:** Any stop work order issued relative to awards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101-04.1 of the Guam Procurement Regulations.

- [X] 38. **TERMINATION FOR CONVENIENCE:** Any termination order for the convenience of the Government issued relative towards made under this solicitation will be subject to and in accordance with the provisions of Section 6-101.10 of the Government Procurement Regulations.

- [X] 39. **TIME FOR COMPLETION:** It is hereby understood and mutually agreed by and between the contractor and the Government that the time for delivery to final destination or the timely performance of certain services is an essential condition of this contract. If the contractor refuses or fails to perform any of the provisions of this contract within the time specified in the Purchase Order (from the date Purchase Order is acknowledged by vendor), then the contractor is in default. Defaults will be treated subject to and in accordance with the provisions of Section 6-101-08 of the Guam Procurement Regulations.

- [X] 40. **JUSTIFICATION OF DELAY:** Bidders who are awarded contracts under this Solicitation, guarantee that the goods will be delivered to their destination or required services rendered within the time specified. If the bidder is not able to meet the specified delivery date, he is required to notify the Chief Procurement Officer of such delay. Notification shall be in writing and shall be receive by the Chief Procurement Officer at least twenty-four (24) hours before the specified delivery date. Notification of delay shall include an explanation of the causes and reasons for the delay including statement(s) from supplier or shipping company causing the delay. The Government reserves the right to reject delay justification if, in the opinion of the Chief Procurement Officer, such justification is not adequate.

- [X] 41. **LIQUIDATED DAMAGES:** When the contractor is given notice of delay or nonperformance as specified in Paragraph 1 (Default) of the Termination for Default Clause of this contract 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 territory reasonable 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 Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of the Termination for Default Clause of this contract, liquidated damages shall not be due the territory. The contractor remains liable for damages caused other than by delay (GPR Section 6-101-09.1).

- [X] 42. **PHYSICAL LIABILITY:** If it becomes necessary for the Vendor, either as principal, agent or employee, to enter upon the premises or property of the Government of Guam in order to construct, erect, inspect, make delivery or remove property hereunder, the Vendor hereby covenants and agrees to take, use, provide and make all proper, necessary and sufficient precautions, safeguards and protections against the occurrence of any accidents, injuries or damages to any person or property during the progress of the work herein covered, and to be responsible for, and to indemnify and save harmless the Government of Guam from the payment of all sums of money by reason of all or any such accidents, injuries or damages that may occur upon or about such work, and fines, penalties and loss incurred for or by reasons of the violations of any territorial ordinance, regulations, or the laws of Guam or the United States, while the work is in progress. Contractor will carry insurance to indemnify the Government of Guam against any claim for loss, damage or injury to property or persons arising out of the performance of the Contractor or his employees and agents of the services covered by the contract and the use, misuse or failure of any equipment used by the contractor or his employees or agents, and shall provide certificates of such insurance to the Government of Guam when required.

- [X] 43. **CONTACT FOR CONTRACT ADMINISTRATION:** If your firm receives a contract as a result of this Solicitation, please designate a person whom we may contact for prompt administration.

Name: _____ Title: _____

Address: _____ Telephone: _____

GOVERNMENT OF GUAM

SEALED BID SOLICITATION INSTRUCTIONS

1. **BID FORMS:** Each bidder shall be provided with two (2) sets of Solicitation forms. Additional copies may be provided upon request. Bidders requesting additional copies of said forms will be charged per page in accordance with Section 6114 of the Government Code of Guam. All payments for this purpose shall be by cash, certified check or money order and shall be made payable to the Guam Power Authority.

2. **PREPARATIONS OF BIDS:**
 - a) Bidders are required to examine the drawings, specifications, schedule, and all instructions. Failure to do so will be at bidder's risk.
 - b) Each bidder shall furnish the information required by the Solicitation. The bidder shall sign the solicitation and print or type his name on the Schedule. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent are to be accompanied by evidence of this authority unless such evidence has been previously furnished to the issuing office.
 - c) Unit price for each unit offered shall be shown and such price shall include packing unless otherwise specified. A total shall be entered in the amount column of the Schedule for each item offered. In case of discrepancies between a unit price and extended price, the unit price will be presumed to be correct.
 - d) Bids for supplies or services other than those specified will not be considered. Time, if stated as a number of days, means calendar days and will include Saturdays, Sundays, and holidays beginning the day after the issuance of a Notice to Proceed. Time stated ending on a Saturday, Sunday or Government of Guam legal holiday will end at the close of the next business day.

3. **EXPLANATION TO BIDDERS:** Any explanation desired by a bidder regarding the meaning or interpretation of the Solicitation, drawings, specifications, etc., must be submitted in writing and with sufficient time allowed for a written reply to reach all bidders before the submission of their bids. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective bidder concerning a Solicitation will be furnished to all prospective bidders in writing as an amendment to the Solicitation if such information would be prejudicial to uninformed bidders.

4. **ACKNOWLEDGEMENT OF AMENDMENTS TO SOLICITATIONS:** Receipt of an amendment to a Solicitation by a bidder must be acknowledged by signing an acknowledgement of receipt of the amendment. Such acknowledgement must be received prior to the hour and date specified for receipt of bids.

5. **SUBMISSION OF BIDS:**
 - a) Bids and modifications thereof shall be enclosed in sealed envelopes and addressed to the office specified in the Solicitation. The bidder shall show the hour and date specified in the Solicitation for receipt, the Solicitation number, and the name and address of the bidder on the face of the envelope.
 - b) Telegraphic bids will not be considered unless authorized by the Solicitation. However, bids may be modified or withdrawn by written or telegraphic notice, provided such notice is received prior to the hour and date specified for receipt (see paragraph 6 of these instructions).
 - c) Samples of items, when required, must be submitted within the time specified, unless otherwise specified by the Government, at no expense to the Government. If not destroyed by testing, samples will be returned at bidder's request and expense, unless otherwise specified by the Solicitation.
 - d) Samples or descriptive literature should not be submitted unless it is required on this solicitation. Regardless of any attempt by a bidder to condition the bid, unsolicited samples or descriptive literature will not be examined or tested at the bidder's risk, and will not be deemed to vary any of the provisions of this Solicitation.

6. **FAILURE TO SUBMIT BID:** If no bid is to be submitted, do not return the solicitation unless otherwise specified. A letter or postcard shall be sent to the issuing office advising whether future Solicitations for the type of supplies or services covered by this Solicitation are desired.

7. **LATE BID, LATE WITHDRAWALS, AND LATE MODIFICATIONS:**
 - a) Definition: Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated for opening is late (Guam Procurement Regulations Section 3-202)
 - b) Treatment: No late bid, late modification, or late withdrawal will be considered unless received before contract award, and the bid, modification, or withdrawal would have been timely but for the action or inaction of territorial personnel directly serving the procurement activity.

8. **DISCOUNTS:**
 - a) Notwithstanding the fact that prompt payment discounts may be offered, such offer will not be considered in evaluating bids for award unless otherwise specified in the Solicitation. However, offered discounts will be taken if payment is made within the discount period, even though not considered in the evaluation of bids.
 - b) In connection with any discount offered, time will be computed from date of delivery and acceptance of the supplies to the destination as indicated in the purchase order or contract. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

9. **GOVERNMENT FURNISHED PROPERTY:** No material, labor or facilities will be furnished by the Government unless otherwise provided for in the Solicitation.
10. **SELLERS' INVOICES:** Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified. Invoices shall be "certified true and correct" and shall contain the following information: Contract and order number (if any), item numbers, description of supplies or services, sizes, quantities, unit prices, and extended total. Bill of lading number and weight of shipment will be shown for shipments made on Government bills of lading.
11. **RECEIPT, OPENING AND RECORDING OF BIDS:** Bids and modifications shall be publicly opened in the presence of one or more witnesses, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Procurement Officer, shall be read aloud and recorded, or otherwise made available. The names and addresses of required witnesses shall be recorded at the opening. The opened bids shall be available for public inspection except to the extent the bidder designates trade secrets or other proprietary data to be confidential as set forth in accordance with Section 12 below. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Prices, makes and models or catalogue numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary (Guam Procurement Regulations Section 3-202.12.2).
12. **CONFIDENTIAL DATA:** The Procurement Officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, the Procurement Officer shall inform the bidders in writing what portions of the bid will be disclosed and that, unless the bidders protest under Chapter 9 of the Guam Procurement Act (P.L. 16-124), the bids will be so disclosed. The bids shall be opened to public inspection subject to any continuing prohibition on the disclosure of confidential data (Guam Procurement Regulations Section 3-202.12.3).
13. **MULTI-STEP SEALED BIDDING:**
- a. It is defined as two-phase process consisting of a technical first-phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the territory, and a second-phase in which those bidders whose technical offers are determined to be acceptable during the first-step have their priced bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible bidder, and at the same time obtained the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of technical offers.
 - b. In addition to the requirements set forth in the General Terms and Conditions and the Special provisions, the following applies:
 - 1). only unpriced technical offers are requested in the first phase;
 - 2). priced bids will be considered only in the second phase and only from bidders whose unpriced technical offers are found acceptable in the first phase;
 - 3). the criteria to be used in the evaluation at those specified in the Special Provisions and the General Terms and Conditions;
 - 4). the territory, to the extent the Procurement Officer finds necessary, may conduct oral or written discussion of the unpriced technical offers;
 - 5). the bidders, may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential; and,
 - 6). the service being procured shall be furnished generally in accordance with bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.
 - c. **RECEIPT AND HANDLING OF UNPRICED TECHNICAL OFFERS.**
Unpriced technical offers shall not be opened publicly, but shall be opened in front of two or more procurement officials. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.
 - d. **EVALUATION OF UNPRICED TECHNICAL OFFERS.**
The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:
 - 1). acceptable;
 - 2). potentially acceptable, that is, reasonably susceptible of being made acceptable; or
 - 3). unacceptable. The Procurement Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

The Procurement Officer may initiate Phase Two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds such is not the case, the Procurement Officer shall issue an amendment to the Invitation for Bids or engage in technical discussions as set forth in Subsection 3-202.20.5 of this Section.
 - e. Upon the completion of Phase One, the Procurement Officer shall invite each acceptable bidder to submit a price bid. Upon submission of prices, the Procurement Officer shall prepare the final evaluation and reconsideration for the Chief Procurement Officer's approval.