



REVIEW OF CHILD SUPPORT GUIDELINES

PROFESSIONAL SERVICES

REQUEST FOR PROPOSAL

OAG RFP NO. 005-2018

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Section 1 – Request for Proposal (RFP) Timeline

1.1 – TABLE TIMELINE

<u>DATE</u>	<u>ACTIVITY</u>	<u>TIME</u>
Friday May 11, 2018	RFP Issuance	8:00 AM Chamorro Standard Time (ChST)
Friday June 1, 2018	Deadline for Submission of Written Questions	5:00 PM Chamorro Standard Time (ChST)
Friday June 22, 2018	Deadline for Response to Written Questions	5:00 PM Chamorro Standard Time (ChST)
Friday July 13, 2018	Deadline for Submission of RFP Proposal	3:00 PM Chamorro Standard Time (ChST)

Section 2 – General Information, General Instructions & Project Scope

2.1 – PROJECT TITLE AND SCOPE

Office of the Attorney General (OAG) Request for Proposals (RFP) NO. 005-2018, REVIEW OF CHILD SUPPORT GUIDELINES

2.1.1 – GLOSSARY

CSED – Child Support Enforcement Division

OAG – Office of the Attorney General of Guam

IV-D – Refers to Title IV-D of the Social Security Act, 42 USC Ch. 7, and programs established in each U.S. state or territorial government to administer child support offices under Title IV-D

GCA – Guam Code Annotated

CFR – Code of Federal Regulations

RFP – Request for Proposal

VENDOR – an entity submitting a proposal in response to the RFP

STATE – the 50 states of the U.S. as well as U.S. territories that have a IV-D program

2.1.2 BACKGROUND

The Office of the Attorney General is the designated IV-D Agency for the territory of Guam. The Child Support Enforcement Division, within the OAG, administers Guam's child support program. More information about OAG and CSED can be found through its website at <http://www.guamag.org/>

Statutes describing the administration of CSED's program are contained within Title 5 of the Guam Code Annotated, Chapters 34 and 35, and can be found online through the Guam Compiler of Law's website at <http://www.guamcourts.org/CompilerofLaws/gca.html>

Guam's current Schedule of Basic Child Support Obligations was approved by the enactment of Guam Public Law 30-16 in April 2009. The law and schedule can be found online at [http://www.guamlegislature.com/Public_Laws_30th/P.L.%2030-16%20-%20Bill%20No.%2063\(COR\)%20.pdf](http://www.guamlegislature.com/Public_Laws_30th/P.L.%2030-16%20-%20Bill%20No.%2063(COR)%20.pdf).

The schedule is a grid containing combined annual parent income information in the first column and the number of children (from one to fifteen) in the next columns, with the percentage and numerical representations of the combined child support obligation stated at each intersection of income and number of children. To determine the child support obligation, the combined obligation is transferred to a child support worksheet, where each parent's pro-rata share of the combined obligation is calculated, identifying the amount to be paid by the obligor (usually the non-custodial parent).

The schedule must be reviewed every four years pursuant to 5 GCA §34118 and 45 CFR 302.56 to determine whether its application results in appropriate child support order amounts. The review must consider labor market data and economic data on the cost of raising children; analyze case data on the application of and deviations from the schedule; and provide a meaningful opportunity for public input including low-income custodial and non-custodial parents.

2.1.3 – PURPOSE

CSED seeks sealed proposals from responsible and qualified vendors to conduct a thorough review of the schedule of child support obligations. A proposal should detail activities, elements of work,

methodologies, and analyses the vendor deems necessary to conduct a review that meets the requirements of 5 GCA §34118 and 45 CFR 302.56.

The selected vendor shall not be an employee of OAG, nor employ any employee of OAG, and shall demonstrate its ability to provide the required services with the resources and expertise to research and conduct the review.

The selected vendor will produce a detailed list and timetable of deliverables which shall include a final written report that details the scope of the completed review and findings and recommendations for any changes to the schedule. Contracted services will also include availability of a qualified vendor representative to consult or testify in-person for up to two eight-hour days before stakeholders and/or legislators.

2.1.4 – PERSON(S) RESPONSIBLE FOR DRAFTING OF SPECIFICATIONS IS/ARE:

Rebecca M. Perez, Deputy Attorney General, CSED

2.1.5 – DESCRIPTION OF SERVICES AND WORK INVOLVED

The contracted work shall include, but may not be limited to, the following activities and reports:

- a. Prepare a review and analysis of current and historical economic research on the cost of raising children on Guam
- b. Develop and document a methodology for revising the current basic schedule using data to reflect economic conditions
- c. Develop and document a methodology for a schedule adjustment in the low- to low-middle income range
- d. Conduct an analysis on the application of the schedule using case file data from a specified number of case files, sampled and collected by CSED staff and reviewed by vendor's staff. Vendor must provide a detailed plan for the handling of case file review data including a timeline on data management. The analysis should include reports on the application of and deviation from the schedule
- e. Produce a basic schedule of support obligations based on this methodology
- f. Develop and document a methodology to be used by CSED to periodically update the schedule to determine whether child support orders issued in accordance with the schedule and worksheets result in appropriate orders for the support of children
- g. Produce a report that includes a description of the data and methodologies used and that articulate the assumptions that form the basis for the methodologies
- h. Include in the report a comparison of state methodologies for determining child support obligations, and for income and expenditure adjustments including parenting time, medical support, and day care costs
- i. Travel as necessary to Guam, including one two-day trip for consultation with CSED and stakeholders and one two-day trip for consultation and/or presentation before the Guam Legislature and other interested parties

In addition to the vendor's description of its proposed technical approach and work plan, the proposal must include a detailed list of target dates for all project Deliverables.

2.1.6 – DURATION OF AWARD

The initial term of the contract resulting from this RFP will be for one (1) calendar year upon its full execution by all necessary parties. OAG, at its option, may renew the contract for up to three (3) additional terms of one year each subject to availability of funds, or extend the time for performance of tasks contemplated in either the initial or subsequent terms.

OAG shall provide timely notice if funds are not available for continuation of contract beyond each fiscal year. In the event of cancellation due to unavailability of funds, Offeror will be reimbursed unamortized, reasonably incurred, non-recurring costs.

2.1.7 – COMPENSATION STRUCTURE

Each of the deliverables will be payable upon completion, delivery, approval, and acceptance by CSED. Travel expenses must be included in the vendor's consultation pricing (or the hourly rates which are built into the cost of the deliverable) and may not be billed separately.

2.1.8 – CONTRACT TYPE

A contract pursuant to this RFP is expected to be a firm fixed-price contract. The form of the contract to be executed by the successful offeror is included as Attachment 1.

2.1.9 – FUNDING SOURCE(S)

Funds to compensate the services solicited in this RFP shall be taken from the following sources:

- Sixty-six percent (66%) from federal funds from the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement
- Thirty-four percent (34%) from funds allocated to the Office of the Attorney General from the Government of Guam General Fund.

2.2 – GENERAL INSTRUCTIONS

2.2.1 – COMPLIANCE WITH RFP INSTRUCTIONS

Failure to comply with the requirements of this RFP may result in proposals being deemed non-responsive and Offerors being disqualified from participation in this RFP.

2.2.2 – COMMUNICATION REGARDING THIS RFP

ANY CORRESPONDENCE OR COMMUNICATION BY A POTENTIAL OFFEROR WITH OAG MUST BE MADE IN WRITING TO THE ATTENTION OF OAG PROCUREMENT VIA EMAIL AT procurement@guamag.org OR BY FACSIMILE AT 671-477-4703 OR BY HAND DELIVERY AT THE OFFICE OF THE ATTORNEY GENERAL, CHILD SUPPORT ENFORCEMENT DIVISION. ALL WRITTEN COMMUNICATIONS MUST REFERENCE RFP 005-2018 IN THE SUBJECT OR REFERENCE LINE. RFP PACKETS MAY BE PICKED UP AT THE OFFICE OF THE ATTORNEY GENERAL, 9th FLOOR, SUITE 901, ITC BUILDING, TAMUNING, GUAM.

2.2.3 – ACCEPTABLE FORMAT OF PROPOSALS

Proposals must be submitted in writing.

Each Proposal Package should consist of the Offeror's separately packaged and marked Technical Submittal and Cost Submittal.

The Proposal Package shall be submitted in a clearly marked and sealed envelope or box and shall contain:

The Technical submittal that includes one (1) original with original signatures and notarizations where necessary and five (5) copies,

AND

The Cost Submittal that includes one (1) original and five (5) copies.

The Proposal Package should be delivered according to the instructions in Section 2.2.4 and be marked on the outside with the following information:

Office of the Attorney General Request for Proposal No. <u>005-2018</u>
Offeror's Name: _____
Offeror's Address: _____
Submittal Date: ____/____/____
Submittal Time: ____:____ a.m./p.m.
Attention: <u>PROCUREMENT OFFICER</u>

2.2.4 – TIME AND DATE FOR RECEIPT OF PROPOSALS

Proposals must be received by:

TIME: **3:00PM** Chamorro Standard Time (ChST)

DATE: **Friday, July 13, 2018**

The Office of the Attorney General maintains the Official time in this regard. Proposals may be submitted any time before the deadline for receipt of proposals.

Proposals received past the time indicated above, AS THAT TIME IS INDICATED BY THE OAG, will not be considered for award.

If delivered via hand delivery, Federal Express, DHL, or other courier service, proposals must be delivered to the following physical address below. Please submit your proposal for services, resume and vitae letters of recommendation, and credentials to:

PHYSICAL ADDRESS: Office of the Attorney General
Re: RFP No. **005-2018**
590 S. Marine Corps Drive,
ITC Building, 9TH Floor, Suite 901
Tamuning, Guam 96913

If delivered via the United States Postal Service, bids must be delivered to the following mailing address:

MAILING ADDRESS: Office of the Attorney General
Re: RFP No. 005-2018
590 S. Marine Corps Drive,
ITC Building, 9th Floor, Suite 901
Tamuning, Guam 96913

2.2.5 – PROPOSAL SUBMISSION FORM

Each Proposal Package will consist of the Offeror's Technical Submittal with all required forms, complete with original signatures and notarizations where necessary and Offeror's Cost Submittal.

Technical Submittal. Each Proposal shall contain the following, in the order described below, with each component separately identified and labeled:

1. Transmittal Cover Letter. The Transmittal Cover letter must be on the vendor's letterhead, and signed by an individual who is authorized to bind the vendor to all statements in the proposal. The cover letter should contain at a minimum:
 - a. Vendor's identity
 - b. Designation and name, title, and contact information of the vendor's representative for matters relating to the RFP
 - c. An acknowledgment that the vendor has read the RFP and accepts the terms, conditions, and instructions in the RFP
 - d. A statement that the vendor's proposal is valid for a minimum of one hundred eighty (180) days from the submission deadlines contained in the RFP
 - e. Signature of vendor's authorized representative
2. Table of Contents. The separate sections of the proposal shall be numbered sequentially and identified in the table of contents
3. Description of Organization, Qualifications, and Experience. Vendor shall provide the following:
 - a. An executive summary to provide an overview of vendor's organization and what is intended to be provided by vendor.
 - b. A statement regarding vendor's financial condition and confirming that vendor has adequate financial resources to perform the work described in the RFP
 - c. Evidence of experience in performing research, evaluation, and analysis in the area of economics and determining child-rearing costs
 - d. A description of at least two (2) past projects of similar size or scope completed within the past ten years, and the name and contact information of the entities for which such work was performed. Emphasis should be placed on previous projects for government agencies.
 - e. Vendor organizational chart and staffing plan for the proposal. Staffing plan shall include job descriptions and staff qualifications for each key position included in the proposal
 - f. A statement indicating that vendor has conducted a review to determine if company or staff affiliations might result in a conflict of interest, and if there is a potential conflict, an explanation of how that may be resolved.

4. Narrative and Technical Response. The Narrative and Technical Response shall provide a detailed explanation of the work to be performed and timelines for each deliverable.

Cost Submittal. Offeror's Cost Submittal should include itemized pricing for all products and services being proposed under this RFP. At a minimum, the Cost Submittal should contain hourly, daily, or flat rates and estimated expense costs for each consultant or employee proposed to work on this project and line item costs for each product necessary for the term of the contract. The Cost Submittal should be broken down into rates and costs for the first year, and rates for each renewal term if applicable.

Forms. Additional Proposal Package requirements include the return of the required forms and documents listed in Section 4.

2.2.6 – LATE PROPOSALS NOT ACCEPTED

Proposals received after the time and date in Section 2.2.4 – Time and Date for Receipt of Proposals will be considered nonresponsive and disqualified from participating in this solicitation.

2.2.7 – TRADE SECRETS AND OTHER PROPRIETARY DATA

Offeror must complete and submit OAG Procurement Form 021 with the proposal, whether or not the Offeror wishes to designate information within the proposal as a Trade Secret or other proprietary information. Blanket designations of confidentiality placed on the front cover of a proposal will not be accepted as a valid designation of proprietary information. Every item, page, section, or subsection that the Offeror wishes to designate as a trade secret or proprietary data should be clearly marked and separable from the remainder of the proposal.

2.2.8 – ACKNOWLEDGEMENT OF AMENDMENTS TO RFP

This RFP may not be modified unless done by an Amendment made in writing by OAG. Offerors must acknowledge in writing the receipt of any amendments to this RFP. Each amendment will contain an Amendment Acknowledgement Form. For each amendment, offerors must sign the Acknowledgment Form and return the signed copy via e-mail or fax to OAG. Signed Acknowledgment Forms for every amendment must also be included with the proposal submission. Offerors who fail to properly submit Amendment Acknowledgment Forms may be deemed non-responsive and disqualified from participating in this solicitation.

2.3 – EVENTS, CONFERENCES and/or MEETINGS PERTINENT TO THIS RFP

2.3.1 – PRE-PROPOSAL CONFERENCE

Pre-Proposal Conference(s), as appropriate, may be conducted in accordance with 2 GAR Div. 4 § 3109(g)(4) (Pre-Proposal Conferences). Such a conference may be held at any time prior to the established date for submission of proposals.

A pre-proposal conference may be held at OAG's discretion. Any potential offeror may submit a request for a pre-proposal conference in writing to OAG. In the event OAG determines to hold a pre-proposal conference, all potential offerors, that is all offerors who have requested and received an RFP packet from OAG, will be informed of the date, time, location and requirements of the pre-

proposal conference. A summary, minutes or recording of the pre-proposal conference will be made available to all potential offerors.

At any pre-proposal conference or site visit, OAG may provide verbal answers to questions from potential Offerors. **AT NO TIME SHALL A VERBAL ANSWER BE CONSIDERED AN OFFICIAL OAG RESPONSE.** All questions must be submitted in writing in accordance with Section 2.3.2 – Pre-Proposal Written Questions. Only written answers from OAG shall be considered an official OAG response.

2.3.2 – PRE-PROPOSAL WRITTEN QUESTIONS

Potential Offerors may submit written questions concerning this RFP before the time and date listed below. Questions must be submitted in writing according to the instructions contained in Section 2.2.2 herein. All questions and responses will be made available in writing to every potential offeror. Questions submitted after the time and date below will not be considered or answered.

Questions regarding this RFP must be received in writing by OAG by:

TIME: **5:00 PM** Chamorro Standard Time (ChST)

DATE: **Friday, June 1, 2018**

2.4 – AWARD

2.4.1 – EVALUATION FACTORS FOR AWARD

OAG will review and rank each technical proposal to determine the Best Qualified Offeror. In determining the Best Qualified Offeror, OAG will evaluate each proposal according to the factors below. A total of 100 points is available.

Cost proposals, though submitted with the Technical Proposal, will not be considered in determining the Best Qualified Offeror. Cost proposals will be opened and considered only during the negotiation phase with the Best Qualified Offeror. Award of a contract pursuant to this RFP will be made only after negotiation of a fair and reasonable price with the Best Qualified Offeror in accordance with Section 3114(l) of the Guam Procurement Regulations.

<u>Evaluation Factors</u>	<u>Points</u>
The plan for performing the required services	30
The ability to perform the services as reflected by the technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services	25
The personnel, equipment, and facilities to perform the required services	25
A record of past performance of similar size and scope of work	20
Total Available Points	100

2.4.2 – DETERMINATION OF RESPONSIBILITY

Responsibility of an offeror will be determined in accordance with 2 GAR §3116. Offerors should be prepared to promptly provide to OAG information relating to the offeror's responsibility. Such information may include but is not limited to documentation of financial, personnel, and other resources, expertise, or records of performance. Failure of an offeror to comply with a request by OAG for information relating to responsibility may result in a determination that the offeror is not responsible and therefore disqualified from an award.

2.4.3 – NOTICE AND EXECUTION OF AWARD

Any award pursuant to this RFP will not be complete until an agreement for the scope of work and the project is fully executed by the selected Offeror, OAG, and other required parties. A sample agreement is included in this RFP as ATTACHMENT 1. OAG reserves the right to alter the sample agreement as allowed by applicable law or regulation.

2.5 – GENERAL INFORMATION

2.5.1 – DELIVERY AND PERFORMANCE SCHEDULE

The selected contractor shall commence work on the date specified in the notice to proceed. A contract for goods and/or services procured through this RFP shall be subject to the availability of funds and applicable delivery and payment deadlines.

2.5.2 – METHOD OF PAYMENT

Offerors submitting proposals in response to this RFP should be aware that payments for goods and/or services procured through this RFP will be made in installments agreed upon in the contract and tied to satisfactory completion and progress of assigned tasks.

2.5.3 – INSPECTION AND ACCEPTANCE OF GOODS

Offerors submitting proposals in response to this RFP should be aware that OAG reserves the right to inspect and test all goods, supplies, materials or equipment delivered in response to this RFP. OAG reserves the right to reject and, at its discretion, require replacement of, those items that are determined to be defective in material, construction, workmanship, manufacturing, or performance and/or that do not conform to the specifications described in this RFP.

2.5.4 – ALTERNATE PROPOSALS

An alternate proposal will not be accepted. A submission of an alternate proposal will be considered nonresponsive and may disqualify a vendor from participating in this solicitation.

2.5.5 – SAMPLES OR DESCRIPTIVE LITERATURE

Pursuant to 2 GAR Div. 4 § 3109(e)(3), samples or descriptive literature should not be submitted to OAG unless expressly requested within this RFP. Regardless of any condition set by an offeror, unsolicited samples or descriptive literature will not be examined, tested, or deemed to vary any requirements of this RFP.

SECTION 3 – TERMS AND CONDITIONS

3.1 – REQUIREMENTS FOR ALL SOLICITATIONS

Proposals must fulfill the requirements for all solicitations identified in this RFP. Each of the forms identified herein must be completed and returned according to the instructions provided. The term “GCA” refers to the Guam Code Annotated. The term “GAR” refers to the Guam Administrative Regulations, Division 4, Procurement Regulations. Administration of this RFP shall be subject to the Guam Procurement Law at 5 GCA Chapter 5 and the procurement regulations at 2 GAR Division 4.

3.2 – LICENSE TO CONDUCT BUSINESS ON GUAM; POLICY IN FAVOR OF LOCAL PROCUREMENT

Offerors providing services or supplies pursuant to or in support of this RFP are subject to licensure requirements in accordance with 5 GCA § 5008. Information about obtaining a license to do business on Guam may be obtained from the Guam Department of Revenue and Taxation. Preferential selection of businesses licensed to do business on Guam may be made in accordance with 5 GCA § 5008.

3.3 – LIST OF FORMS REQUIRED FOR ALL SOLICITATIONS

Offerors must complete and submit all forms required by this RFP and those listed in Section 4 herein.

3.4 – DISCLOSURE OF OWNERSHIP AND COMMISSIONS

Offerors must expressly identify all major shareholders in accordance with 5 GCA § 5233.

******AG Procurement Form 002 (Rev. Nov. 17, 2005) must be completed and included in all proposals to this RFP******

3.5 – OFFERORS CERTIFY THAT PRICE OR OFFER WAS INDEPENDENTLY ARRIVED AT WITHOUT COLLUSION

By submitting a proposal, an Offeror certifies that the price or offer in its proposal was independently arrived at without collusion in accordance with 2 GAR § 3126(b).

******AG Procurement Form 003 (Jul. 12, 2010) must be completed and included in all responses to this RFP******

3.6 – PROHIBITION AGAINST GRATUITIES AND KICKBACKS

By submitting a proposal, an Offeror certifies to the best of its knowledge that neither it, nor any of its officers, representatives, agents, subcontractors, or employees, have violated or are violating the prohibition against gratuities and kickbacks set forth in 5 GCA § 5630.

Offerors submitting proposals must certify to the best of their knowledge that neither they, nor any of their officers, representatives, agents, subcontractors, or employees have offered, given or agreed to give, any government of Guam employee or former government employee, any payment, gift, kickback, gratuity or offer of employment in connection with the Offerors response to this RFP. 5 GCA § 5630(c); 2GAR § 11107(3) and 11107(4) (e).

*****AG Procurement Form 004 (Jul. 12, 2010) must be completed and included in all responses to this RFP*****

3.7 – REPRESENTATION REGARDING ETHICAL STANDARDS

By submitting a proposal, Offeror 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 set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.

*****AG Procurement Form 005 (Jul. 12, 2010) must be completed and included in all responses to this RFP*****

3.8 – REPRESENTATION REGARDING CONTINGENT FEES

By submitting a proposal, Offeror represents that it has not retained a person to solicit or secure a territorial 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, in accordance with 5 GCA § 5631.

*****AG Procurement Form 007 (Jul. 12, 2010) must be completed and included in all responses to this RFP*****

3.9 – RIGHT OF OAG TO CANCEL REQUEST FOR PROPOSAL

OAG reserves the right to cancel this RFP at any time when it is in the best interests of OAG, in accordance with 5 GCA § 5225 and 2 GAR § 3115(c).

OAG reserves the right to reject any proposal in whole or in part when it is in the best interest of the Department, in accordance with 2 GAR Div. 4 § 3115(e)(2).

3.10 – PROHIBITION AGAINST EMPLOYMENT OF SEX OFFENDERS

Any entity providing services pursuant to this RFP is prohibited from employing sex offenders to provide the services or goods being procured through this RFP. Specifically, pursuant to 5 GCA § 5253:

§ 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 a 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.

- 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. 28-24:2. Amended by P.L. 28-98:2 (Feb. 7, 2006).

3.11 – WAGE AND BENEFITS DETERMINATION FOR SERVICES

Offerors submitting proposals must pay employees providing services procured through this RFP in accordance with the Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by U.S. Department of Labor for such labor as is employed in the direct delivery of contract deliverables to the government of Guam. 5 GCA § 5801 and § 5802, as applicable. A copy of the most recent wage determination is included herein. The Wage Determination for Guam and the Northern Mariana Islands also can be found on the U.S. Department of Labor's website: <http://www.wdol.gov>.

Offerors submitting proposals must provide health and similar benefits for employees, such benefits having a minimum value as detailed in the Wage Determination issued and promulgated by U.S. Department of Labor and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee. 5 GCA § 5802.

******AG Procurement Form 006 (Feb. 16, 2010) must be completed and included in all responses to this RFP.******

3.12 – MANDATORY DISPUTES CLAUSE (2 GAR § 9103(g))

- A. In accordance with Guam procurement law, all controversies between the territory and the Contractor which arise under, or by virtue of, this contract and which are not resolved by mutual agreement, shall be decided by the OAG in writing, within 60 days after written request by the Contractor for a final decision concerning the controversy; provided however that if OAG does not issue a written decision within 60 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Contractor may proceed as if an adverse decision had been received. OAG shall immediately furnish a copy of the decision to the Contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. Any such decision shall be final and conclusive, unless fraudulent, or the Contractor brings an action seeking review of the decision before the Guam Office of Public Accountability. The Contractor shall comply with any decision of OAG and proceed diligently with performance of this contract pending final resolution by the Office of Public Accountability or the Superior Court of Guam of any controversy arising under or by virtue of

this contract, except where there has been a material breach of the contract by OAG; provided, however, that in any event the Contractor shall proceed diligently with the performance of the contract where OAG has made a written determination that continuation of work under the contract is essential to public health and safety.

- B. Any disputes for expenses incurred in reliance upon this agreement shall be subject to the Government Claims Act found at Title 5, Guam Code Annotated, Chapter 6.

Section 4 – FORMS REQUIRED FOR ALL PROPOSALS SUBMITTED IN RESPONSE TO RFP

Proposal must contain signed and, where required, notarized originals of the forms listed below.

	<u>Form Name</u>	<u>Form Title</u>
1.	OAG Procurement Form 020	SPECIAL PROVISION – RESTRICTION AGAINST SEX OFFENDERS
2.	OAG Procurement Form 021	REQUEST FOR PROPOSAL – DESIGNATION OF PROPRIETARY INFORMATION
3.	AG Procurement Form 002 (Rev. Nov. 17, 2005)	AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSIONS
4.	AG Procurement Form 003 (Jul. 12, 2010)	AFFIDAVIT re NON-COLLUSION
5.	AG Procurement Form 004 (Jul. 12, 2010)	AFFIDAVIT re GRATUITIES or KICKBACKS
6.	AG Procurement Form 005 (Jul. 12, 2010)	AFFIDAVIT re ETHICAL STANDARDS
7.	AG Procurement Form 006 (Feb. 16, 2010)	DECLARATION re COMPLIANCE WITH U.S. DOL WAGE DETERMINATION (Including a supplemental copy of the U.S. DOL WAGE DETERMINATION RATES)
8.	AG Procurement Form 007 (Jul. 15, 2010)	AFFIDAVIT re CONTINGENT FEES

Special Provisions

RFP: **005-2018**

RE: REVIEW OF CHILD SUPPORT GUIDELINES

**Restriction against Sex Offenders Employed by service providers to
Government of Guam from working on Government Property.**

If a contract for services is awarded to the bidder or offeror, then the service provider must warranty that no person in its employment who has been convicted of a sex offense under the provisions of chapter 25 of Title 9 of Guam code Annotated or of an offense defined in Article 2 of chapter 28 of Title 9 of the Guam Code annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry, shall provide services on behalf of the service provider while on government of Guam property, with the exception of public highways. If any employee of a service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four (24) hours of the conviction, and will immediately remove such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four (24) hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service providers fail to take corrective steps within twenty-four (24) hours of notice from the Government, then the Government in its sole discretion may suspend temporarily and contract for services until corrective action has been taken.

Signature of Offeror	Date
Proposer, if an individual; Partner, if a partnership; Officer, if a corporation.	

OFFICE OF THE ATTORNEY GENERAL
590 S. MARINE CORPS DRIVE
ITC BUILDING, SUITE 901
HAGÅTÑA, GUAM 96913
TEL: 671-475-3324 | FAX: 671-477-4703

REQUEST FOR PROPOSAL – DESIGNATION OF PROPRIETARY INFORMATION

All Offerors are advised that pursuant to 2 GAR §3114(h) if a contract is awarded pursuant to a Request for Proposals (RFP), the successful proposal may be incorporated into the contract and thereafter considered public information. If an Offeror wishes to prevent the public release of certain information within a proposal on the basis that such information is a trade secret or other proprietary data, the Offeror must clearly designate the sections of the proposal as proprietary information and request in writing that such information be exempt from public disclosure.

For proposals selected for award under an RFP, the Attorney General, Office of the Attorney General (OAG) or her designee will examine requests to designate information as proprietary and issue a decision in writing as to whether such information will be considered proprietary. Disagreements as to whether information will be considered proprietary will be resolved pursuant to 2 GAR §3114(h)(2).

Offerors wishing to designate proposal information as proprietary must clearly mark such sections within the proposal and identify the corresponding sections and page numbers below and return this form with the proposal.

I, _____, an authorized representative of _____, hereby request that the sections and page numbers listed below of the proposal submitted in response to **RFP 005-2018, REVIEW OF CHILD SUPPORT GUIDELINES**, be considered a trade secret or proprietary data and therefore exempt from public disclosure:

Name: _____ Signature _____

Title: _____

Company: _____

OAG Procurement Form 021

AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSIONS

CITY OF _____)
) ss.
 ISLAND OF GUAM)

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

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

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

Name	Address	% of Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

Name	Address	Compensation
_____	_____	_____

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

 Signature of one of the following:
 Offeror, if the offeror is an individual;
 Partner, if the offeror is a partnership;
 Officer, if the offeror is a corporation.

Subscribed and sworn to before me
 this ____ day of _____, 201__.

 NOTARY PUBLIC
 My commission expires: _____
AG Procurement Form 002 (Rev. Nov. 17, 2005)

AFFIDAVIT re NON-COLLUSION

CITY OF _____)
) ss.
ISLAND OF GUAM)

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

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

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

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

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
this ____ day of _____, 201__.

NOTARY PUBLIC
My commission expires _____.

AFFIDAVIT re NO GRATUITIES or KICKBACKS

CITY OF _____)
) ss.
ISLAND OF GUAM)

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

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

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

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

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

Signature of one of the following:
Offeror, if the offeror is an individual;
Partner, if the offeror is a partnership;
Officer, if the offeror is a corporation.

Subscribed and sworn to before me
this ____ day of _____, 201__.

NOTARY PUBLIC
My commission expires _____, _____.

DECLARATION RE COMPLIANCE WITH U.S. DOL WAGE DETERMINATION

Procurement No.: _____

Name of Offeror Company: _____

I, _____ hereby certify under penalty of perjury:

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

§ 5801. Wage Determination Established.

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

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

§ 5802. Benefits.

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

- (3) That the offeror is in full compliance with 5 GCA § 5801 and § 5802, as may be applicable to the procurement referenced herein;
- (4) That I have attached the most recent wage determination applicable to Guam issued by the U.S. Department of Labor. [*INSTRUCTIONS - Please attach!*]

Signature

AG Procurement Form 006 (Feb. 16, 2010)

AFFIDAVIT re CONTINGENT FEES

CITY OF _____)
) ss.
 ISLAND OF GUAM)

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

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

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

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

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

 Signature of one of the following:
 Offeror, if the offeror is an individual;
 Partner, if the offeror is a partnership;
 Officer, if the offeror is a corporation.

Subscribed and sworn to before me

this _____ day of _____, 201__.

 NOTARY PUBLIC
 My commission expires _____, _____.

SAMPLE CONTRACT

(This is a sample document. The Office of the Attorney General reserves the right to issue and execute a contract pursuant to this RFP and as allowed by law or regulations, and hereby reserves all other rights as stated in the RFP or otherwise applicable.)

**AGREEMENT BETWEEN THE OFFICE OF THE ATTORNEY GENERAL OF GUAM,
CHILD SUPPORT ENFORCEMENT DIVISION
AND [VENDOR]
FOR SERVICES PURSUANT TO OAG RFP 005-2018 _____**

THIS AGREEMENT is entered into by and between the **OFFICE OF THE ATTORNEY GENERAL OF GUAM** (“OAG”), an agency of the government of Guam, whose address is 590 S. Marine Corps Drive, Suite 901, Tamuning, Guam 96913 and **[VENDOR]** (“Contractor”), whose address is _____.

WHEREAS, OAG issued a Request for Proposal (“RFP”) OAG **RFP _____** for Professional Services for Review of Child Support Guidelines attached herewith as **Exhibit 1**;

WHEREAS, OAG has determined it does not have adequate personnel or resources to perform the services contemplated in this agreement and it is in the best interests of OAG to have such services performed under contract;

WHEREAS, Contractor responded to the RFP by submitting a proposal (“Proposal”) to provide services in accordance with the RFP, and was selected as the most qualified offeror;

WHEREAS, by submitting its Proposal, Contractor warrants and represents that it possesses the necessary knowledge, resources and experience to perform the work and services herein described professionally, skillfully and diligently; and

WHEREAS, OAG desires to retain Contractor for specific services on the terms and conditions set forth in this Agreement and Contractor has agreed to accept such terms and conditions;

WITNESSETH, in consideration of the mutual covenants hereinafter set forth, the Parties agree as follows:

I. Statement of Services to be Performed.

A. Scope of Work. The Contractor shall provide professional consulting services for the OAG, as described in the _____ **dated** _____ attached herein as **Exhibit 2**. Specified dates for performance of tasks may be amended by written agreement between OAG and Contractor’s authorized representative. Contractor shall provide status reports on the services performed as required under this Agreement or more frequently as requested by OAG. Contractor recognizes that

failure to perform any services required under this Agreement per the terms and conditions herein constitutes a material breach of this Agreement.

B. Contractor Provisions of Resources. Contractor agrees to furnish all qualified personnel, facilities, tools, equipment, materials and transportation to perform the services and work provided for in this Agreement. Contractor represents that it and its employees possess the professional and technical expertise necessary to perform the services called for in this Agreement in a competent, professional manner, in line with the services of a typical Contractor engaged in the same and similar field as Contractor herein. OAG may, in its sole discretion and based upon availability, provide staff assistance to Contractor in furtherance of this Agreement. The Contractor shall insure that its employees engaged in work hereunder are informed of all relevant provisions of this Agreement.

C. Other Work. OAG acknowledges and agrees that Contractor may provide services to other clients, persons or companies apart from the services performed in this Agreement, as long as the performance of such other services does not in any way conflict with or hinder the performance of services herein. In the event OAG discovers or determines that the Contractor is providing services to a third party which conflicts with or hinders the performance of services under this Agreement, Contractor must immediately cease performing those third party services upon being provided written notice by OAG and OAG may invoke any further available remedies under the terms of this Agreement.

D. Location of Services. Contractor may perform the services under this Agreement at any suitable location as approved by OAG.

II. Term of Agreement.

A. This Agreement shall be effective upon its full execution by all necessary parties until _____. It may thereafter be renewed for up to _____ additional terms of one year upon written agreement between OAG and Contractor's authorized representative. Such renewal shall be subject to the certification and availability of funds available for these services.

B. This Agreement will be cancelled if funds are not appropriated or otherwise made available to support continuation after this fiscal year. OAG shall provide timely notice if funds are not available for continuation of contract beyond the fiscal year. In the event of cancellation due to unavailability of funds, Contractor will be reimbursed unamortized, reasonably incurred, non-recurring costs.

III. Compensation.

A. Compensation. Compensation for Services: Contractor shall receive compensation from OAG for Services as provided for in the _____ dated _____ attached herein as **Exhibit 2** to this Agreement and in an amount not to exceed _____.
(\$_____).

B. Expenses. Contractor shall be solely responsible for all expenses incurred in the performance of services under this Agreement unless otherwise expressly provided for herein.

C. No Compensation Prior to Approval of Agreement. OAG shall not be liable to Contractor for any services performed by Contractor prior to full execution of this Agreement by all parties, and Contractor expressly waives any and all claims for services performed in expectation of this Agreement prior to its full execution.

D. Final Payment. Final payment shall be made upon satisfactory performance of all services required to be performed by Contractor under this Agreement. Prior to the final payment due Contractor, and as a condition precedent thereto, Contractor shall execute and deliver to OAG a release in form approved by OAG of claims against OAG arising under this Agreement. Contractor expressly waives the provision of Section 82602 of Title 18, Guam Code Annotated, which states:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

E. Payment. All rates and prices and payments to the Contractor shall be in the currency of the United States.

IV. Early Termination.

A. By OAG. OAG reserves the right to cancel or terminate this Agreement prior to its completion for reasons including, but not limited to, the following:

(i) Termination without Cause: OAG may terminate this Agreement, without cause, upon the delivery of written notice to the Contractor at least thirty (30) days prior to the intended date of termination;

(ii) Termination in the Best Interest of the Government of Guam: OAG may terminate this Agreement based upon a determination that such termination is in the best interests of the Government of Guam by delivering a written notice of such termination to the Contractor and the effective date of such termination. Circumstances for termination under this clause include but are not limited to Contractor's successful completion of services under this Agreement to the satisfaction of OAG.

(iii) Termination for Cause/Default: If the Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Procurement Officer may notify the Contractor in writing of the delay or non-performance and if not cured in ten days or any longer time specified in writing by the Procurement Officer,

such officer may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part the Procurement Officer may procure similar supplies or services in a manner and upon terms deemed appropriate by the Procurement Officer. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(iv) Termination for Convenience. The OAG procurement officer may, when the interests of OAG so require, terminate this contract in whole or in part, for the convenience of OAG. The procurement officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The procurement officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to OAG. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as necessary to do so.

The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data to the extent required by 2 GAR §3118. If the Contractor fails to file a termination claim within one year from the effective date of termination, the procurement officer may pay the Contractor, if at all, an amount set in accordance with this section. The procurement officer and the Contractor may agree to a settlement provided the Contractor has filed a termination claim as required herein and the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by OAG and the contract price of the work not terminated. Absent agreement of a settlement, the procurement officer shall pay the Contractor the following amounts: with respect to all contract work performed prior to the effective date of the termination, the total, without duplication of any items, of: (a) the cost of such work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amount paid or to be paid for completed portions of such work; provided 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; (b) cost of settling and paying claims arising out of the termination of subcontracts or orders pursuant to this clause. These costs must not include costs paid in accordance with subsection (a) above; (c) 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 and for the termination and settlement of subcontracts thereunder. The total sum to be paid the Contractor under this subsection 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 or materials under this section, and the contract price of work not terminated.

B. By Contractor.

(i) **Termination for Cause:** Contractor shall notify OAG in writing of deficiencies or default in the performance of OAG's duties under this Agreement. OAG shall have twenty (20) days to correct the deficiency or cure the default, which period may be extended by Contractor (said extension not to be unreasonably denied). Upon 60 days' written notice of Contractor's termination of this Agreement for cause, the Contractor shall be entitled to payment, in accordance with Section III of this Agreement, for satisfactory services rendered up to the termination date and OAG shall have no obligations to Contractor. The Contractor shall be obligated to continue performance of services, in accordance with this Agreement, until the termination date and shall have no further obligation to perform services after the termination date.

C. Termination/Modification for Lack of Funds. OAG may terminate or modify this Agreement based upon a lack of funding. In such an event, OAG shall promptly provide notice to Contractor and within twenty (20) days of the notice, the Parties shall renegotiate the terms of this Agreement in good faith. If the parties are unable to reach an agreement on the renegotiation, then either Party may terminate this Agreement pursuant to Section IV of this Agreement as applicable.

D. Preservation of Property. Notwithstanding any termination of this Agreement, and subject to any directions from OAG, the Contractor shall take timely and reasonable and necessary action to protect and preserve the property in the possession of Contractor in which OAG has an interest.

E. Additional Provisions. In the event that either party effects an Early Termination, it is expressly provided that OAG may issue a new Request for Proposal with respect to such terminated services. This provision shall not be deemed an admission or waiver of any rights and defense with respect to rights of either Party under this Agreement, including but not limited to, either Parties' rights to assert damages for breach of Agreement.

V. Contact Person. The Contractor agrees that, during the term of this Agreement, it shall identify a primary contact person who is familiar with the services being performed hereunder and who shall be responsible to the questions and direction of OAG. The contact person must be identified in writing within thirty (30) days after full execution of this Agreement by all parties. OAG reserves the right to request replacement of the contact person designated by the Contractor under this Agreement.

VI. Confidentiality.

A. Information. The Contractor hereby warrants that it shall not disclose any documents, materials or information, whether verbal, written, electronic or digital media or otherwise (collectively, the "Information"), made available or acquired for the purpose of carrying out this Agreement. Only authorized persons shall use and have access to the Information, and then only for the period such access is required to perform services under this

Agreement. All necessary steps shall be taken by the Contractor to safeguard the confidentiality of the Information in conformance with any applicable United States and Guam laws, statutes and regulations.

The Contractor shall keep copies of the Information and the provisions of this Section shall remain in effect as long as determined by OAG. All of the Information shall be returned promptly after use to OAG and all copies or derivations of the Information shall be physically and/or electronically destroyed. Contractor shall include a letter attesting to the complete return of Information and documenting the destruction of copies and derivations with the returned Information.

The Contractor shall not enter into any Agreements or discussions with a third party concerning such Information without the prior written consent of OAG, and then only if the Contractor requires the third party(ies) to agree to the terms of the confidentiality set forth herein and the Information is provided to such third party(ies) only for purposes of enabling the Contractor to discharge its responsibilities under this Agreement.

It is specifically provided that the limitations contained in this paragraph A shall not apply (i) to the extent required by applicable law, (ii) to the extent that any Information is now or hereafter becomes part of the public domain, but only to the limited extent that such Information, or any portion thereof, is in the public domain not as a result of any breach or violation of this Agreement, or (iii) to the extent that a party is directed otherwise under the terms of a valid and effective order, issued by a court of competent jurisdiction.

B. Liability. Failure to comply with the provisions of Paragraph A shall subject the Contractor to liability, including all damages and injunctive relief.

VII. Conflicts of Interests/Ethics

A. The Contractor warrants and covenants that it has not violated and will not violate Guam's procurement law or regulations pertaining to ethics in public contracting.

B. It is expressly understood that breach of any of the covenants or warranties in this Section on the part of the Contractor is a material breach of this Agreement and shall entitle OAG to immediately terminate this Agreement. Contractor agrees that in the event of a breach or violation of this Section, OAG shall have the right to terminate this or any other Agreement with the Contractor without liability.

C. Notwithstanding the provisions contained in this Agreement with regard to the assignment or subcontracting of any work under this Agreement, Contractor agrees that with respect to any subcontractor it engages to perform any work contemplated by this Agreement that any Agreements it enters into with such subcontractor(s) will include provisions which parallel this Section VII and shall require any subcontractor to execute a statement of no conflict of interests to OAG and provide such statement to OAG.

VIII. Waiver. No waiver by any party of any right on any occasion shall be construed as a bar to or waiver of any right or remedy on any future occasion.

IX. Severability. If any provision of this Agreement shall be held or deemed by a court of competent jurisdiction to be invalid, inoperative or unenforceable, the remaining provisions herein contained shall nonetheless continue to be valid, operative and enforceable as though the invalid, inoperative or unenforceable provision had not been included in the Agreement.

X. Survival of Warranties. All representations, warranties, agreements, covenants and obligations in this Agreement shall be deemed to have been relied upon by the other party, and shall survive the completion of this Agreement and shall not merge in the performance of any obligation by any party hereto.

XI. Fees and Expenses. Each of the Parties shall bear its own expenses in connection with the negotiation and consummation of the transactions contemplated by this Agreement.

XII. Notices. All invoices, reports, correspondence, notices, requests, demands and other communications hereunder shall be in the English Language, in writing. All notices required to be given under this Agreement by either party to the other may be effected by personal delivery, or by mail (registered or certified, postage, prepaid with return receipt requested). Notices delivered personally shall be deemed communicated as of actual receipt. Mailed notices shall be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first. Notices shall be addressed and delivered to the parties as follows, provided that each party may change the address by giving the other party written notice in accordance with this section:

TO OAG: OFFICE OF THE ATTORNEY GENERAL OF GUAM
Attention: DEPUTY ATTORNEY GENERAL - CSED
590 S. Marine Corps Drive
ITC Building, Suite 901
Tamuning, Guam 96913

TO CONTRACTOR: [VENDOR]

XIII. Assignment/Subcontractors. It is expressly acknowledged that Contractor is solely responsible for the fulfillment of its duties and obligations under this Agreement, regardless of whether or not Contractor utilizes one or more subcontractors for such purpose. The right and interest of Contractor under this Agreement (including, but not limited to, Contractor's right to or interest in any part of or all payments under this Agreement) may not be assigned, transferred or subcontracted to any other person, firm, corporation or other entity, whether by agreement, merger, operation of law or otherwise, without the prior, express written

consent of OAG. In the event of a permissive subcontract or assignment of this Agreement by Contractor, Contractor agrees that any subcontractors retained by Contractor or assignees shall be subject to all provisions of this Agreement.

XIV. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of the Parties hereto and their respective successors, assigns and transferees, except as otherwise provided for under the terms of this Agreement.

XV. Scope of Agreement. This Agreement and its attachments, the RFP, and Proposal collectively: (i) supersede any and all other Agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof, and (ii) contain all of the covenants and Agreements between the Parties with respect to such subject matter in any manner whatsoever. The Contractor and OAG each acknowledge that no representations, inducements, promises or agreement, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in the Agreement shall be valid or binding.

XVI. Captions. All Section and paragraph titles or captions contained in this Agreement are for convenience only and shall not be deemed part of the content of the Agreement.

XVII. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be deemed one original.

XVIII. Governing Law and Forum Selection. Except to the extent U.S. federal law is applicable, the laws and regulations of Guam shall govern the interpretation, effect, and validity of this Agreement. Any court action shall be exclusively in Guam.

XIX. Compliance with Laws.

A. In General. The Contractor shall comply with all U.S. and Guam laws, statutes, regulations and ordinances applicable to this Agreement. The Contractor represents and warrants that it is fully licensed to do business in Guam to render the services to be provided herein.

B. Non-Discrimination in Employment. The Contractor agrees: (i) not to unlawfully discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap; (ii) to include a provision similar to that contained in subsection (i) above in any subcontract or assignment agreement except a subcontract for standard commercial supplies or raw materials; and (iii) to post and to cause subcontractors and/or assignees to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

XX. Retention and Access to Records and Other Review. The Contractor, including subcontractors, if any, shall maintain all books, documents, papers, accounting records

and other evidence pertaining to the services performed and costs incurred, and to make such materials available at its respective offices at all reasonable times during the Agreement period and for six (6) years from the date of the final payment under the Agreement, for inspection by OAG. OAG agrees to comply with reasonable requests of Contractor to provide access to all documents and OAG property reasonably necessary to the performance of Contractor's services under this Agreement. The conditions of this section shall be placed in any subcontract or assignment arising under this Agreement.

XXI. Liability.

A. Indemnification. Contractor shall indemnify and hold harmless OAG and its officers, agents, Board members and employees from or on account of any claims, losses, expenses, injuries, damages, actions, lawsuits, judgments, or liability resulting or arising from (but only to the extent caused or contributed to by) the negligent or wrongful act or omission or the Contractor or its employees, officers, directors, contractors, agents, representatives, successors, or assigns, in the performance or nonperformance of services under this Agreement.

B. OAG not Liable. OAG assumes no liability for any accident, loss, claim, judgment, action or injury that may occur to the Contractor and/or the Contractor's officers, directors, agents, servants, subcontractors and/or employees, and/or to the personal property of any such person or entity, arising out of the performance of services under this Agreement except to the extent caused or contributed to by the negligent act or omission of OAG. No officer, agent, or employee of OAG shall be liable personally under or by reason of this Agreement or any of its provisions. In addition, OAG assumes no liability for any accident or injury that may occur to Contractor's officers, directors, employees, agents, or dependents while traveling to and from Guam in furtherance of this Agreement.

XXII. Delays, Extensions and Suspensions. OAG unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as it may determine to be appropriate for the convenience of OAG. The Contractor agrees to prosecute the work continuously and diligently apart from those periods of suspension, delay or interruption. Except as otherwise agreed to by the Parties, reasonable time extensions for the performance of Contractor's services will be granted only for excusable delays that arise from causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the Government of Guam or the Government of the United States in either its sovereign or contractual capacity, acts of another contractor in the performance of an agreement with the Government of Guam, fires, floods, typhoons, earthquakes, epidemics, quarantine restrictions, strikes, freight, or embargoes.

XXIII. Modifications including those Due to Public Welfare, Change in Law or Change in Marketing Conditions. OAG shall have the unilateral power to modify the Agreement at any time subject to the written agreement of Contractor. OAG shall have the power to make changes in the Agreement and to impose new rules and regulations on the Contractor under the Agreement relative to the scope and methods of providing services as shall from time-to-time be necessary and desirable for the public welfare or due to a change in law.

OAG shall give the Contractor notice of any proposed change in the Agreement and an opportunity to be heard concerning those matters. The scope and method of providing services as referenced herein shall also be liberally construed to include, but is not limited to, the manner, procedures, operations and obligations, financial or otherwise, of the Contractor. In the event OAG materially alters the obligations of the Contractor, or the benefits to OAG, then the Agreement shall be amended consistent therewith. Should these amendments materially alter the obligations of the Contractor, then the Contractor or OAG shall be entitled to an adjustment in the rates and charges established under the Agreement. Contractor shall be entitled to terminate this Agreement rather than accept modified terms. Nothing contained in the Agreement shall require any party to perform any act or function contrary to law. OAG and the Contractor agree to enter into good faith negotiations regarding modifications to the Agreement, which may be required in order to implement changes in the interest of the public welfare or due to changes in law. When such modifications are made to the Agreement, OAG and the Contractor shall negotiate in good faith a reasonable and appropriate adjustment for any changes in services or other obligations required of the Contractor directly and demonstrably due to any modification in the Agreement under this clause.

XXIV. Independent Contractor and its Employees.

A. Status of Contractor. The Contractor and its officers, agents, servants, subcontractors and employees are independent contractors performing professional services for OAG, and are not employees of OAG. The Contractor and its officers, agents, servants and employees shall not accrue vacation or sick leave, participate in the Government of Guam retirement system, insurance coverage, bonding, use of government vehicles or any other benefits accorded to Government of Guam employees as a result of this Agreement. Contractor agrees that Contractor and its aforementioned employees, officers, directors, agents, servants, and subcontractors are not and will not become an employee, officer or Board member of OAG at any time during the duration of this Agreement, and will otherwise comply with the provisions of the Guam Procurement Law regarding ethics in public contracting (Title 5 Guam Code Annotated, Chapter 5, Article 11, and its associated rules and regulations). Nothing in this Agreement or any action taken under this Agreement shall be deemed or construed in any manner or for any purpose to evidence or establish as between Contractor and OAG a relationship of partnership, agency, association, joint, venture or representative, nor does this Agreement authorize any party to undertake or bind any obligation or responsibility on behalf of the other party. In addition, there shall be no withholding of taxes by OAG for the Contractor.

B. Liability. The Contractor assumes responsibility for its personnel and subcontractors providing services hereunder and will make all deductions and payments for social security and withholding taxes and for contributions to employment compensation funds, or any other payments required by the governments of the U.S. and Guam, if required. Contractor is responsible for paying when due any and all income taxes, gross receipts taxes, or any other taxes or assessments incurred as a result of the services performed by the Contractor and Contractor's employees or agents under this Agreement or the compensation paid to Contractor for services performed under this Agreement. Furthermore, Contractor shall maintain at the Contractor's expense all necessary insurance for its employees including but not limited to Worker's Compensation, Errors and Omissions, and liability insurance for each

employee as required under U.S. and Guam Law and the mandates of the underlying RFP to this Agreement. Contractor agrees to hold harmless and indemnify OAG, its officers, directors, employees, agents, representatives, successors and assigns, for any and all claims, demands, costs, losses, fees, penalties, interest, or damages, including attorney's fees, which may be brought or asserted due to (i) any injury, death, or property damage arising from the negligence or other wrongful or tortuous acts of Contractor or Contractor's employees, officers, contractors, directors, agents, representatives, successors, or assigns, or (ii) Contractor's failure to comply with terms of this subparagraph B.

C. Wage and Benefits Compliance. Contractor warrants it shall comply with all applicable federal and local laws, rules, and regulations regarding the payment of minimum wages and benefits, in particular in accordance with the Wage Determination for Guam issued and promulgated by the U.S. Department of Labor and with Guam Public Law 26-111. Contractor assumes all liability for, and hereby indemnifies OAG from, any violation of any applicable law, rule, or regulation relating to the payment of wages or benefits.

XXV. Disclosure. The Contractor hereby represents that it has disclosed to OAG all matters regarding Contractor which if not disclosed to OAG would materially affect OAG's decision to enter into this Agreement with Contractor.

XXVI. Disposition of Property and Materials; Intellectual Property Rights.

A. All plans, outlines, briefs, memoranda, studies, reports, analyses and all other work product and materials incidental or otherwise ("Work Product") which are produced by reason of this Agreement shall be and remain the property of OAG, regardless of whether Contractor is in possession of such Work Product, and may be used by OAG without permission from Contractor and without any additional costs to OAG.

B. All Work Products, including any and all intellectual property rights in said Work Product, arising out of the Agreement shall be the sole and exclusive property of OAG. Contractor explicitly acknowledges that OAG possesses exclusive rights to the Work Product arising out of this Agreement. Contractor shall not use or permit others to use in any way or form the Work Product without the express written consent of OAG.

XXVII. Mandatory Representations by Contractor:

A. **Persons Convicted of Sex Offense.** Contractor warrants that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated or of an offense defined in Article 2 of Chapter 28 of Title 9 Guam Code Annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry, shall provide services on behalf of Contractor while on government of Guam property, with the exception of public highways. If any employee of Contractor is providing services on government property and is convicted subsequent to an award of a contract, then Contractor warrants that it will notify OAG of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services on government

property. If Contractor is found to be in violation of any of the provisions of this paragraph, then OAG will give notice to Contractor to take corrective action. Contractor shall take corrective action within twenty-four (24) hours of notice from OAG, and Contractor shall notify OAG when action has been taken. If Contractor fails to take corrective steps within twenty-four (24) hours of notice from OAG, then OAG in its sole discretion may temporarily suspend this agreement.

B. **Gratuities and Kickbacks.** Contractor warrants it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in 2 GAR Division 4 §11107.

C. **Contingent Fees.** Contractor warrants it has not retained a person to solicit or secure this 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.

D. **Ethical Standards.** Contractor warrants it has not knowingly influenced and promises that it will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.

XXVIII. Disputes.

a. In accordance with Guam procurement law, all controversies between the territory and the Contractor which arise under, or by virtue of, this contract and which are not resolved by mutual agreement, shall be decided by the OAG procurement officer in writing, within 60 days after written request by the Contractor for a final decision concerning the controversy; provided however that if the procurement officer does not issue a written decision within 60 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Contractor may proceed as if an adverse decision had been received. The procurement officer shall immediately furnish a copy of the decision to the Contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. Any such decision shall be final and conclusive, unless fraudulent, or the Contractor brings an action seeking review of the decision before the Guam Office of Public Accountability. The Contractor shall comply with any decision of the procurement officer and proceed diligently with performance of this contract pending final resolution by the Office of Public Accountability or the Superior Court of Guam of any controversy arising under or by virtue of this contract, except where there has been a material breach of the contract by OAG; provided, however, that in any event the Contractor shall proceed diligently with the performance of the contract where OAG has made a written determination that continuation of work under the contract is essential to public health and safety.

b. Any disputes for expenses incurred in reliance upon this Agreement shall be subject to the Government Claims Act found at Title 5, Guam Code Annotated, Chapter 6.

XXIX. Attachments, Exhibits, Schedules, and Entire Agreement. This Agreement, including its Attachments, Exhibits and Schedules, constitutes the entire Agreement and supersedes all prior written or oral understandings. No Agreement, oral or written, expressed or implied, has been made by any party hereto, except as expressly provided herein. All prior Agreements and negotiations are superseded hereby. This Agreement and any duly executed amendments hereto constitute the entire Agreement between the Parties hereto.

XXX. Computation of Time. Whenever this Agreement provides for a time period of ten (10) days or less days, weekends and Government of Guam holidays are not included in the computation. When this Agreement provides for a time period of over ten (10) days, weekends and Government of Guam holidays are to be included in the computation.

XXXI. Partial Invalidity. If any provision of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue to be in full force and effect.

XXXII. Amendments/Modifications. Any amendment or modification to this Agreement will be effective only if it is in writing and signed by both parties.

A. **Changes To Work.** Any modifications to the services or equipment to be delivered pursuant to this Agreement, and the compensation therefor, may be made by a written Change Order signed by an authorized representative of OAG and Contractor. A Change Order may only be made on the conditions that the work to be performed by a Change Order is not inconsistent with the scope of work under this Agreement, and that where there is an increase in the costs for services, OAG shall certify in writing that funds are available for the increased costs prior to such Change Order becoming effective.

B. **Extension of Time to Perform Services.** This Agreement may be modified to extend time for Contractor to perform services upon writing signed by OAG and Contractor. A modification to extend time to perform services under this Agreement may only be made on the condition that such modification shall not increase the costs for services hereunder.