



# GUAM POWER AUTHORITY

ATURIDÂT ILEKTRESEDÂT GUÅHAN  
P.O.BOX 2977 • HAGÂTÑA, 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, 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. Prospective Bidders may attend the virtual public opening via WEBEX.

COMPANY NAME:

NAME OF INDIVIDUAL:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Print / Sign

Date

BID NO.: Multi-Step GPA-015-22

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
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INVITATION FOR BID (IFB) NO.: Multi-Step GPA-015-22  
DESCRIPTION: Performance Management Contract for the Guam Power Authority Fuel Bulk Storage Facility

**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) printed copies of the Qualitative Scoring Workbook. One (1) electronic PDF format 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 – One Hundred Fifty Thousand US Dollars (\$150,00.00) 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. Wire Transfer to Guam Power Authority. Account information shall be sent to bidders upon request.
  - c. Letter of Credit or
  - d. 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](http://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

1<sup>st</sup>. Floor, Room 101

## Procurement Management Materials Supply

Gloria B. Nelson Public Service Building

688 Route 15, Mangilao, Guam 96913

for  01/04/2022  
JOHN M. BENAVENTE, P.E. DATE  
General Manager 

DATE ISSUED:	01/06/2022		Multi-Step
	01/13/2022	BID INVITATION NO.:	GPA-015-22

BID FOR: Performance Management Contract for the Guam Power Authority Fuel Bulk Storage Facility

SPECIFICATION: See Attached

DESTINATION: See Attached

REQUIRED DELIVERY DATE: See Attached

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**INSTRUCTIONS TO BIDDERS:**

INDICATE WHETHER:

	INDIVIDUAL	PARTNERSHIP	CORPORATION
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INCORPORATED IN:

This bid shall be submitted in the form of, one (1) original, six (6) bound copies of the Technical Proposal including (1) original and six (6) printed copies of the Qualitative Scoring Workbook. One (1) electronic PDF format 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) 4:00 P.M. (Guam CHamoru Standard Time; ChST), Date: February 28, 2022. 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:

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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

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**Invitation For Multi-Step Bid**

**IFB No. GPA-015-22**


**PERFORMANCE MANAGEMENT CONTRACT**

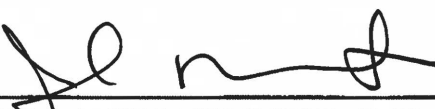
**FOR**

**GUAM POWER AUTHORITY  
FUEL BULK STORAGE FACILITY**



  
\_\_\_\_\_  
**JENNIFER G. SABLAN, P.E.**  
**SPORD Manager**

  
\_\_\_\_\_  
**JOHN J. CRUZ, JR., P.E.**  
**Assistant General Manager**  
**Engineering & Technical Services**

  
\_\_\_\_\_  
**JOHN M. BENAVENTE, P.E.**  
**General Manager**

**Invitation for Multi-Step Bid**

**No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT**

**FOR THE**

**GUAM POWER AUTHORITY  
FUEL BULK STORAGE FACILITY**



**Volume I**

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**December 2021**

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## 1. Introduction

The Guam Power Authority (GPA), hereinafter referred to as GPA, is inviting Technical Service Firms, hereinafter referred to as CONTRACTOR, to participate in a Multi-Step Bid for a Performance Management Contractor, hereinafter referred to as PMC or "CONTRACTOR", to manage, operate, and maintain the Guam Power Authority's Fuel Bulk Storage Facility.

The CONTRACTOR shall be responsible for the following items:

- Overall operation and maintenance of the Fuel Bulk Storage Facility to provide fuel oil product transfer and management of the GPA facilities and locations as needed;
- Accomplishment of Capital Improvement Projects or major upgrades;
- Accomplishment of major maintenance and repairs for the Fuel Bulk Storage Facility;
- Engineering assessment and recommendations for overall facility improvements;
- Review, development and update of the following:
  - Plant Standard Operating Procedures and Manuals;
  - Annual update of the Facility Spill Response Plan and Spill Prevention, Control and Countermeasure Plan (SPCC Plan);
  - Timely update of plans upon the introduction and adoption of any new federal and local laws and regulations;
- Meet specified performance standards;
- Fuel Inventory and Loss Control Management; and
- Submission of Daily, weekly, monthly and annual reports as required by GPA (Generation, Engineering, P&R, SPORD and Accounting Divisions);
- Compliance with Tank System Operation and Maintenance Workplan (Jan. 19, 2007);
- Compliance with all requirements of the Oil Pollution Act of 1990 (OPA 90 Act);
  - Inclusion of all costs associated with OPA 90 Act within the firm price proposal;

- Compliance with oil spill and recovery provisions of OPA 90 Act;
- Purchase, maintain and operate/deploy materials and equipment as identified in the Facility Spill Response Plan and SPCC Plan.
- Record keeping and submittal of all pertinent documents to GPA.
- Other Responsibilities and Duties as cited in the Invitation for Bid Documents.

The CONTRACTOR should be a bona fide and active member of a qualified and certified oil spill response company on Guam. Otherwise, the CONTRACTOR must secure an oil response service contract with a qualified oil spill response company within thirty (30) days after contract award. A copy of subject contract must be provided to GPA within 30 days of award.

The Technical and Price Proposals shall be submitted on or before the Cut-off Date of Receipt of Proposals as specified on Table 1: Bid Milestones.

The bid evaluation shall be a two-step process.

Step One will involve evaluation of the Technical or Qualitative Proposals (Un-priced Technical Offers), and the establishment of a Qualified Bidders List based (QBL) based on acceptable submitted Technical Proposals. Step Two will involve the evaluation of Price Proposals (Priced Offers) from the bidders identified on the QBL. Price Proposals for unqualified bidders shall be returned, unopened, after the Technical Proposal Evaluation. GPA will perform a comprehensive evaluation of each proposal and select the BIDDER with the best proposal based on the submitted Price Proposal Evaluation Workbook Sheet. If the selected vendor cannot proceed with the contract, GPA may elect to go to the next best BIDDER or cancel the bid.

**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.

<b>Table 1: Bid Process Milestones</b>	<b>From Date</b>	<b>To Date</b>
<b>Bid Announcement</b>	01/06/2022	01/31/2022
<b>Pre-Bid Conference</b>	<b>01/18/2022 9:00 AM</b>	
Submit Questions	01/07/2022	01/31/2022
<b>Cut Off Date for Receipt of Questions</b>	<b>01/31/2022</b>	

GPA Review and Answer Questions		01/07/2022	02/08/2022
Vendor Prepare Bids		01/07/2022	02/28/2022
<b>Cut Off Date for Receipt of Proposals (Technical and Price Proposals)</b>		<b>02/28/2022 4:00 PM</b>	
<b>EVALUATION</b>	Technical Proposal (Bid) Evaluation	03/07/2022	03/11/2022
<b>Step One:</b>	Determine & Notify Qualified Bidders	03/10/2022	03/16/2022
<b>EVALUATION</b>	Opening of Price Proposals (Public Opening)	<b>04/01/2022 2:00 PM</b>	
<b>Step Two:</b>	Evaluation of Price Proposal	04/04/2022	04/08/2022
Determine & Notify Qualified Bidders		TBD	TBD
Contract Approval & Award		TBD	TBD
Contract Signing		TBD	
Contract Mobilization		TBD	TBD
<b>CONTRACTOR Operational Commencement</b>		<b>10/01/2022</b>	

### Invitation for Bid (IFB) Document Organization

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

Volume I	—	Commercial Terms and Conditions
Volume II	—	Technical and Functional Requirements
Volume III	—	Facility Technical Description
Volume IV	—	Contract
Volume V	—	Appendices
Volume VI	—	Schedules

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

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

#### 1.1. Project Overview and Scope

The Guam Power Authority is soliciting proposals for technical services from qualified firms for the on-site management of the operations and maintenance of the Guam Power Authority Fuel Bulk Storage Facility.

The required services include compliance with all applicable local and federal laws, membership with a qualified and certified oil spill response organization (OSROCO, etc.), technical capability to periodically review and update applicable response plans, qualified personnel to manage and operate the facility in a safe and efficient manner, operation of all equipment as defined in response plans, and reporting as defined in the day-to-day operations.

#### **1.1.1. GPA Overview**

GPA is a public utility corporation that provides electric power service throughout the entire island of Guam. GPA is comprised of several departments or divisions, which include Executive/Administrative, Finance, Computer Services, Engineering, Planning & Regulatory (Environmental), Safety, Human Resources, Customer Service, Facilities, Strategic Planning and Operations Research, Generation, Transmission & Distribution (T&D), and Transportation. Majority of the departments are located in a central office building, however T&D, Generation, and Transportation Offices and buildings are located throughout the island.

#### **1.1.2. Fuel Bulk Storage Facility Overview**

The Fuel Bulk Storage Facility is wholly owned by the Guam Power Authority and operated by the current contractor, **IP&E Holdings, LLC**. GPA completed construction and commissioned the Fuel Facility in 1976. The facility holds approximately 520,000 barrels of total storage capacity for petroleum products. A full description is provided in Volume III Facility Technical Description.

#### **1.1.3. Contract Term**

The Contract Term for the base period shall be for THREE (3) years with options to extend for TWO (2) additional One (1) year term, upon mutual agreement of both parties.

#### **1.1.4. Contract Price**

The contract price structure is described in detail in Volume IV (Contract) – Section 6 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  
GENERAL MANAGER

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

FAX: 1 (671) 646-3054 / 55  
Attention: 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**

Before submitting their proposal, BIDDERS must familiarize themselves with the nature and extent of the work, duly noting any local conditions that may affect the work to be done and the labor, materials, and

equipment required. BIDDERS are also required to carefully examine all tender documents inclusive of all technical and functional requirements and to inform themselves of all conditions and requirements for the execution of the proposed work 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 Facility 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 Fuel Bulk Storage Facility, 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](http://www.guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php). The 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 fixed management fee, an O&M Spending Budget, and Performance Guarantees for each year of the contract as specified in the IFB documents. Price Proposals shall be submitted in the form as found in the MS EXCEL Workbook, **Price Proposal Evaluation.xls** on or before the Cut-Off Date for receipt of Proposals. 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. Any equipment and material prices shall be provided on the basis of CIF to the Guam job site unloaded and shall provide a breakdown of the price/cost data.

## **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' 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 V 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:

- Business Structure and Business Approach
- Experience, Qualification and Expertise
- Proposed Organizational Structure
- Financial Information
- Client References
- Supporting Documents

A description for each requirement is included in **Volume II (Technical and Functional Requirements)**. These as well as all supplementary information and forms as required must be submitted in sufficient detail and clarity to permit a complete evaluation of the proposal with respect to the Bid Requirements. Supplementary information includes documents, references, drawings, diagrams, catalogs, illustrations, and such other information as necessary to clearly support responses to the Qualitative requirements.

#### **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 2.1.10.5 of this Volume. For each checklist item, the bidder shall provide references on the responses and supporting documents.

#### **2.10.1.13. Required Forms**

Submittal of required forms as specified in [Section 3](#) of this volume, as well as in Volume V Appendices, is mandatory. GPA shall automatically disqualify any proposal submitted without the supplementary information and required forms.

#### **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) "PERFORMANCE MANAGEMENT CONTRACT FOR THE GUAM POWER AUTHORITY'S BULK FUEL STORAGE FACILITY";

- 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 BIDDER's Price Proposal shall consist of one printed copy and one electronic (CD) copy of the MS Excel Workbook, **Price Proposal Evaluation.xls**. A printed copy is requested to ensure evaluation of the Proposal Worksheets in cases where there are errors with the electronic file.

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) “PERFORMANCE MANAGEMENT CONTRACT FOR THE GUAM POWER AUTHORITY’S FUEL BULK STORAGE FACILITY”;
- (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, as 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 an 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 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. 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. GPA's evaluation of price offers shall compare Fixed Management Fees and O&M Spending Budget. 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/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 equal to the **Annual Contract Fee** 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. A list of surety companies licensed to do business on Guam is provided in Appendix C.

#### **2.14.3. Bid Bond Form and Amount**

A bid bond for an amount of \$150,000.00 (USD) 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 J.

### **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://www.guampowerauthority.com/procurement/index.html> .

#### **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:

- (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.

### 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 and all subcontractors that will be used in the performance management of GPA's Fuel Bulk Storage Facility. BIDDERS must include their Dunn and Bradstreet Number or Other Major Credit Rating Agency rating.
- Certificate of Good Standing to conduct business in jurisdiction of residence;
- Information regarding outstanding claims against the BIDDER, if any;
- Required affidavits (Ownership & Interest Disclosure; Non-Collusion; Declaration Regarding Compliance with DOL Wage Determination; No Gratuities or Kickbacks; Ethical Standards Affidavit)
- Proposal Checklist
- Bid Bond
- A current Guam Business License. Although it is not required in order to provide a Bid for this engagement, obtaining a Guam 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 V Appendices*. All Appendices and the MS EXCEL Workbooks Qualitative Proposal Worksheet.xls and Price Proposal.xls must be completed:

- Appendix A: Proposal Checklists
- Appendix B: Bid Bond
- Appendix C: Affidavit of Disclosure of Ownership
- Appendix D: Non-collusion Affidavit
- Appendix E: Local Procurement Preference
- Appendix F: Performance Bond
- Appendix G: No Gratuities or Kickbacks
- Appendix H: Ethical Standards Affidavit
- Appendix I: Declaration Re Compliance with U.S. DOL Wage Determination

- Appendix J: Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government of Guam Property
- Appendix K: Bidder's Price Proposal Cover Page
- Qualitative Proposal Worksheet.xls
- Price Proposal.xls

GPA also provides the following supplemental information in *Volume VI – Schedules*:

- Schedule A Fuel Supply Specifications
- Schedule B Fuel Farm Lay Out
- Schedule C Refueling Schematic Diagram
- Schedule D Pump Specifications
- Schedule E Office Floor Plan

### **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. 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 B.

#### **3.1.3. Affidavit of Disclosure of Ownership**

The BIDDER shall fill out the Major Shareholders Disclosure Affidavit form in Appendix C and submit it with its Proposal.

**3.1.4. Non-collusion Affidavit**

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

**3.1.5. Local Procurement Preference Application**

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

**3.1.6. No Gratuities or Kickbacks Affidavit**

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

**3.1.7. Ethical Standards Affidavit**

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

**3.1.8. Compliance with US DOL Wage Determination**

The BIDDER shall fill out and sign the Declaration of Compliance with US DOL Wage Determination in Appendix I and submit it with the Technical Proposal.

**3.1.9. 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 J) and submit it as part of 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 (Price Proposal.xls)**

The qualified BIDDERS shall propose Annual Fees for each CONTRACT ITEM for each contract year in the worksheet named "BIDDER DATA ENTRY". Costs for optional contract years shall also be provided; doing so allows GPA to calculate the cost of the contract should it be extended for one or two additional contract years. GPA may decide to award all, any or none of the Price Proposal Items to the successful bidder.



## 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, financial information, fixed management fees, staffing proposal, O&M spending budget and performance guarantees.

### 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:

- Acceptable: Score  $\geq 80\%$
- Potentially Acceptable, that is reasonably susceptible of being made Acceptable:  $80\% > \text{Score} \geq 75\%$
- 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**

The BIDDER shall propose Annual Fees for each CONTRACT ITEM for each contract year shall input its proposed Price Proposal for each Price Proposal Item for each Contract Year including Optional Contract Years in the Price Proposal.xls worksheet

GPA shall score each Qualified BIDDER's Price Proposal for each item by evaluating the Net Present Value (NPV) to GPA. GPA will award the Contract to the BIDDER whose proposal yields the lowest overall CONTRACT price.

## **5. Conditions of Contract**

### **5.1. Definitions**

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

#### **Approved**

The word "Approved," when applied by ENGINEER to CONTRACTOR's drawings or documents, shall mean that the drawings or documents are satisfactory from the standpoint of interfacing with GPA-furnished components, and/or that ENGINEER has not observed any statement or feature that appears to deviate from the Specification requirements.

#### **Approved As Revised**

The words "Approved As Revised," when applied by ENGINEER to CONTRACTOR's drawings or documents shall mean that the drawings or documents are approved as defined above, except that the corrections shown are required for the proper interfacing with GPA-furnished components or are necessary to be in conformance with the Specification's requirements.

#### **Change Order**

A written instrument to CONTRACTOR signed by GPA authorizing an addition, deletion, or revision in the goods or special services, or an adjustment in the purchase order price or the delivery time, issued after the effective date of the Contract Agreement (Agreement).

#### **CONTRACTOR**

The CONTRACTOR with whom GPA has entered into the Contract Agreement.

#### **Day**

A calendar day of twenty-four (24) hours measured from midnight to the next midnight

#### **Delivery Time**

The total number of days or the dates stated in the Agreement for furnishing the Goods and/or Special Services

#### **Defective**

An adjective which when modifying the words Goods or Special Services refers to Goods or Special Services which are unsatisfactory, faulty, deficient, do not conform to the Contract Documents, or do not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents.

**Drawings**

Drawings are all official drawings approved by the ENGINEER and showing the character and scope of the Goods to be furnished.

**Effective Date of the Contract Agreement**

The date indicated in the Purchase Agreement on which it becomes effective, or if no such date is indicated, the date by which the Purchase Contract is signed by both parties.

**ENGINEER**

Wherever the words "ENGINEER" or "ENGINEERS" appear in the CONTRACT Documents, it shall mean GPA's engineer duly appointed as "ENGINEER". GPA shall assign several ENGINEERS as required to cover specialized areas of expertise.

**ENGINEER's Instructions**

Written instructions issued by ENGINEER which clarify or interpret the CONTRACT Documents or order minor changes or alterations in the Goods or Special Services to be furnished but which do not involve a change in the Purchase Price or the Delivery Time.

**General Manager**

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.

**Goods**

All property required to be furnished by CONTRACTOR under the procurement documents.

**Modification**

A written amendment of the Purchase Agreement signed by both parties, or Change Order, or ENGINEER's Instructions.

**OWNER**

The Guam Power Authority (An autonomous instrumentality of the Government of Guam).

**Point of Delivery**

The place at which property in the goods shall pass to GPA shall be CIF landed at job-site, Guam, unloaded.

**Project**

The plant, facilities, or works the Goods and Services are to be used for or incorporated into.

**PURCHASER**

The Guam Power Authority with whom CONTRACTOR has entered into the Contract Agreement.

**Contract Agreement (Agreement)**

The written agreement between GPA and CONTRACTOR covering the furnishing of the Goods, Special Services, and other services in connection therewith evidencing what is contemplated and agreed to between the parties including any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

**Contract Documents**

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

**Procurement Officer**

The General Manager of the Guam Power Authority or the General Manager's designee.

**Seller**

The CONTRACTOR

**SITE or Site**

The SITE is the area where the Project is to be constructed or executed. In this case, the SITE is the GPA Fuel Bulk Storage Facility as delineated in Volume II Technical and Functional Requirements and Volume III GPA Fuel Bulk Storage Facility Technical Description.

**Special Services**

Services to be furnished by CONTRACTOR at the GPA Fuel Facility as required by the Contract Agreement.

**Territory**

The Territory of Guam.

**5.2. Scope of the Agreement**

This CONTRACT supersedes any and all other agreements related to the Performance Management Contract for the GPA Bulk Fuel Storage Facility, either oral or in writing between parties hereto with respect to the retainment of the CONTRACTOR by the Authority and contains all of the covenants and agreements between the parties. Each party to this Contract acknowledges that no representation, promises or agreement, orally or otherwise, has been made by any party or anyone acting on behalf of any party and that no other agreement not contained in this Contract shall be valid or binding. Any modification of this Contract will be effective only if in writing, and mutually agreed to and signed by both parties.

**5.3. Indemnity**

CONTRACTOR shall indemnify and hold GPA and ENGINEER harmless from any claim, liability or product liability, loss, damage, demand, cause of action or suit, expense, or fee of legal counsel arising out of or in connection with the Goods or Special Services provided by the CONTRACTOR.

**5.4. 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.

Where the Agreement covers the reimbursement of the traveling or living expenses of the CONTRACTOR's employees or agents, the CONTRACTOR agrees to furnish complete itemization and breakdowns of such expenses when requested by GPA.

In the event of any changes to or termination of the Agreement, or the furnishing of goods or services on a labor hour or a cost reimbursable basis, CONTRACTOR shall supply information in such detail as may be reasonably required by GPA to support all applicable charges. GPA, or an independent auditor designated by

GPA, shall have the right to audit, during normal working hours, CONTRACTOR's accounts and records relating to such charges. The expense of such audit will be borne by GPA.

#### **5.5. Waiver of Claims**

The making and acceptance of final payment will constitute:

- A waiver of all claims by GPA against CONTRACTOR, except claims arising from unsettled liens, claims relative to defective Goods or special services appearing after final payment, or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; nor will final payment constitute a waiver by GPA of any rights in respect of CONTRACTOR's continuing obligations 'under the Procurement Documents; and
- A waiver of all claims by CONTRACTOR against GPA other than those previously made in writing and still unsettled.

#### **5.6. Supervision and Coordination by CONTRACTOR**

CONTRACTOR shall competently and efficiently manage, supervise, and direct production of the Goods and furnishing of Special Services and coordinate all operations required to deliver the Goods and furnish any required Special Services.

CONTRACTOR shall designate, in writing to GPA, a person with authority to act on behalf of CONTRACTOR with respect to CONTRACTOR's obligations under the CONTRACT Documents, and all communications given to or received from that person will be binding on CONTRACTOR.

CONTRACTOR shall perform all such activities as an independent contractor and not as an agent of GPA. When others furnish materials and equipment for assembly by the CONTRACTOR, CONTRACTOR shall receive, unload, store, and handle it and become responsible therefore as though CONTRACTOR was furnishing such materials and/or equipment under the Agreement.

#### **5.7. Substitutions**

If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to ENGINEER for acceptance thereof certifying that the proposed substitute will perform adequately the function as called for by the general design, be similar and of equal substance to that specified, and be suited to the same use and capable of performing the same function as that specified. The



application will state that the evaluation and acceptance of the proposed substitute will not prejudice the CONTRACTOR's warranty or timely delivery of the Goods, whether or not acceptance of the substitute will require a change in any of the Contract Documents to adapt the design to the substitute and whether or not incorporation or use of the substitute in connection with the production of the Goods is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair, and replacement service will be indicated. ENGINEER may require CONTRACTOR to furnish at CONTRACTOR's expense such additional data about the proposed substitute as is required by ENGINEER. GPA may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.

#### **5.8. Documentation and Drawings**

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

The Agreement will not be deemed satisfactorily completed until all requirements have been complied with including, but not limited to, proper material documentation, final drawings and reproductions, and other requirements stated in the Contract Documents. GPA may withhold final payment hereunder, pending completion of all such requirements by the CONTRACTOR.

At the time of each submission, CONTRACTOR shall in writing call ENGINEER's attention to any deviations that the drawings or documents may have from the requirements of the Specification or Contract Documents. CONTRACTOR shall also direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals. CONTRACTOR's submission of any drawing or document bearing CONTRACTOR's approval shall constitute a representation to GPA and ENGINEER that CONTRACTOR assumes full responsibility for having determined and verified the design criteria, quantities, dimensions, installation requirements, materials, catalog numbers, and similar data and that CONTRACTOR has reviewed or coordinated each drawing or document with the requirements of the Contract Documents.

ENGINEER's review and approval of CONTRACTOR's drawings or documents will be only for conformance with the design concept of the Goods and for compliance with the information given in the Contract Documents. Such review and approval will not extend to design data reflected in drawings or documents that is peculiarly within the special expertise of CONTRACTOR or any party dealing directly with CONTRACTOR. The review and approval of a separate item as such will not indicate approval of the

assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER when drawings or documents are marked “Approved As Revised” and shall return the required number of corrected copies.

GPA and/or ENGINEER shall have the right to reproduce any and all drawing, prints, or other data or documents received from CONTRACTOR that are considered necessary for engineering, construction, or other purposes, despite any notice to the contrary appearing on the item. When a drawing or document approval is required by the Specifications, CONTRACTOR shall not commence production of any part of the Goods affected thereby until such drawing or document has been reviewed and approved by ENGINEER.

ENGINEER’s review and approval of CONTRACTOR’s drawings or documents will not relieve CONTRACTOR from responsibility for any deviations from the Contract Documents unless CONTRACTOR has in writing called ENGINEER’s attention to such deviation at the time of submission and ENGINEER has given written concurrence and approval to the specific deviation, nor will any concurrence or approval by ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the drawings or documents submitted.

#### **5.9. Continuing Performance**

CONTRACTOR shall continue its performance under the Agreement during all claims, disputes, or disagreements with GPA. Production of Goods will not be delayed or the timely delivery of Goods or furnishing of Special Services be prejudiced, delayed, or postponed pending resolution of any claims, disputes, or disagreements, except as CONTRACTOR and GPA may otherwise agree in writing.

#### **5.10. Access to Facility**

CONTRACTOR shall provide representatives of GPA, testing agencies, and governmental agencies with jurisdictional interests proper and safe access to the Fuel Bulk Storage Facility as is necessary for the performance of their functions and in connection with the Contract Documents.

#### **5.11. Expediting**

CONTRACTOR shall expedite delivery of the Goods and any related work of subcontractors. When requested or required by the Contract Documents, CONTRACTOR shall also provide GPA with an itemized schedule for engineering, outsourcing, fabrication, and shipping, which shall be followed by expediting reports

including status of deliveries of materials and/or equipment purchased from subcontractors, if any, each month during its performance under the Agreement. If CONTRACTOR encounters delay in obtaining materials, or foresees any delay in its own manufacturing works, CONTRACTOR shall immediately inform GPA of such situation.

GPA and/or its designee shall be allowed reasonable access to CONTRACTOR's and its subcontractor's works for the purpose of expediting project progress.

Any expediting done by GPA shall not relieve CONTRACTOR from its obligations as to the Delivery Time specified in the Agreement.

#### **5.12. Compliance with Law**

CONTRACTOR shall comply, and secure compliance by its subcontractors, with all applicable laws or regulations in connection with the Goods and services furnished hereunder. This includes the securing of any business or other licensing, certifications, or permits required. If CONTRACTOR discovers any variance between the provisions of applicable laws and regulations and the drawings, Specifications, and other technical data furnished by the GPA, CONTRACTOR shall promptly notify GPA in writing thereof and obtain necessary changes from GPA before proceeding with the work affected thereby.

#### **5.13. Price Adjustment**

##### **Price Adjustment Methods**

Any adjustment in contract price within the parameters of this contract shall be made in one or more of the following ways:

- a) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- b) By unit prices specified in the contract or subsequently agreed upon;
- c) By the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;
- d) In such other manner as the parties may mutually agree; or
- e) In the absence of agreement between the parties, by a unilateral determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the Procurement

**Submission of Cost or Pricing Data**

The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations.

**5.14. Changes****5.14.1. Change Order**

By a written order, at any time, and without notice to surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- a) Drawings, designs, or Specifications, if the supplies to be furnished are to be specially manufactured for the Territory in accordance therewith;
- b) Method of shipment or packing; or
- c) Place of delivery.

**5.14.2. Time Period for Claim**

Within 30 days after receipt of a written change order under **Paragraph 4.15.1 Change Order**, unless the Procurement Officer extends such period in writing or e-mail, The CONTRACTOR shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the CONTRACTOR's claim unless the Territory is prejudiced by the delay in notification.

**5.14.3. Claims Barred After Final Payment**

No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

**5.14.4. Other Claims Not Barred**

In the absence of such a change order, nothing in this clause shall be deemed to restrict the CONTRACTOR's right to pursue a claim arising under the contract if pursued in accordance with the clause entitled, "Claims Based on the General Officer's Actions or Omissions, - Notice of Claim", or for breach of contract.

#### 5.15. **Contract Price**

The Contract Price constitutes the total consideration to be paid by GPA to THE CONTRACTOR for performing other services in connection therewith in accordance with the Contract Documents as amended by the parties pursuant to the Agreement. Unless expressly provided otherwise in the Contract Documents, the Contract Price is not subject to escalation in respect of materials and/or labor cost or any other factor or variation in rates of exchange, and all duties, responsibilities, and obligations assigned to or undertaken by THE CONTRACTOR shall be at its expense without change in the Contract Price. Charges, fees, CONTRACTOR's profit, and all other expense shall be deemed to be included in the Contract Price. Furthermore, the Contract Price includes management fees and incentive/penalty payments. Therefore, the Contract Price is dynamic but bounded.

Only a formal Change Order, accepted by GPA, may change the Contract Price. THE CONTRACTOR shall make any claim for an increase in the Contract Price in advance of performance of any such changes. However, GPA reserves the right to challenge or refute such claims.

#### 5.16. **Payment Milestones and Schedule**

Payment milestones have been selected to clearly identify the actual status of the portion of the Work completed rather than anticipated project progress schedules. Payments will be based on actual completion of each milestone event, where applicable, and not on the scheduled completion date. When a change in the Agreement is approved, the total contract price will be altered to the new total, and the remaining milestone payments will be adjusted.

Milestones shall not be scheduled more frequently than once every month. GPA will not approve a milestone payment until all preceding milestones have been approved. GPA will make payments within thirty (30) days from receipt and approval of the invoice for the completed milestone.

The payment milestones for monies due to the CONTRACTOR from GPA are as follows:

- Monthly Fees for each CONTRACT ITEM;
- Reimbursement Payments for routine Operations and Maintenance related expenditures;
- Reimbursement Payments for any additional Operations and Maintenance related expenditures not included in the list of the routine O&M schedules, as agreed to and scheduled between GPA and the CONTRACTOR. For any additional O&M expenditures over \$10,000.00 in one time cost, CONTRACTOR administrative charges shall not exceed FIVE PERCENT (5%).

- Reimbursement Payments for Capital Improvement Projects (CIP) related expenditures as agreed to and scheduled between GPA and the CONTRACTOR. CONTRACTOR administrative charges for CIPs shall not exceed FIVE PERCENT (5%).

The payment milestones for monies due to GPA from the CONTRACTOR are as follows:

- Penalty Compensation Payments due to CONTRACTOR's failure to meet Contractual Obligations;
- Payments due to Contractor's failure to meet Facility Security responsibilities;
- Expenses resulting from minor repairs or penalties due to Oil Spills, Non-Compliance with Environmental, Local and Federal Regulations, due to the negligence on the part of the contract

#### **5.17. Force Majeure**

*Force Majeure* referred to herein shall mean an occurrence beyond the control and without the fault or negligence of the party affected including, but not limited to, acts of God or the public enemy, expropriation or confiscation; changes in law procedures, war, rebellion, or riots; floods, unusually severe weather that could not reasonably have been anticipated; fires, explosions, epidemics, catastrophes, or other similar occurrences which are not within the control of the party affected. However, the following shall not be considered as *Force Majeure*:

- a) Delay caused by lack or inability to obtain raw materials, congestion at CONTRACTOR's or its subcontractor's facilities, or elsewhere; market shortages, or similar occurrences, or
- b) Delay, either on the part of THE CONTRACTOR or its subcontractors, caused by shortages of supervisors or labor, inefficiency, or similar occurrences, or
- c) Sabotage, strikes, or any other concerted acts of workmen, which occur only in the facilities of THE CONTRACTOR or its subcontractors.

Should the circumstances of *Force Majeure* continue over a period of ninety (90) days, GPA has the right, if no other understanding is reached, to terminate the whole Agreement or any part thereof in accordance with Paragraph 4.28. Any delay or failure in performing the obligations under the Contract Documents of the parties hereto shall not constitute default under the Purchase Contract or give rise to any claim for damages or loss or anticipated profits if, and to the extent, such delay or failure is caused by Force Majeure, and if a claim is made therefore.

##### **5.17.1. Invocation of Force Majeure**

The party invoking Force Majeure shall perform the following:

- a) Notify the other party as soon as reasonably possible by facsimile, e-mail, telex, cable or Messenger/courier of the nature of Force Majeure, anticipated exposure time under Force Majeure, and the extent to which the Force Majeure suspends the affected party's obligations under the CONTRACT;
- b) Consult with the other party and take all reasonable, prudent steps to minimize the losses of either party resulting from the Force Majeure;
- c) Resume the performance of its obligations as soon as possible after the Force Majeure condition ceases.

#### **5.17.2. Delivery Time and Force Majeure**

Only a Change Order may change contractual Delivery Times. THE CONTRACTOR as provided in **Paragraph 5.14** and its sub-paragraphs shall file all claims for an extension in the Delivery Time.

The Delivery Time will be extended in an amount equal to time lost due to delays caused by Force Majeure if a claim is made therefore as provided in this Paragraph. No amendment to the Contract Price, however, shall be allowable because of Force Majeure occurrences.

Notwithstanding the foregoing, all time limits stated in the Purchase Order documents are of the essence in the agreement. The provisions of this Paragraph shall not exclude recovery for damages (including compensation for additional professional services) for delays not caused by Force Majeure.

#### **5.18. Warranty**

THE CONTRACTOR'S obligation to furnish the Goods and Special Services and to perform other services in connection therewith in accordance with the Agreement is absolute, and THE CONTRACTOR warrants and guarantees to GPA that all Goods will be in accordance with the Contract Documents and will be new, fit for the purpose for which they are intended, and free from any defects, including faulty design, materials, or workmanship.

THE CONTRACTOR shall provide GPA with all warranties and guarantees in writing. GPA and the BIDDER shall negotiate the manner in which claims against these warranties are addressed including any remedies for non-responsiveness. This may include retention of contract amounts, performance bonds, etc.

THE CONTRACTOR shall be responsible for remedying all defects, without limitation, in design, materials, workmanship, operating characteristics, or performance of the Goods developing within twelve (12) months from the date on which GPA has placed the Goods in continuous service, or within twenty-four (24) months from the date of final payment, whichever date shall first occur, or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee or by any specific provisions of the Contract Documents.

Any part(s) supplied in replacement of the defective part(s) of the Goods or any Goods repaired pursuant to the provisions of this Paragraph shall be supplied or repaired on the same terms and conditions as provided for herein for the supply of the Goods and in particular a new warranty period shall apply. Such new warranty period shall expire on the date twelve (12) months from the date of such replacement or repair or on the expiration date of the warranty for the original Goods that were replaced or repaired, whichever is later.

In the event the CONTRACTOR furnishes special services for installation and startup, such services shall be rendered in a competent and diligent manner and in accordance with the Contract Documents, accepted industry practice and any applicable professional standards.

#### **5.19. Tests and Inspections**

GPA or its designee shall have the right to inspect or observe the production, inspection, or testing of the Goods at any time and place including the CONTRACTOR's facilities and those of its subcontractors where the Goods are being produced.

THE CONTRACTOR shall conduct, at its responsibility and expense, all tests and inspections called for by the Contract Documents. In the event that witness inspection by GPA is required under the Contract Documents, the costs and expense arising therefrom shall be borne by the CONTRACTOR, including inspector's fees, transportation, hotel, and general flying expenses. In the event that CONTRACTOR's inspection is required at the site, CONTRACTOR's transportation, hotel, and general living expenses shall be borne by THE CONTRACTOR.

Any inspection made by the inspector of GPA and/or its designee will be final. Such inspections or the witnessing of CONTRACTOR's test and inspection by GPA and/or its designee shall not relieve THE CONTRACTOR of any of its responsibilities or liabilities under the Contract Documents, nor be interpreted in any way as implying acceptance of the Goods.



THE CONTRACTOR shall repair and replace, without cost or delay, anything found defective by tests and inspections, and also to bear all costs of re-inspection.

The CONTRACTOR must carry out at its authority and expense any inspection required by statutory Authority, governmental regulation, or other similar Authority on the codes or standards.

#### **5.20. Remedying Defective Parts**

If at any time GPA determines that the replacement parts are defective, THE CONTRACTOR shall, upon written notice from GPA, do all things necessary, at its expense, to make good the defects as soon as possible after being notified to do so by GPA. THE CONTRACTOR warrants that THE CONTRACTOR, unless otherwise agreed, shall remedy any defects. It is understood, that if so instructed by GPA, THE CONTRACTOR shall make shipment by the fastest available method.

In the event that THE CONTRACTOR does not take prompt action to fulfill its obligations hereunder as required by GPA and to the satisfaction of GPA, GPA may, after ten (10) days written notice to THE CONTRACTOR, and without prejudice to any of its rights under the Agreement, accept the defective Goods and carry out the remedial work itself instead of requiring correction or removal and replacement, and charge THE CONTRACTOR for the costs of the work. In an emergency where delay would cause serious risk of loss or damage, GPA may take such action without prior notice to or waiting for action by THE CONTRACTOR.

##### **5.20.1. Remedying Defective Special Services**

If at any time GPA notifies THE CONTRACTOR in writing that any of the Special Services are defective, THE CONTRACTOR shall promptly provide acceptable services. If THE CONTRACTOR fails to do so, GPA may obtain the Special Services elsewhere.

##### **5.20.2. Cost of Remedying Defects**

All direct, indirect, and other costs of correcting, removing, and replacing defective Parts or of obtaining Special Services elsewhere and of exercising GPA's rights and remedies under **Paragraph 5.20** and other sections as they apply, will be charged against THE CONTRACTOR and, if incurred prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Purchase Price, or if incurred after final payment, an appropriate amount will be paid by THE CONTRACTOR to GPA. Such direct, indirect, and other costs will include, in particular but without

limitation, compensation for additional professional services required and all costs of repair and replacement of property of GPA or others destroyed or damaged by correction, removal, or replacement of defective Goods. THE CONTRACTOR shall not be allowed an extension of the Delivery Time because of any delay in performance attributable to the exercise by GPA of GPA's rights and remedies under this paragraph.

#### **5.21. Stop Work Order**

##### **5.21.1. Order to Stop Work**

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

- a) Cancel the stop work order; or
- b) Terminate the work covered by such order, as provided in the 'Termination for Default Clause' or the 'Termination for Convenience Clause' of this contract.

##### **5.21.2. Cancellation or Expiration of the Order**

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

- a) The stop work order results in an increase in the time required for, or in the CONTRACTOR's cost properly allocable to, the performance of any part of this contract; and
- b) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

**5.21.3. Termination of Stopped Work**

If a stop work order is not canceled and the work covered by such order is terminated for default or Convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

**5.22. Termination for Convenience****5.22.1. Termination**

The Procurement Officer may, when the interest of GPA or the Territory so require, terminate this contract in whole or in part, for the Convenience of the Territory. 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. [GSA Procurement Regulations 6-101.10.]

**5.23.2. CONTRACTOR's Obligations**

The CONTRACTOR shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the CONTRACTOR will stop work to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the CONTRACTOR to assign the CONTRACTOR's right, title, and interest under terminated orders or subcontracts to the GPA. The CONTRACTOR must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

**5.22.2. Right to Supplies**

The Procurement Officer may require the CONTRACTOR to transfer title and deliver to GPA in the manner and to the extent directed by the Procurement Officer:

- a) Training material;
- b) Any completed supplies; and,
- c) Such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR

has specifically produced or specially acquired for the performance of the terminated part of this contract.

The CONTRACTOR shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the CONTRACTOR in which the Territory has an interest. If the Procurement Officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of **Uniform Commercial Code of Guam (UCCG), Section 2706**. Utilization of this Section in no way implies that the Territory has breached the contract by exercise of the Termination for Convenience Clause.

### **5.22.3. Compensation Under Termination for Convenience**

The CONTRACTOR shall perform the following for compensation under termination for convenience.

- a) 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 **Section 3-403 (Cost or Pricing Data) of the Guam Procurement Regulations** bearing on such claim. 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 subparagraph (c) of this Paragraph.
- b) The Procurement Officer 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, and the contract price of the work not terminated.
- c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this subparagraph:
  - i. Contract prices for supplies or services accepted under the contract;
  - ii. Costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid or to be paid for accepted supplies or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire contract would have been completed, no profit shall be

allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

- iii. Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to **Paragraph 4.23.2** of this clause. These costs must not include costs paid in accordance with other subparagraphs of this Paragraph;
  - iv. The reasonable settlement costs of the CONTRACTOR including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract for the termination and settlement of subcontracts there under, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this contract. The total sum to be paid to 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 subparagraph (b) of this Paragraph, and the contract price of work not terminated.
- d) Cost claimed, agreed to, or established under subparagraph (b) and (c) of this Paragraph shall be in accordance with **Chapter 7 (Cost Principles) of the Guam Procurement Regulations. 13 GCA 2796 (UCCG)** states:

**2706. SELLER's Resale Including contract for Resale**

- (1) Under the conditions stated in **Section 2703** on CONTRACTOR's remedies, the CONTRACTOR may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the CONTRACTOR may recover the difference between the resale price and the contract price together with incidental damages allowed under the provisions of this division (Section 2710), but less expenses saved in consequence of the buyer's breach.
- (2) Except as otherwise provided in Subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the CONTRACTOR. Sale may be as a unit or in parcels and at any time and place and on any terms, but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

- (3) Where the resale is at private sale the CONTRACTOR must give the buyer [i.e., GPA] reasonable notification of his intention to resell.
- (4) Where the resale is at public sale:
  - (01) Only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and
  - (02) It must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the CONTRACTOR must give the buyer [i.e., GPA] reasonable notice of the time and place of the resale; and,
  - (03) If the goods are not to be within the view of those attending the sale, the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective BIDDER s; and
  - (04) The CONTRACTOR may buy.
- (5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer [i.e., GPA] even though the CONTRACTOR fails to comply with one or more of this section's requirements.
- (6) The CONTRACTOR is not accountable to the buyer [i.e., GPA] for any profit made on any resale. A person in the position of a CONTRACTOR (**Section 2707**) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (Subsection 3) of Section 2711."

## 5.23. Termination for Defaults

### 5.23.1. 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 corrected 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 cost incurred on procuring similar goods or services.

#### **5.23.2. CONTRACTOR's Duties**

Notwithstanding termination of the contract and subject to any directions from the Procurement Officer, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which GPA has an interest.

#### **5.23.3. Compensation**

Payment for completed supplies delivered and accepted by the GPA shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Procurement Officer; if the parties fail to agree, the Procurement Officer shall set an amount subject to the CONTRACTOR's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations. GPA may withhold from amounts due the CONTRACTOR such sums as the Procurement Officer deems to be necessary to protect the GPA against loss because of outstanding liens or claims of former lien holders and to reimburse the PURCHASER for the excess costs incurred in procuring similar goods and services.

#### **5.23.4. Excuse for Nonperformance or Delayed Performance**

Except with respect to defaults of subcontractors, the CONTRACTOR shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the CONTRACTOR to make progress in the prosecution of the work hereunder which endangers such performance) if the CONTRACTOR has notified the Procurement Officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; act of the Territory and any other governmental entity in its sovereign restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the supplies or services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the contract requirements. Upon request of the CONTRACTOR, the Procurement Officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause,

the CONTRACTOR's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the GPA under the clause entitled "Termination For Convenience", Paragraph **Error! Reference source not found.** (As used in the Paragraph of this clause the term "subcontractor" means subcontractor at any tier.)

#### **5.23.5. Erroneous Termination for Default**

If, after notice of termination of the CONTRACTOR's right to proceed under the provisions of this clause, it is determined for any reason that the CONTRACTOR was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Section 53.4.Excuse for Nonperformance or Delayed Performance, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for Convenience of GPA, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for Convenience of GPA, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the CONTRACTOR's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

#### **5.23.6. Additional Rights and Remedies**

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

#### **5.24. Disputes**

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 resolved under Guam Procurement Law and the Government Claims Act.

#### **5.25. Consequential Damages**

Unless expressly provided for otherwise in this Agreement, neither party, including their agents and employees, shall be liable to the other party for consequential damages, including, but not limited to, loss of use, loss of profit and interest due to breach of contract, breach of warranty, negligence, or any other cause whatsoever, provided nothing herein shall relieve CONTRACTOR from its liability for injury to persons or



property, including property of GPA, whether such liability arises in contract, including breach of warranty, or tort, including negligence.

#### **5.26. Notices**

Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

#### **5.27. Computation of Time**

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the time computation.

#### **5.28. 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

#### **5.29. Governing Law**

The laws of Guam shall govern the validity and interpretation of these conditions, the Agreement and legal relations of the parties. CONTRACTOR shall not transfer or assign to any third parties any obligations or rights under the Agreement, nor any claims against GPA arising directly or indirectly out of the Agreement.

CONTRACTOR shall not sublet the Agreement in whole or in part without the prior written consent of GPA. Written consent of GPA for subletting shall not relieve CONTRACTOR of any of his obligations under the Agreement.

**5.30. Non-waiver**

GPA shall not consider any provisions of this Agreement waived unless GPA gives notice of such waiver in writing. Even if such notice has been given, such waiver shall not be construed as being a waiver of any other past or future right of GPA under the provisions of this Agreement, unless otherwise expressly stipulated therein. Failure of GPA to insist upon strict performance of any of the terms and conditions hereof, or failure or delay of GPA to insist upon strict performance of any of the terms and conditions hereof, or failure or delay of GPA to exercise any acts, rights, or remedies provided herein or by law shall not relieve CONTRACTOR of liability under any guarantees or of obligations under the Agreement and shall not be deemed a waiver of any right of GPA to insist upon strict fulfillment of the Agreement or of any of GPA's rights or remedies as to the Goods or special services furnished.

**5.31. Severability**

If any work, phrase, clause, article, or other provision of this Agreement is or is deemed or adjudicated or otherwise found to be against public policy, void, or otherwise unenforceable, then said work, phrase, clause, article, or other provision shall be deleted or modified, in keeping with the express intent of the parties hereto as necessary to render all the remainder of this Agreement valid and enforceable. All such deletions or modifications shall be the minimum necessary to effect the foregoing.

**5.32. Rights and Remedies**

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, will be in addition to, and shall not be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by law or contract, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply. All representations, warranties, and guarantees made in the Contract Documents will survive final payment and termination or completion of this Agreement.

**5.33. New material**

Unless this contract specifies otherwise, the CONTRACTOR represents that the Goods and components are new. If the CONTRACTOR believes that furnishing used or reconditioned Goods or components will be in

GPA's interest, the CONTRACTOR shall so notify GPA in writing. The CONTRACTOR's notice shall include the reasons for the request along with a proposal for any consideration to GPA if GPA authorizes the use of used or reconditioned Goods or components.

#### **5.34. Claims based on the General Manager's Action or Omissions**

If any action or omission on the part of the General Manager, or his/her designee, requiring performance changes within the scope of the contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

- (1) The CONTRACTOR shall have given written notice to the General Manager, or his/her designee:
  - i. Prior to the commencement of the work involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
  - ii. Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the work; or
  - iii. Within such further time as may be allowed by the Procurement Officer in writing. This notice shall state that the CONTRACTOR regards the act or omission as a reason that may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Procurement Officer or designee of such officer.
- (2) The notice required by subparagraph (1) of this Paragraph describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (3) The CONTRACTOR maintains and, upon request, makes available to the Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

**5.35.1 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.

**5.35.2 Standards of Design and Workmanship**

The finished Work shall be complete in all respects. The intent of the Specifications is to acquire or purchase management services, training, operations and maintenance materials and services, and supply and inventory management and control. All hardware shall be manufactured, fabricated, assembled, finished, and documented with quality workmanship throughout, and all of its components shall be new and suitable for the purposes specified. All firmware/software shall be designed, implemented, tested, and documented in accordance with the best and recognized correct practices and shall be suitable for the purpose specified. All work shall conform to industry best practices.

**5.35. Standard Work Schedule**

Work scheduled and performed by the CONTRACTOR on GPA's premises shall conform to published GPA working hours and shall account for GPA's observed holidays.

**5.36. Interference with Operation**

Interference with normal operation of GPA's facilities or equipment, or that of any CONTRACTORS or subcontractors on GPA's premises, shall be avoided. The GPA's representative will determine in advance whether such interference is unavoidable and will establish the necessary procedures under which the interferences will be allowed.

**5.37. 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.

**5.38. Liens**

In the event that a lien of any nature shall at any time be filed against the hardware, firmware, or software or the CONTRACTOR's facility by any person, firm, or corporation which has supplied material or services at the request of the CONTRACTOR, and for the cost of which the CONTRACTOR is liable under the terms of the Agreement, the CONTRACTOR agrees, promptly on demand of GPA and at the CONTRACTOR's expense, to take any and all action necessary to cause any such lien to be released or discharged therefrom. The CONTRACTOR agrees to hold GPA harmless from all liens, claims, or demands in connection with the Work.

**5.39. Title**

Title to any of the hardware, firmware, and software, management practices, training and other documents and/or processes required by GPA to continue the improved management, operations and maintenance of the GPA Fuel Bulk Storage Facility will pass to GPA upon placement of the equipment within GPA's premises prior to commencement of its installation, subject to GPA's inspection thereof. The CONTRACTOR shall retain title and be responsible for movement of the equipment from the delivery carrier onto the premises and the subsequent unpacking of the equipment. If, for any reason, the Work is terminated prior to its completion, the title to all the Work performed to that time including all hardware, firmware, software, management practices, training and other documents and/or processes required by GPA to continue the improved management, operations and maintenance of the GPA Fuel Bulk Storage Facility, whether in the CONTRACTOR's facility, in transit, or on GPA's premises, shall immediately pass to GPA.

**5.40. Insurance**

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

**5.41. Contractors and Subcontractors Insurance****A. Mandatory Insurance Requirements**

Prior to commencing the work, contractor shall obtain and thereafter maintain during the course of the work Insurance with companies acceptable to GPA. The contractor shall not allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. The minimum limits of insurance shall be as follows unless a higher limit is required by statute:

- A. **General Liability Insurance** including products, completed operations and contractual liability coverage in the amount of \$2,000,000 per occurrence and \$2,000,000 aggregate.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. Cancellation clause of minimum 90 days' prior written notice to GPA.
    - 1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- B. **Commercial Auto Liability insurance** covering third party bodily injury and property damage in the amount of \$1,000,000 combined single limit per occurrence.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. MCS 90 Endorsement
  - v. Cancellation clause of minimum 90 days' prior written notice to GPA.
    - 1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- C. **Excess Liability insurance** over the General Liability and the Commercial Auto Liability with limits of \$10,000,000 or higher per occurrence/ \$10,000,000 aggregate.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. MCS 90 Endorsement
  - v. Cancellation clause of minimum 90 days' prior written notice to GPA.
    - 1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- D. **Worker's Compensation and Employer's Liability Insurance – Statutory Limits.**
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. Cancellation clause of minimum 90 days' prior written notice to GPA.
    - 1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- E. **Professional Liability Insurance** including in the amount of \$1,000,000 each claim.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as a NAMED INSURED
  - iii. GPA shall be named as Loss Payee
  - iv. Cancellation clause of minimum 90 days' prior written notice to GPA.

1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.

F. PMCs All Risk or Builders Risk Insurance

- i. Minimum Limits, deductibles, sub-limits, coverage, and property descriptions per contract or project description.
- ii. Policy must be primary and non-contributory with endorsements attached.
- iii. GPA shall be named as a NAMED INSURED
- iv. GPA shall be named as a Loss Payee
- v. Waiver of subrogation shall be in favor of GPA
- vi. Cancellation clause of minimum 90 days' prior written notice to GPA.
  1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.

If applicable, fuel /hazardous materials transport:

- G. General Liability and the Commercial Auto Liability with limits of \$5,000,000 or higher per occurrence.
  - i. Policy must be primary with primary wording endorsement attached.
  - ii. GPA shall be named an additional insured
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. Cancellation clause of minimum 60 days' prior written notice to GPA
  - v. Policy must have MCS 90 Endorsement

**All policies must contain the following endorsement and on the Certificate of Insurance:**

- H. Cancellation Clause of minimum 90 days' prior written notice to GPA.

GPA must be given minimum 90 days' prior written notice before any material changes in the policy or cancellation of the policy can take effect. Written notice must be addressed to:

Guam Power Authority  
 Chief Financial Officer  
 PO BOX 2977  
 Hagatna, GU  
 96932-2977

Certificate of insurance must contain this wording to be acceptable.

**5.41.1. Indemnification**

The Contractor shall indemnify, defend and hold harmless owner against all loss, damage, or expense (including reasonable attorney's fees incurred by owner) arising out of the performance of the work, including injury or death to any person or persons resulting from the acts or omission of the Contractor or the Contractor's employees, servants, agents or subcontractors and from mechanics and materialism liens.

**5.41.2. Certificate of Insurance**

Contractor shall furnish certificates of insurance and waiver of subrogation endorsement to GPA prior to commencement of work showing evidence of such coverage, including the statement to the effect that cancellation or termination of the insurance shall not be effective until at least (10) days after receipt of written

notice to GPA. At all times Contractor's insurance shall be primary to any other insurance that may be carried by GPA. The statement of limits of insurance coverage shall not be construed as in any way limiting the Contractor's liability under this agreement. GPA shall be an additional insured on all liability coverage and certificates of insurance shall clearly indicate such.

**5.41.3. Insurance Company and Agent**

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

**5.42. GPA Insurance**

GPA agrees that it will keep the property and machinery and equipment insured, at a minimum, against loss or damage by fire with extended coverage endorsement for full replacement value as determined by GPA from time to time. Such insurance shall be issued by financially responsible insurers duly authorized to do business in the state or territory where the property is located and shall contain the standard form of waiver of subrogation. The insurance company shall be required to give GPA not less than thirty days (30) notice in the event of cancellation or material alteration of such coverage. Nothing contained herein shall be construed as creating any liability or responsibility on the part of the CONTRACTOR for the adequacy of insurance coverage on the property. As to any insurable risks of loss or damage to the property and machinery and equipment not required to be insured hereunder, GPA shall bear the cost of the same. GPA shall be deemed to be self-insured as to the deductible or co-insurance amount applicable to such insurance coverage and shall pay any deductible or co-insurance amount applicable in the event of such loss or damage.

**5.43. Waiver of Subrogation**

The parties hereby release each other and their respective officers, employees, and agents from all loss or damage to the Premise property, machinery and equipment and to the fixtures, personal property, equipment and improvements of either GPA or CONTRACTOR in or on the Property, notwithstanding that any such loss or damage may be due to or result from the negligence of either of the parties or their respective officers, employees or agents. This waiver does not apply to maintenance and repair assumed under this contract by the CONTRACTOR.



**Invitation For Multi-Step Bid**

**No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT**

**FOR THE**

**GUAM POWER AUTHORITY  
BULK FUEL STORAGE FACILITY**



**Volume II**

**Technical and Functional Requirements**

**December 2021**

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## **1. OVERVIEW**

The Guam Power Authority is soliciting proposals for a Performance Management (“PMC”) to provide technical services from qualified firms for the on-site management, operation and maintenance of the Guam Power Authority Bulk Fuel Storage Facility. The required services include compliance with all applicable local and federal laws; membership within (contract with) a qualified and certified Spill Response Company on Guam that is recognized by federal or regulatory bodies such as the US Coast Guard; technical capability to periodically review and update applicable response plans; qualified personnel to manage, operate and maintain the facility in a safe and efficient manner; qualified personnel to ensure reliable, uninterrupted supply of fuel to GPA plants utilizing fuel storage in the Bulk Storage Facility; operation of all equipment as defined in response plans; and reporting as defined in the day-to-day operations.

## **2. PROPOSAL REQUIREMENTS**

### **2.1. Fuel Bulk Storage Facility Management Experience**

The PMC must have progressive successful experience and expertise in the business of petroleum and petroleum facility management, such as petroleum handling, storage, ship-to-shore (and vice versa) transfer of bulk petroleum products, pipeline product(s) transfer management, fuel farm facilities management and operations, or other related activities. The more extensive experience and expertise in the business of Petroleum and Bulk Fuel Storage Facility Management will be an advantage.

### **2.2. Qualifications / Qualitative Proposal**

The PMC shall demonstrate sufficient qualifications for this solicitation by providing the following as part of the Qualitative or Technical Proposal:

#### **2.2.1. Business Structure and Business Approach**

The PMC shall provide company information such as name, local address, corporate headquarters (if any) and affiliate company in support for the performance of the required services. 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 PMC shall outline business concepts to be used in order to perform, meet, and achieve the objectives of this solicitation. This includes a description of the operational model that the PMC intends to utilize in order to support the operations and maintenance activities of GPA's fuel bulk storage facility.

#### **2.2.2. Experience, Qualification, and Expertise**

The PMC shall demonstrate its experience and expertise in the management and operation of the fuel bulk storage facility by providing the following:

- (a) Supporting information showing a minimum of five (5) years progressive experience, knowledge and expertise in Petroleum Management, Petroleum Handling, or Petroleum Storage;
- (b) Knowledge, experience and expertise with Fuel Supply Storage and Inventory Management
- (c) Knowledge, experience and expertise with Fuel Handling, Ship-to-Shore (and vice versa) transfer of bulk petroleum products, and Pipeline Product Transfer;
- (d) Knowledge, experience and expertise with Fuel Bulk Storage Facility Operations and Maintenance;
- (e) Knowledge, experience and expertise with Operations and Maintenance of Storage Tank System, Pipeline System, Leak Detection System, Cathodic Protection System, Transfer Pumps, Instrumentations, and other equipment/systems ensuring reliability and security of fuel bulk storage facility
- (f) Knowledge, experience and expertise in determining root cause analysis and troubleshooting of fuel bulk storage facility issues
- (g) Knowledge, experience and expertise in handling tank and pipeline leaks, and major incidents in fuel bulk storage facilities, and implementation/completion of remedies
- (h) Inventory management
- (i) Mobilization capability for resources required in emergency oil spills or incidents
- (j) Successful implementation of capital improvement projects
- (k) Familiarity with US Coast Guard regulations.
- (l) Experience and expertise in complying with OPA 90, SPCC Plan, FRP, and other applicable Environmental Regulations and Reporting Requirements (BMP, SPCC, NPDES, etc.)
- (m) Other activities related to Fuel Bulk Storage Facility Management

### **2.2.3. Proposed Organization Structure**

The PMC shall illustrate its approach in providing sufficient qualified personnel to operate and maintain the facility. The PMC shall provide a proposed organizational structure which shall include position titles with a description of functions and duties. A brief outline of the qualifications of each personnel by specific who will actively engage in the performance of the requirements of this contract shall also be provided, including the qualifications/curriculum vitae of each person to be assigned to the contract.\

#### **2.2.4. Financial Information**

The PMC shall provide documentation to illustrate its financial position and capability. Three year historical records of the following shall be submitted in the bid:

- Balance Sheet
- Income Statement
- Financial Ratios

The documents must have been reviewed or audited by a certified reviewing or auditing firm.

The PMC shall also provide a copy of the Insurance Policy demonstrating compliance with the Insurance Requirements specified in Volume I Commercial Terms and Conditions.

#### **2.2.5. Letters of Recommendation from Client References**

The PMC shall also provide at least three letters from Client References containing project description summaries for work performed under a scope similar to this solicitation, and details on the proponent's qualifications for and performance of the tasks assigned by client.

#### **2.2.6. Supporting Documents**

The PMC shall also provide the following documents to supplement their Qualitative Proposal:

- (a) Certificate of Good Standing to conduct business in jurisdiction of residence
- (b) Certifications related to Petroleum Handling Work
- (c) Any other information, brochures, company profile publications that may help the Authority in the evaluation and selection process

### **2.3. Price Proposal**

The Price Proposal is broken down into specific Contract Items, each of which the bidder should provide Price Proposals for. Each Item should be priced separately, and there shall be no double-charging. For example, if Technical Services are going to be included in the Management and Administration Fees, then these should not be included under O&M. Items 1 through 6 are required Contract Items for which BIDDER shall provide price proposal for. The BIDDER's Price Proposal Package shall contain Price Proposals for each of the Contract Items. GPA shall evaluate the Price Proposal, and will decide to award either all, none, or some of the Contract Items to the bidder.

Contract Item No. 1 shall include all costs associated with the general management, operation and maintenance of the fuel bulk storage facility, including all equipment, systems, installations and appurtenances. This shall also include staffing, utility fees, and all other expenses necessary in the management, operation and maintenance of the facility, unless already specified in items 2,3,4,5 or 6. Contract Item 1 will be reimbursed by GPA on a monthly basis, based on the Price Proposal (proposed Price for Contract Item 1 divided by 12 will be the monthly payment).

Contract Item Nos. 2 through 6 shall include costs associated with the description for each Contract Item. Contract Item 6 shall be illustrated or expanded further by the bidder in the "O&M Budget (Required)" worksheet, by illustrating how the total cost is divided among the O&M items required by GPA. Costs under Item 6 will include expected operation and maintenance expenses for items specified under "O&M Budget (Required)" for the BIDDER to complete routine operation and maintenance activities, including scheduled maintenance activities, preventive and corrective maintenance activities, and all tasks required to ensure compliance with environmental, local and federal regulations (such as those imposed by, but not limited to USEPA, Guam EPA, US Coast Guard, OPA and others). For Contract Items 2 through 6, costs shall be paid based on actual expenses accrued, not to exceed the amount indicated on the Price Proposal. PMC will be required to present documents such as receipts along with the invoice to get reimbursed for the Security PMC, Spill Response Company Membership Fees, Insurance Fees, Inventory Items and the O&M budget. Any expense exceeding the Price Proposal for Items 2 through 6 will/ be the responsibility of the PMC.

If there are O&M items that the BIDDER would like to propose a budget for, but is not included in the "O&M Budget (Required list, the BIDDER will specify the total costs for these items under Item 7 of the BIDDER Data Entry form, and illustrate the breakdown of Item 7 under "O&M Budget (Optional)",

Contract Item 7 will not be included in the evaluation of the lowest Price Proposal. Reimbursement for Contract Item 7 will follow the process for Contract Items 2 through 6, but should be pre-approved by GPA prior to commencement of contract or prior to the costs being incurred. Capital Improvement Projects and Major Operation and Maintenance Activities will be budgeted separately as discussed in Volume II Section 3 of this Multi-Step Bid, and should not be included in the budget for each Contract Item specified.



### **3. SCOPE OF WORK**

This contract shall be executed as the turnkey management of the facility with the PMC responsibility for all necessary routine repairs and replacements to the equipment and other appurtenances belonging thereto, as necessary to maintain as such in good working condition in order to have a continuous and uninterrupted delivery of fuel during the course of the contract.

#### **3.1. Responsibility within the Physical Boundaries of the Fuel Bulk Storage Facility**

Schedule B of Volume VI identifies the physical boundaries of the Fuel Bulk Storage Facility. The PMC's area of responsibility shall include the entire Fuel Bulk Storage Facility within the perimeter fence and the pipeline(s) tie-ins up to the flanges before the isolation valves at the Tristar manifold and the Plants storage tanks. The PMC shall ensure availability and security of the equipment and facilities within the physical boundary identified, and shall be first responders for any incident involving equipment and facility within the boundaries.

#### **3.2. Management and Operation**

The PMC shall manage, operate and maintain the Fuel Bulk Storage Facility and all equipment and structures within the physical boundary of the Fuel Farm at Cabras, which includes, but is not limited to, the transfer pumps, pipelines, cathodic protection system, leak detection system, oil-water separators, and other accessories, in good, safe and operating condition. The General Responsibilities of the PMC shall be as follows:

- (a) Operation shall be on a twenty-four (24) hour, seven (7) day basis. Typically, GPA will restrict fuel transfer operations to the power plants between the hours of Six (6) A.M. and Six (6) P.M. daily. Request for additional refilling hours after Six (6) P.M. shall be upon the approval of the Manager of Generation.
- (b) The PMC shall determine the quantity of fuel oil on a daily basis. This shall include, but is not limited to, the Beginning (or Opening) and Ending Inventories, and the Issuance and Receipts for each individual tanks. Inventory measurements shall follow applicable API procedures or other acceptable standards. All quantity determinations shall be corrected to standard 60°F in accordance with ASTM-IP Petroleum Measurement Tables, Table 6B.

- (c) The PMC shall be responsible for Daily Physical Survey of the facilities. Daily physical surveys of the Bulk Fuel Storage Tank immediately after completion of fuel transfer shall also be done by the PMC.
- (d) The PMC shall conduct daily determination of fuel oil quantity for all transfers, receipts, deliveries and for inventory.
- (e) Delivery shall be monitored on an hourly basis by walking the pipeline, and shall be the responsibility of the PMC.
- (f) The PMC shall provide GPA with the daily, weekly, comprehensive monthly and annual summary of the fuel inventory and fuel transfer reports. Reports shall include calculation and analysis of the variances including actions done to meet variance targets to be set by GPA, in coordination with the PMC.
- (g) End-of-Month physical gauging and sampling of the facility storage tanks shall be performed by an independent third-party inspector acceptable to GPA and at the PMC's expense. Such determination shall be the basis for the monthly inventory reporting.

### **3.3. Off-shore Bulk Petroleum Product Transfers**

The PMC shall coordinate the transfer of fuel from Cargo Ship to the GPA Fuel Bulk Storage Tanks and vice versa together with GPA (through the GPA Representative), GPA's Fuel Supplier, and other GPA Contractors for Fuel Handling, such as, but not limited to, Petroleum Inspection, Petroleum Testing, and facility contractors or (such as for the F-1 Dock, Pipeline, etc.). The PMC shall also be responsible for the submittal and clearing the cargo documents as required by the Guam Customs and Quarantine prior to the vessel arrival.

The PMC shall also establish a standard operating procedure or update and improve existing procedures for preventing product contamination and minimizing inventory losses.

### **3.4. On-shore Fuel Oil Transfer**

The PMC will be responsible for the on-shore fuel transfer operations, and should ensure that all activities are done safely, efficiently and effectively. Should there be fuel delivery disruptions it will be the responsibility of the PMC to inform and seek approval from GPA.

The PMC shall coordinate the delivery of all fuel oil as required by GPA during the term of the contract. The estimated daily total fuel delivery requirements is about Eight Thousand Barrels (8,000 Bbls) to two

major power plants (Cabras 1&2 and Piti 8&9). The PMC will be responsible for all the fuel transfer to and from the GPA Bulk Storage Facility, and shall coordinate the delivery of fuel oil the various GPA Power Plants. The PMC shall coordinate with the Cabras 1 & 2 Shift Supervisor to schedule fuel deliveries at the convenience of the power plants.

The PMC shall also coordinate the transfer of fuel from off-site GPA-leased tanks to the Fuel Farm Facility. The PMC will coordinate with the dispatcher of the off-site bulk storage facility to schedule and oversee deliveries of fuel and/or fuel transfer.

### **3.5. Fuel Oil Specifications**

Fuel Specifications are shown in Schedule A. GPA has endeavored to ensure that each successive shipment of fuel to be supplied is compatible with a representative sample of the previous shipment. Compatibility shall be confirmed by GPA's Fuel Testing PMC, using an accepted test method reflected in the associated testing at loading and upon delivery.

The PMC shall ensure that the products in GPA's storage tanks meet the Fuel Specifications required by GPA. The PMC shall not cause to contaminate the product stored in the bulk storage tanks, and shall be liable for any product contamination resulting from the negligent act of its employees or agents. Such negligent act shall be subject to claims by GPA against the PMC.

### **3.6. Maintenance**

GPA requires that the PMC incorporate a comprehensive maintenance program that is documented to ensure that all maintenance and upkeep practices are adhered to for full life-expectancy of equipment. A maintenance plan shall be submitted to GPA within three months after the commencement of the contract, and completion of maintenance activities shall be included by the PMC in the monthly reports submitted to GPA.

#### **3.6.1. Routine Maintenance**

The routine repair, maintenance, and upkeep of the facility and equipment shall be carried out by the PMC. Routine Maintenance and minor repairs include, but is not limited to:

- Monthly Tank System Inspections

- Pump Station Integrity Check
- Instrument Calibration
- Pipeline Inspection
- Operation and Maintenance of Tank System, Pumps and Auxiliary (Diesel-driven) Pump System, Valves, Pipeline within the facility up to Navy Tie-In, and all Instrumentation and Electrical Systems
- Cathodic Protection System Maintenance
- Leak Detection System Maintenance
- Oil Water Separator Maintenance
- Maintenance of Building, Fencing, Grounds and others
- Environmental Compliance and other Technical or Professional Services required to as part of proper operation and maintenance of the Fuel Bulk Storage Facility
- All tasks required to ensure compliance with environmental, local and federal regulations (such as those imposed by, but not limited to USEPA, Guam EPA, US Coast Guard, OPA and others).

The costs for these routine and minor repairs shall be included in the Operation and Maintenance Budget proposed by the BIDDER.

If such routine maintenance work involves oil spill response and clean-up, expenses incurred for the oil spill response and clean-up shall be treated separate from the costs associated with the routine O&M work and billed on a separate invoice.

All resources required to undertake the routine maintenance shall be handled by the PMC. PMC shall not assign any work to GPA, nor assume that GPA will take on any work related to the major repair or replacement for which the PMC has offered to undertake. In critical circumstances, such as if the activity is required to ensure compliance with local and federal regulations, PMC may consult with GPA to jointly determine the most efficient way of undertaking routine operation and maintenance activities.

The PMC shall be solely responsible for the repair or replacement of equipment if determined that subject equipment was damaged through negligence, misuse or lack of maintenance, regardless of the cost. The PMC shall also be responsible for the cost of oil spill recovery efforts for any product released resulting from such negligence.

### **3.6.2. Capital Improvement Projects, Major or Non-Routine Operation and Maintenance Activities (including Services, Repairs and/or Replacements)**

The PMC shall advise GPA, verbal and in writing, of any required capital improvement project, and major or non-routine operation and maintenance activities including service, repair and/or replacement. The PMC shall be guided by GPA's Standard Operating Procedures for the definition of Capital Improvement Projects. The PMC is responsible for identifying and recommending to GPA all future Capital Improvement Projects (CIPs) they deem necessary to contribute to the operational efficiency of the Fuel Bulk Storage Facility. The proposed CIPs will become the basis for further refinement of the Fuel Bulk Storage Facility budget, and the Capital Budget. PMC charges for Major or Non-Routine Operation and Maintenance activities over a one-time cost \$10,000.00 and all CIPs shall not exceed FIVE PERCENT (5%).

Once the list from the PMC is received, GPA shall conduct the necessary inspections and evaluations. Should the need for the activity / service / repair / replacement be due to damages that are determined to be unpreventable, justified, and outside the control of the PMC, then GPA and the PMC shall jointly identify the best solution to remedy the problem. In all other cases, the PMC shall be responsible to bear the costs of replacement.

PMC shall be responsible in putting together the scope of work and resources necessary to complete the CIP or Major or Non-Routine O&M activities. Various GPA divisions such as, but not limited to Strategic Planning and Operations Research, Engineering and Planning & Regulatory divisions may be involved in planning these projects.

### **3.6.3. Right to Inspection**

GPA shall have the right to conduct inspections of any repair and/or replacement projects. In the event of a dispute, an independent inspector shall be appointed, mutually acceptable to both parties, whose decision as to the quality and/or necessity of the work shall be final and binding on both parties. The independent inspector(s)' fees and charges shall be shared equally by both parties. Payments of any and all invoices of any major repairs or replacements shall be made based on mutually acceptable terms pre-approved by the PMC and GPA.

**3.7. Oil Spill Inventory / Equipment**

The PMC is responsible for the purchase, operation, maintenance and deployment of all necessary oil spill equipment as required in the SPCC Plan. Furthermore, the PMC shall maintain an in-house or on-site stock inventory of the materials, as required, for the sole purpose of supporting this contract. The PMC shall propose a minimum inventory level for oil spill equipment that shall be reimbursed at-cost by GPA. The PMC shall maintain this inventory level throughout the contract period, and shall request reimbursement from GPA to ensure inventory levels are maintained. In the event of a major incident not caused by negligence on the part of the PMC wherein additional supplies and equipment are purchased and utilized by the PMC, GPA will reimburse the cost for the additional supplies and equipment purchased. At all times, PMC shall present actual receipts and supporting documentation whenever invoicing such expenses.

**3.8. Oil Pollution Act of 1990**

The PMC is responsible for compliance with the requirements, as well as the oil spill and recovery provisions, of the federal law Oil Pollution Act of 1990 (OPA 90) as necessary for the operations of the Fuel Bulk Storage Facility, and shall include the cost of compliance with this requirement on the Price Proposal under Contract Item 1.

**3.9. Membership with a Qualified and Certified Spill Response Company**

The PMC is required to be a bona fide member of a qualified and certified Spill Response Company on Guam that is recognized by federal and regulatory bodies such as the US Coast Guard. If not yet a member, the PMC should qualify to become an active member or must secure an oil spill response service contract within thirty (30) days after award of the contract. Proof of membership or of an oil response agreement must be provided to GPA within thirty (30) days of the date of contract award.

Full and active membership with a qualified and certified Spill Response Company on Guam that is recognized by federal and regulatory bodies such as the US Coast Guard, would be considered a strong positive indicator in the assessment of qualifications. The PMC is responsible for providing GPA proof of membership and the qualifications and certifications of the Spill Response Company during the bid, as part of the Qualitative Proposal.

**3.10. Permits and Responsibilities**

The PMC shall, without additional expense to GPA, be responsible for obtaining all necessary licenses and permits, and for complying with any applicable Federal and Territorial Laws, Codes and Regulations necessary for the performance of this contract.

The PMC shall also have an NPDES permit, an SPCC Plan and Facility Response Plan. The SPCC Plan and FRP should comply with USEPA 40 CFR Standards.

Resources and costs related to compliance with applicable Federal and Territorial Laws, Codes and Regulations and maintaining validity of all permits and plans shall be the responsibility of the PMC.

GPA shall provide the existing Facility Response Plan (FRP) and Spill Prevention Control and Countermeasure Plan (SPCC).

The PMC shall review, edit, enhance and obtain regulatory approvals for any changes from the Federal Environmental Protection Agency, Region IX, San Francisco, for such plan as a mandatory requirement under the OPA Act 90, with the PMC as the operator and GPA as the facility owner. GPA shall be furnished with copies of these plans, to be submitted to:

- Manager of Generation (Generation Division)
- Planning and Regulatory Division

The PMC shall, on their own, purchase, maintain and operate or deploy all necessary oil spill equipment as required in the SPCC plan, as an in-house stock inventory.

**3.11. Federal and Local Regulatory Compliance**

The PMC shall be responsible for complying with all Environmental, Homeland Security, and other Federal and Local compliance requirements to include, but not limited to the following areas:

- (a) Mandatory membership with a qualified and/or any other certified Oil Spill Response

Companies on Guam, as required by law, and to comply with the Oil Pollution Act of 1990 (OPA 1990).

(b) Conduct all activities such as but not limited to monitoring, report submission and payments of fees, required to comply with all existing and applicable environmental regulations, requirements permits and plans. These include, but are not limited to:

- OPA '90 / OPA '90 Facility Plan
- SPCC Plan
- Facility Response Plan
- Facility Security Plan
- NPDES permit

(c) Establishment and maintenance of equipment required by the SPCC Plan and OPA '90 Facility plan in good operating condition at all times, and all others necessary to meet immediate response in case of oil spill or other form of incident that may cause danger to the environment.

(d) Remediation of all oil spill incidents to the satisfaction of local and federal regulatory bodies.

(e) Submit results of all audits, investigations and other local/federal activities to GPA.

Environmental Compliance. The PMC shall operate in compliance with all environmental requirements and is responsible for all required activities including but not limited to:

- (a) Monitoring of all tests and results and ensuring compliance with applicable rules and regulations;
- (b) Completion of all necessary corrective actions;
- (c) Conduction of tests on all water supply to comply with NPDES Permit;
- (d) Creation, development and updating of Standard Operating Procedures as required;
- (e) Monitoring all low volume waste streams to be within compliance with all local, federal and international regulations;



- (f) Completion of all activities to ensure compliance with all existing environmental permits and plans that include, but are not limited to the NPDES Permit, BMP, FRP, SPCC and OPA '90;
- (g) Compliance with GPA and Federal Spill Prevention Control and Countermeasures (SPCC) programs and policies to include implementation, monitoring and reporting;
- (h) Submission of all required reports including compliance schedules;
- (i) Record-keeping and equipment maintenance;
- (j) Payment of all applicable fees as stated in the various environmental permits and plans;
- (k) Payment of all penalties from non-compliance with any and all environmental requirements from local and federal bodies.

GPA's Planning and Regulatory Division shall support the PMC in meeting all environmental compliance requirements. P&R shall audit the PMC on a regular basis as a means of monitoring and ensuring that all requirements are satisfied. The PMC shall coordinate all activities on Environmental Compliance, including records and reports, to GPA's Planning and Regulatory Division (P&R). The PMC shall provide full cooperation during P&R's audits and monitoring activities. All corrective measures shall be completed no later than the specified date as required by P&R.

The PMC shall also comply with all other requirements pertaining to Environmental, Homeland Security and other Federal and Local Compliance Requirements as specified in Volume II of the Invitation for Bid.

If at any time during the term of the Contract the Government of the United States or the Territory of Guam, or other instrumentality or agency enacts laws or issues regulations which would require compliance by GPA, PMC shall comply 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 (except taxes, penalties, fees or other charges that may be imposed on PMC because of PMC's failure to make proper tax filings

including requests for credits, exemptions, drawbacks or rebates). If the laws or regulation causes an increase or decrease in PMC's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of PMC for adjustment under this section must be asserted in writing within thirty (3) days from date of receipt by PMC of the notification of 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 "Disputes". However, nothing in this clause shall excuse the PMC from proceeding with the Contract in order to comply with Government laws, rules and regulations.

### **3.12. Uniformed Security**

The PMC shall provide uniformed, un-armed security forces, from a sub-contractor or agency that is accredited as per Government of Guam regulations, to patrol and safeguard the fuel facility premises on a twenty-four (24) hours, seven (7) days a week basis. The PMC shall ensure that the security services contracted for the Fuel Bulk Storage Facilities comply with Federal and Local Regulations pertaining to security for the facility, as well as with the Security Contractor Requirements set forth by GPA for its facilities and locations (see Schedule I).

The PMC shall limit access to the facility and its surrounding areas to its employees and authorized agents, duly designated GPA employees and GPA agents, and other Government of Guam officers who by law or regulations are permitted on the premises in connection with the performance of their official governmental duties.

### **3.13. Grounds Maintenance**

The PMC is responsible for the ground maintenance of the entire Fuel Farm Facility. Areas of particular interest such as tank dikes, impounding basin areas, pump station, operating and maintenance areas, and all other areas within the fenced-in area of the Fuel Bulk Storage Facility shall be inspected regularly due to strict environmental, security and safety requirements. The PMC shall remove or cut and trim grass or vegetation within its areas of responsibility and within the Fuel Bulk Storage Facility, and shall not cause any growth to come in contact with equipment, pumps, pipelines and fences at any time. The PMC shall also regularly cut branches and bushes along the perimeter fence.

**3.14. Other Charges**

The PMC shall be responsible for all charges from gas, electricity, facility lighting, water supply, communication services and other services used, rendered, or supplied upon or in connection with the continuous operations and maintenance of the Fuel Bulk Storage Facility.

**3.15. Plans and Documents****3.15.1. Required Documents**

The PMC shall review, update and implement the existing Facility Response Plan and Spill Prevention, Control and Countermeasure Plan (SPCC Plan). The PMC shall review, improve, and implement any changes deemed necessary for the FRP and SPCC Plan and submit such plans to the Federal Environmental Protection Agency, Region IX, San Francisco. The PMC shall also secure approval for such plan as a mandatory requirement under OPA 90 with the PMC as operator and GPA as Facility Owner. The PMC shall furnish GPA copies of these approved plans.

**3.15.2. Standard Operating Procedure**

The PMC shall continuously review and update the Standard Operating Procedures (SOPs) throughout the term of the contract, as required. The PMC shall conduct annual review of the SOPs to validate their applicability and effectiveness as new technologies are introduced into the facility as part of modernization and upgrade.

All SOPs generated by the PMC will become property of GPA. The PMC will grant GPA access rights to all procedures and provide GPA with updated copies of all SOP's, plans, regulatory submittals, and operating manuals during the term of the contract for review, usage, and possible replication at other operating units.

**3.15.3. Other Records, Plans and Documents**

The PMC shall also implement the recommendations for best practices specified in the Tank System Operation and Maintenance Workplan, prepared in 2007 by a GPA consultant, including any future recommendations.

All records and plans generated by the PMC will become property of GPA. The PMC will grant GPA access rights to all records and plans during the term of the contract for review, usage, and possible replication at other operating units.

### **3.16. Training**

The initial and follow-up training for operations, maintenance, safety, and for all applicable certifications for the PMC's Personnel are the sole responsibility of the PMC.

### **3.17. Report Submittals**

#### **3.17.1. Incident/Emergency Reporting**

Any emergencies shall be reported by the PMC to GPA immediately within twenty-four (24) hours following the occurrence of any incident.

#### **3.17.2. Required Reports**

##### **Fuel Transfer Report**

The PMC shall submit a mandatory daily, weekly, monthly and annual summary of fuel transfer reports. The reports shall include proper accountability of the opening inventory, quantity received from cargo ships or other sources, quantity transferred to the power plants or other locations, and closing inventory. Fuel Transfer Report shall be submitted to the GPA Generation Manager, SPORD Manager and Finance Division no later than 10:0 AM the following work day for the daily, weekly, and monthly cut-off dates.

##### **Facility Management Report**

The PMC shall also submit a Monthly Facility Management Report covering all the areas of the facility and its condition. This shall include, but is not limited to:

- Daily Tank Activity Report

- Daily Fuel Inventory Report
- Daily Storage Gain/Loss Report
- Month-End Fuel Gauging and Inventory Report
- Pump Station Report (Equipment Readings, Testing) and Auxiliary Transfer Pump Report
- Instrumentation Report (readings and calibration)
- Oil-Water Separator Transfer Report
- Operation and Maintenance Activities completed
- Regulatory Reports or Submittals such as for EPA, USCG and other regulatory agencies
- Incident Report
- Safety Inspection Report
- Spare Parts and SPCC Inventory List

The report shall be submitted with the necessary attachments in a format approved by GPA, and should be received no later than five (5) days after the end of each report month.

#### **Monthly Expense and Budget Report**

The PMC shall submit a Monthly Expense and Budget Report that can be submitted along with the monthly invoice for the proper reimbursement of Contract Items 2 through 6. This report should show, at a minimum, the following:

- Operation and Maintenance Budget Spending, with the necessary supporting documentation, broken down according to "O&M Budget (Required)" worksheet
- Supporting documentation for actual spending on Contract Items 2, 3, and 4.
- Inventory Report for SPCC showing proof of compliance with minimum required spill response inventory.
- Actual Budget Spent vs. Budget Proposed in the Price Proposal

#### **Annual Report**

An annual report with the summary and analysis of the year-in-review shall be submitted within ten (10) days after the end of each Fiscal Year.

GPA may require additional reports from the PMC, to comply with Regulatory Requirements or as may be needed for various management, operation or reporting functions.

### **3.18. PMC Financing Responsibilities**

**3.18.1. Capital and Expense Funding**

Guam Power Authority (GPA) may solicit PMC participation in short-term debt financing for necessary capital or expense expenditures. This participation may include direct loans and/or indirect involvement through guarantees or some other form of participation. Such participation is not mandatory. GPA may request such participation only if the PMC agrees. However, while not mandatory GPA reserves the right to include this option in the qualitative portion of the Proposal review.

**3.18.2. Working Capital**

The PMC shall have sufficient working capital to support its cash flow requirements including any cash flow requirements associated with its operations and maintenance (O&M) procurement responsibilities as defined elsewhere.

The minimum working capital acceptable during each contract period shall be no less than 50% of the agreed combined O&M and CIP budgets for the respective period.

The PMC is responsible to fund all operation & maintenance expenses as well as capital improvement and performance improvement expenses, and shall be reimbursed by the Authority upon successful documentation of such expenditures, and following the guidelines for compensation as discussed in the other sections.

**3.18.3. Document the Management of Operations and Maintenance**

The PMC shall optimally manage the O&M spending not to exceed the authorized budget amount for each contract year. The PMC shall provide appropriate justifications and auditable records of all O&M procurement activities

**3.18.4. Performance Management PMC Expenses**

All PMC direct and indirect expenses and taxes, including all PMC employees related expenses and taxes are the sole responsibility of the PMC.

**3.19. Guam Power Authority Financing Responsibilities**

### **3.19.1. Guam Power Authority Capital and Expense Funding Intent**

GPA intends to totally fund all capital and O&M expenditures, but reserves the option to seek funding assistance from the PMC. Should the PMC provide funding assistance, the PMC and GPA shall negotiate a mutually acceptable compensation structure.

### **3.19.2. Reimbursement of PMC for Procurement of O&M Materials and Contracts**

GPA will make timely reimbursements to the PMC for the expenses incurred by the PMC in conjunction with the PMC's O&M procurement responsibilities. The PMC shall include certifications, receipts, and proof of payment and delivery on site of materials and services to be entitled for reimbursable compensation.

The PMC shall invoice GPA for these expenses no more than once monthly. Cost-plus reimbursement shall not be allowed. There shall be no additional costs or fees for reimbursement of O&M expenses.

### **3.19.3. Reimbursement of PMC for Performance Improvement Projects (PIP) and Capital Improvement Projects (CIP)**

Payments for PIP and CIP will be made on a reimbursable basis. The PMC shall invoice GPA for progress payments for work completed upon such PIP or CIP no more than once monthly. The PMC shall include certifications, receipts, and proof of payment and delivery on site of materials and services to be entitled for reimbursement of PIP and CIP expenses.

GPA will make timely reimbursements to the PMC for the actual cost and a charge for administration, finance fees and interest not to exceed five percent (5%) of the actual project cost. Payments shall not exceed the amounts agreed to and approved by GPA and the PMC or as otherwise agreed to by the parties through a change order.

## **3.20. Others**

The PMC is also responsible for the operation and maintenance of all appurtenances, to include but is not limited to :

- Cathodic Protection System
- Leak Detection System

- Oil-Water Separators
- Diesel-Driven Auxiliary Pump Station

## **4. STAFFING**

### **4.1. Staffing Level**

The PMC shall incorporate in his price proposal, all costs associated with the staffing necessary to execute this contract.

The PMC shall have appropriate staffing levels to provide the following functions and services in the following areas:

- Overall GPA Fuel Bulk Storage Facility Management, Operations and Maintenance
- Appropriate number and level of qualified and trained personnel for fuel inventory, receipt, and to deliver all fuel oil required to all of GPA's power plants at any time the power plants require fuel oil
- All required personnel to safely, efficiently and legally receive all vessel shipments and conduct delivery of fuel oil required to provide the needs of the Authority, and maintain minimum inventory requirements necessary for the assurance of fuel oil supply in all cases.
- Appropriate number and level of qualified and experienced personnel in ensuring compliance with all federal and local laws and regulations, including such requirements from USEPA, Guam EPA and the US Coast Guard
- Appropriate number and level of qualified and experienced personnel for completing all administrative asks related to the functions and services required in this contract.

The PMC shall provide an organizational chart and detailed position descriptions in the proposal.

### **4.2. Security**

The PMC shall provide uniformed, un-armed security forces, from a sub-Contractor or agency that is accredited as per Government of Guam regulations, to patrol and safeguard the fuel facility premises on a twenty-four (24) hours, seven (7) days a week basis.



## **5. CONTRACT TERMS**

### **5.1. Contract Period**

GPA intends for this contract to be a minimum of three (3) years with an option for two (2) additional one-year contract extensions. Bidders may propose additional contract years; however this will require review and approval by GPA.

### **5.2. Contract Extensions**

GPA shall give appropriate notice of its intentions regarding its option to exercise the two (2) additional one-year contract extensions. At the beginning of the 3<sup>rd</sup> contract year GPA and the PMC shall negotiate the contract extension terms based on the requirements. Final confirmation by mutual agreement between GPA and the PMC for contract extension shall be given after completion of negotiation no less than six months prior to the end of the contract term.

However, GPA may elect to reverse its decision without penalty at any time within six months of the end of the contract period based on poor performance during this period.

### **5.3. Timely Payments**

GPA shall provide prompt payments to the PMC for costs and services rendered in accordance with the Contract. Said payment shall be made within thirty (30) days of being invoiced. Should part of the invoice be challenged, GPA will at a minimum pay the unchallenged portions of the invoice under the same terms. Should GPA fail to make any payments due to the PMC under the Contract, GPA shall pay interest to the PMC in accordance with the provisions of the Prompt Payment Act, 5 GCA Sections 22502-22507.

### **5.4. Exception Petition Procedure**

The PMC or GPA may at times wish to petition for special exceptions to the standard implementation of the agreed upon compensation structure. Such petitions would generally be made where there is a belief that extraordinary circumstances beyond the control of either party have led to extreme positive

or negative variations in actual measured performance. A procedure will need to be developed to provide for the resolution of such petitions. At a minimum, the process should require the petitioner to perform a root cause analysis, of the alleged extraordinary event, prior to and in support of its petition. If the petition procedure fails to achieve a resolution that is satisfactory to both parties, then the petitioning party may choose to enter into a dispute resolution in accordance with the Dispute Resolution Procedure discussed elsewhere. All face-to-face negotiations shall be conducted on Guam and in accordance with Guam Law.

**Invitation For Multi-Step Bid**

**No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT**

**FOR THE**

**GUAM POWER AUTHORITY  
BULK FUEL STORAGE FACILITY**



**Volume III**

**Facility Technical Description**

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## **1. FACILITY GENERAL DESCRIPTION**

### **1.1. Purpose**

This Technical Description provides basic technical information about the Fuel Farm Bulk Storage Facility to prospective proponents of the Performance Management Contract. This work is in conjunction with the other documents provided as part of this IFB, and is intended to be a factual description of the facility and refrains from offering conjecture or opinion, except where clearly identified. It is assumed that prospective proponents of this contract will conduct their own verifying due diligence effort.

### **1.2. Assumptions and Scope**

The description, history and condition of the facility and its major equipment and systems was accomplished by performing physical inspections, reviewing documentation and conducting interviews with key plant and support personnel. The review included but was not limited to an assessment of the facility's design and layout, capacity and system redundancy. There is currently no historical documentation of equipment and systems reviews.

### **1.3. Facility General Description**

The Fuel Bulk Storage Facility is wholly owned by the Guam Power Authority (GPA). GPA owns two bulk fuel storage tanks, 1934 and 1935, located at the GPA Fuel Farm Bulk Storage Facility in the Municipality of Piti between the Atlantis Submarine pier and the former Navy Power Unit on the Piti Channel. These tanks are used to supply fuel to the Cabras Units 1&2 Power Plants, Piti Units 8&9, KEPCO plants located adjacent to the Piti tank farm, and the Ukudu Power Plant located north of Tumon. The Ukudu power plant will be supplied by an 8-inch fuel line approximately 18 miles in length is currently undergoing construction and is projected to be completed in late 2023 or early 2024.

GPA's Fuel Bulk Storage Facility is operated and managed by its current contractor, IP&E Holdings, LLC. The operations at the site include the storage of fuel oil, transfer of fuel oil into and out of the facility, and the processing of oily water. The facility receives up to approximately 3,000,000 barrels of fuel oil annually on tankers berthing at the PAG petroleum dock managed and operated by Tristar Terminals Guam.

The current type of fuel stored in these two tanks is Fuel Oil #6, or Bunker Fuel C. Fuel Oil #6 is a mixture of petroleum distillate hydrocarbons and has a boiling point greater than 400 degrees Fahrenheit. This fuel is commonly broken into two categories depending on the relative levels of sulfur contained in the fuel. High sulfur

fuel, also known as sour fuel, is more corrosive and often has increased sulfur levels in stack emissions. The second type of fuel is low sulfur fuel also known as sweet fuel. Both of these fuels are used at the Power Plants.

The facility will later transition to Ultra-Low Sulfur Diesel Fuel Oil No.2 or “ULSD” storage in compliance with the USEPA consent decree. During the transition process, the remaining Fuel Oil #6 inventory will be consumed into the Cabras 1& 2 plants. The GPA bulk storage tanks shall undergo cleaning and inspection one after the other for conversion to ULSD storage.

Piti 8&9 plant conversion to ULSD is anticipated to be completed between April thru July 2022 together with a newly constructed ULSD pipeline inter-connection that will supply ULSD temporarily from the leased tanks at the Tristar storage facility.

The oil-water separator (OWS) consists of a partially buried cast-in-place concrete tank with three interior sections. The OWS system is connected to each bulk storage tank with a 3” or 4” discharge line. There was also a collection sump on the berm by the entry road for truck discharge of waste oil to the OWS.

#### **1.4. History**

The Fuel Farm Bulk Storage Facility was designed and built for bulk fuel storage and centralize the distribution of fuel to support the baseload plants operation for power generation in order to meet the electric power utility needs of the island. The tanks and associated infrastructure were completed in 1976 by the United States Military and resides on compacted coral limestone fill with no previous history of hydrocarbon contamination. The tanks have been in service continually since construction was completed except for a period of time while the facility was transferred from military to civilian control. GPA completed the construction and commissioned the Fuel Bulk Storage Facility in 1976.

GPA has spent a considerable amount of money in recent years to maintain conformance with the USEPA and US Coast Guard requirements. The facility was upgraded in 2007 and currently meets Federal and Local regulatory standards. Both Tank 1934 and Tank 1935 have undergone needed condition assessment of the tank sections. Portions of the floor plates and other internal structures were replaced to improve tank system integrity. New pipelines were installed to improve flexibility in fuel transfer operations.

The modernization of the Fuel Farm Facility will be one of the challenges to the CONTRACTOR. The CONTRACTOR will be required to improve the operation and maintenance activities to allow the equipment to evolve toward an operation fully supportive of GPA requirements. Improvements in the operations and maintenance organizations serve to achieve the new operating model.

## **2. SITE DESCRIPTION AND CHARACTERISTICS**

### **2.1. General Location**

The Fuel Farm Bulk Storage Facility is located on the island of Guam. Guam is the largest and southernmost island of the Marianas archipelago. The westernmost possession of the United States since 1898, the island is at 13.48° north latitude and 144.45° east longitude. Guam is approximately 1,500 nm southeast of Tokyo; 2,100 nm southeast of Hong Kong; 1,500 nm east of Manila; and 3,100 nm northwest of Sydney; 6,000 nautical miles (nm) west of San Francisco; 3,700 nm west-southwest of Honolulu. The island is composed of both volcanic material and limestone base seabed material from coral deposits.

Guam's climate is tropical marine; generally warm and humid, moderated by northeast trade winds. Guam's temperature ranges between 73 and 90 degrees Fahrenheit (23 and 32 degrees Celsius). It has a mean annual temperature of 81 degrees (27 degrees C). May and June are the hottest months of the year. However, there is little seasonal temperature variation. The coolest and least humid months, December through February, are marked by prevailing westerly trade winds. The average humidity varies from an early morning high of 86% to an afternoon low of 72%. The high moisture content of the atmosphere during the rainy season, combined with the warm temperatures, contributes to the rapid deterioration of manufactured materials through rust, rot and mildew.

The average yearly rainfall ranges between 90 and 110 inches (229 and 279 cm). There are two seasons, the dry and the rainy. The dry season (fanumnangan) lasts from December through June. The rainy season (fanuchanan) prevails within the remaining months. Guam's subterranean water lens supplies fresh water far in excess of the island's present needs.

### **2.2. Site Location and Description**

The Fuel Farm Bulk Storage Facility is located on the west central side of the island of Guam in Piti, Guam on a landfill over what was Cabras Lagoon and Cabras Island. The facility is accessible from highway 1 and is located on the secondary road to and from the island's only commercial shipping seaport.

The facility serves as the main storage for receipt of bulk fuel shipments. The facility also serves as the central distribution center for delivery of fuel to the GPA Steam Turbine Plant, Cabras 1 & 2 and Piti 8&9 Slow Speed Diesel Plant.

There is also an on-going project for the installation of an 18-mile delivery pipeline linking the Fuel Farm to GPA's 180 MW Combined Cycle Plant located at the Ukudu. The pipeline is anticipated to be commissioned in 2023.

### **2.3. Site Infrastructure / Utilities**

The facility's utilities include potable water, electric power, communications and sewage discharge lines. Domestic potable water is provided to the facility by the US Navy reservoir located near by. This source of water is inter-connected to the power plant for the water treatment and all other potable needs. The same water supply charges the fire hydrants on the plant property and no plant booster pumps are required. The power system for the Fuel Farm Facility comes from GPA's substations and then distributed from there to the customers. The facility has perimeter lighting.

Facility personnel can be contacted on several primary and secondary communication devices during fuel shipments, transfer operations, emergency response operations, and remote operations. The communication devices currently used by the current contractor (IP&E ) includes the following:

- VHF radio
- Landline (477-6333)
- Cellular Telephones (797-0474/797-0464/747-2141)
- e-mail

Facility personnel are equipped with VHF radios which are convenient for contacting other personnel, including the security guard, local O.S.R.O. (Osroco), Guam EPA and other local agencies. Landlines and mobile phones are often used to contact personnel outside the facility. The VHF radios are typically used when coordinating vessel cargo receiving activities with other parties involved in fuel movement operations, or for contacting other facility personnel. The VHF radios provided by the facility meet Class 1, Division 1, Group D requirements defined in 46CFR110.80 for intrinsically safe radios.

### **2.4. Incident Mitigation Capabilities**

The facility has a series of Standard Operating Procedures (SOP) which are employed GPA wide. The following SOP's pertain to these issues:

- SP-049 Tropical Cyclone Emergency System Restoration (ESR);
- SP-050 Oil Spill Containment, Clean-up and Reporting;
- SP-057 Supplements I through VII to the Hazard Communication Program;
- SP-063 Hazard Communication Program;



- SP-067 Employees Hazard Reporting;
- SP-088 Emergency Condition (Support Services Section).

## **2.5. On-site Safety Equipment**

The current contractor has the following safety equipment:

- 10, 20 and 32-pound fire extinguishers located in the pump stations, office and storage room;
- Personal Protective Equipment (PPE's), first aid kits, absorbent pads, kitty litter, and spill kits located in the office, storage look, and from the local OSRO (Guam Response Services Ltd.) which is located 3 minutes from the facility.

## **3. FUEL BULK STORAGE FACILITY AND PIPELINES TECHNICAL DESCRIPTION**

### **3.1. Storage Tanks and Related Systems**

The two bulk storage tanks at the Piti Tank Farm are approximately 48 ft high with a diameter of 200 ft, having nominal capacity of approximately 260,000 barrels each. They are supplied by a 24" above-ground and underground pipelines that is interconnected to the U.S. Navy and Tristar Tank farms and F-1 Pier Docking facility. The supply line terminates with a double gate valve at Tank 1935 and a single gate valve at Tank 1934. Discharge from the tanks is through a 12" pipeline with a gate valve at the tank discharge port. This piping is connected to a pump manifold that distributes fuel to the Power Plants. A schematic diagram of the fuel distribution system is illustrated in Volume VI Appendices F and G.

#### **3.1.1. Bulk Storage**

The Bulk Storage Tanks currently stores Residual Fuel Oil No.6 ("RFO")for delivery to the power plants. The tanks are currently undergoing refurbishment one after the other for future conversion to Diesel Fuel Oil No.2 (DFO) storage.

Bulk Fuel Oil is being imported via ocean freight cargo vessels from off-island supplier and is received via the Tristar F-1 Dock facilities and transported by pipeline transfer into the GPA Bulk Storage Tank 1934 and Tank 1935 and the GPA-Leased Tristar Storage Tanks at the Tristar Facility.

The GPA Bulk Storage Tanks have nominal capacities of approximately 260,000 Barrels each, and are approximately 200 feet in diameter and 48 feet high. Tank 1934 is currently assigned for LSFO (1.19%w sulfur max) storage and the Tristar Tanks are assigned for HSFO (2.00%w sulfur max) storage. Tank 1935 is currently undergoing refurbishment and will be assigned for Ultra-Low Sulfur Fuel Oil (0.2% sulfur max) or “ULSFO” upon recommissioning. The GPA-leased Tristar tanks are currently assigned for HSFO (2.00%w sulfur max) storage. The tanks distribute fuel to all the baseload power plant daytanks. The GPA Bulk Storage Tanks were last refurbished and re-calibrated in 2007 by SGS Guam, Inc.

The current configuration for the storage tanks are as follows:

**Table 1. ULSFO Storage (0.2% sulfur max)**

Storage Tanks	Location	Safe Storage Capacity	Remarks
Tank 1935	GPA Fuel Farm	255,000 bbls	Currently undergoing refurbishment

**Table 2. LSFO Storage (1.19% sulfur max)**

Storage Tanks	Location	Safe Storage Capacity	Remarks
Tank 1934	GPA Fuel Farm	255,000 bbls	In-Service

**Table 3. HSFO Storage (2.00% sulfur max)**

Storage Tanks	Location	Safe Storage Capacity	Remarks
Tank 1903	Tristar Tank Farm (Leased)	270,000 bbls	In-Service
Tank1910		38,000 bbls	In-Service
Tank 1911		38,000 bbls	In-Service
Tank 1928		30,000 bbls	In-Service
Tank 1931		20,000 bbls	In-Service
Total HSFO Inventory Capacity		396,000 bbls	

Each facility is also equipped with transfer pumps and pipeline network to allow fuel movement to and from each facility as follows:

1. From GPA-Leased (Tristar) Tanks into the GPA Bulk Storage Facility and bunkering to ships via pipeline transfers utilizing Tristar transfer pump.
2. From the GPA Bulk Storage Tank 1934 or Tank 1935 into the respective power plant daytanks and bunkering to ships via pipeline transfers utilizing the GPA Fuel Farm Transfer Pump Station.
3. From the GPA- Leased (Tristar) Tanks into the respective power plant daytanks via pipeline transfers utilizing the Tristar transfer Pump station in combination with the GPA Fuel Farm Transfer Pump Station. This is usually performed in close coordination between the 2 facilities when either of the GPA Bulk Storage Tank 1934 or Tank 1935 is isolated for prolonged period for maintenance purposes.

The facility is currently undergoing system upgrade and will gradually transition to Diesel Fuel Oil No.2 storage in compliance with the USEPA consent decree. The Residual Fuel Oil will eventually be phased out.

### **3.1.2. Diesel Oil Storage for the Auxiliary Transfer Pump**

The facility has one (1) outdoor C.R.T. type, 5,000-gallon capacity tank. The tank services fuel to the diesel-driven auxiliary transfer pump which serves as back-up to the main transfer pumps.

### **3.1.3. Fuel Oil Transfer Pumps**

The existing four (4) pumps are currently assigned for Residual Fuel Oil transfer to the southern plants (Cabras 1&2 and Piti 8&9). Up to two (2) pumps may operate at the same time depending on the demand for fuel transfer. Two (2) pumps are always available as stand-by. The pumps are arranged in parallel and have a capacity of 700 bbls/hr each operating at a maximum pressure of 250 psig. (500SSU at 120 degree F). Complete pump specifications is described in Schedule C. Two of the pumps were installed in 1976, and two were installed in 2007 during Facility Upgrade.

The existing three (3) pumps are currently assigned for fuel transfer to the Northern Plants. The pumps are arranged in parallel and have a capacity of 171 bbls/hr each operating at a maximum pressure of 750 psig. (500SSU at 120 degree F). Two of the pumps were installed in 1976, and two were installed in 2007 during Facility Upgrade. The pumps are currently idle with the decommissioning of the Northern plant.

## **3.2. Pipeline System**

### **3.2.1. Fuel Supply Pipeline System**

Information for the existing pipelines in the Fuel Bulk Storage Facility are shown in Tables 3.

**Table 3. Fuel Oil Supply Pipeline**

	<b>Start</b>	<b>End</b>	<b>Pipe Diameter</b>	<b>Approx. Length</b>
1	Tristar Tie-In	Tanks 1934 and 1935	24 inches	2,100 feet
2	Tank 1934	Main Transfer Pump Station	12 inches	
3	Tank 1935	Main Transfer Pump Station	12 inches	
4	Main Transfer Pump Station	Cabras 1&2 Plant	6 inches	2,800 feet
5	Main Transfer Pump Station	Piti 8&9 Plant	6 inches	4,697 feet

### **3.3. Oil Quality Sampling and Testing**

Oil quality is sampled, tested and reported back to GPA by a certified independent third party inspection and testing contractor. Fuel quality specifications are listed in Schedule B.

### **3.4. Historical Upgrades and Repairs**

#### **3.4.1. Tank Inspections and Repairs**

In February 2001 the United States Environmental Protection Agency (USEPA) Region IX issued a Unilateral Administrative Order for Piti Tank Farm to GPA to “perform abatement activities necessary to address conditions that may present an imminent and substantial endangerment”. These abatement activities “require integrity inspections, maintenance, installation of leak detection and repair of cathodic protection.”

Due to continued operations at GPA’s Cabras and Tanguisson Power Plants, one tank remained in service at all times. In 2005, Winzler & Kelly Consulting Engineers had been retained to prepare the contract documents for tank cleaning and repairs, perform the tank inspection and repair reports. PSC Industrial Services Group (Long Beach, California) was the Contractor retained by GPA to drain and clean both tanks. International Bridge Corporation (IBC) was awarded the contract to repair Tank 1935, the Oil-Water Separator (OWS) and install the Leak Detection and Cathodic Protection System for both tanks. J&B Modern Tech was the contractor that had been retained by GPA to repair Tank 1934.

A report was prepared for Tanks 1934 & 1935, in accordance with Paragraph 49 of the Unilateral Administrative Order for Piti Tank Farm and Phase IV of the Scope of Work in Appendix A of the Administrative Order.

The tank repair project began in February 2002 with the NTP for design of cleanout and repairs. Sampling of sludge in both tanks and the oil-water separator occurred in March 2002. The cleanout work for both tanks was advertised in November 2002 with work for Tank 1935 occurring first, over the period November 2003 to February 2004. The integrity inspection for Tank 1935 occurred next and the Inspection Report was submitted in April 2004, and the Cleanout Report submitted in May 2004. In June 2004 the threat of a typhoon heading towards Guam required the tank to be closed-up and as a safety precaution it was filled with approximately eight feet of fuel in the event the storm struck Guam. After the all-clear additional clean-up was required before tank repairs could commence. In February 2005 the O&M Work Plan was submitted and in December 2005 the Tank Repair Report was completed.

In August 2006, both the Cleanout Report and the Inspection Report for Tank 1934 were completed and submitted. In January 2007, the Tank 1934 O&M Work Plan and Repair Reports were completed and submitted.

Tanks 1934 and 1935 were drained of fuel and cleaned in accordance with the "Tank Cleanout Work Plan" dated September 2003 and developed for the sludge removing and cleaning of both Tank 1934 and Tank 1935 by PSC Industrial Group. The contractor remained on site to assist in the inspection by providing compressed air, scaffolding in the interior of the tank and general support tasks. Note that in general, exterior cleaning work on Tank 1935 used sand blasting, but due to comments from nearby businesses, this method changed to water blasting for Tank 1934.

The tank inspection was conducted in accordance with the "Work Plan For Life Extension and Refurbishment of the GPA Bulk Storage Tanks 1934 & 1935 for the Piti Fuel Tank Farm, Guam" dated April 2003. Winzler & Kelly personnel conducted the structural evaluations, tank bottom leak evaluations (vacuum box testing) and tank inspections in accordance with American Petroleum Institute (API) reference standard 653.

CONCECO/MATCOR personnel conducted the ultrasonic thickness measurements, coating thickness, pit depth readings, cathodic protection evaluation and leak detection evaluation for Tank 1935. Island Certs personnel conducted structural evaluations, tank bottom leak evaluations, tank inspections, ultrasonic thickness measurements and coating thickness for Tank 1934. Prudencio R. Balagtas & Associates performed the tank level survey for both tanks.

The tank inspections and evaluations and repairs were conducted in accordance with API Standard 653 "Tank Inspection, Repair, Alteration, and Reconstruction", and API Standard 650 "Welded Steel Tanks for Oil Storage". International Bridge Corporation of Guam performed Tank 1934 repairs, and J&B Modern Tech performed Tank 1935 repairs. Winzler & Kelly personnel and their subcontractors conducted the construction and repair inspections.

### **Tank Bottom Repairs**

The tank bottom repairs consist of the following:

- Bottom Plate lap joint fillet welds, defective welds detected with a vacuum box and repaired by air-arc gouging and re-welding the fillet weld.
- Shell-to-Bottom fillet welds, defective welds detected with a vacuum box and repaired by air-arc gouging and re-welding the fillet weld.
- Bottom Plate pitting, the build-up of scale on the tank bottom was removed by power grinding, ultrasonic thickness measurements were obtained for the plates, and pit depths were measured with a mechanical gauge. Repairs were made to isolated areas of deep pitting by filling with plug weld material made flush with the top of surrounding plates. Areas of excessive deep pitting larger than nine (9) square feet were repaired using doubler plates fillet welded to the tank bottom.
- In Tank 1935 a doubler plate was used to repair the dent in the tank bottom, resulting from a fallen rafter. The plate was placed over the damaged area and sealed by fillet welding.
- After the completion of the tank bottom repairs, the floor was sand blasted and coated with an epoxy primer and topcoat, Ameron Amercoat 395FD.

### **Tank Shell Repairs**

The tank shell repairs consist of the following items:

- Tank Shell Interior was sand blasted, removing the existing scale and previous coating. The entire interior shell was coated with an epoxy primer and topcoat, Ameron Amercoat 395FD.
- During repairs to Tank 1935, a small hole was discovered approximately 44 feet above the tank bottom near a wind girder. The portion of the tank shell with excessive corrosion around the hole was removed and replaced with a plate of the same thickness and rounded corners.
- Tank Shell Exterior was water blasted and minor areas of corrosion repaired. The entire Tank 1934 shell exterior was painted. Tank 1935 had approximately 200 sq ft of touch-ups for areas of minor corrosion that were cleaned and recoated.
- Tank Shell Appurtenances
  - Manholes with areas of minor corrosion were sand blasted for Tank 1935 and water blasted for Tank 1934, and re-coated.
  - Access Opening, a 67 SF plate opening with 160 – ¾” bolts.
  - On Tank 1934 this opening was removed and after cleaning and repairs was sealed with a new gasket put in place.
  - On Tank 1935 this opening exhibited some seepage of product, but was not removed. The bolts were retightened, sealed and vacuum tested to ensure proper repair.
- Overflow Vents;

- The overflow vent inside Tank 1934 that became dislodged during water blasting activities was repaired utilizing a 48 inch x 12 inch x ¼ support bracket with a 12 inch schedule 80 elbow. The exterior portion of the overflow vent that exhibited major corrosion at the bottom was repaired by cutting the corroded portion and welding on a new elbow extension.
- One overflow vent for Tank 1935 exhibited sign of seepage along the vent-to-piping connection that was repaired.
- Pipe Nozzles with areas of minor corrosion were sand blasted for Tank 1935 and water blasted for Tank 1934, and re-coated.
- Stairway areas of minor corrosion were sand blasted and re-coated for Tank 1934. On Tank 1935 several welds that connected the metal grate treads to the tank shell and the metal handrail to the steps had failed. These welds were repaired, and the areas of minor corrosion were sand blasted and re-coated.
- A new Liquid Level Sensor was installed to replace the original sensor that exhibited corrosion and had corroded brackets on Tank 1934 and had a broken roof attachment on Tank 1935.
- Wind Girders;
  - On Tank 1934 there were ten (10) areas on the wind girder that were repaired by using lap-welded repair plates that were water blasted and coated with an epoxy primer and topcoat.
  - On Tank 1935 there were two (2) areas of minor corrosion on the wind girders that were sand blasted and re-coated.
- Ground Strap that electrically connects the tank shell to the earth below was reconnected for Tank 1935. No repair was necessary for Tank 1934.
- Gate Valves; Peterra Inc. replaced four (4) of the gate valves and one 12-inch gasket that exhibited leaking. No repair necessary for Tank 1934.

### **Tank Roof Repairs**

The tank roof interior repairs consist of the following:

- Tank 1934; The 43 loose rafter spacers were replaced and re-welded. Also, 59 roof rafter spacers were reinstalled.
- Tank 1935; The roof rafter that fell was bent at one end, it was straightened and re-welded to the supporting beams. The interior roof rafters, plating, and the top ten (10) feet of the support columns were sand blasted and coated with an epoxy primer and topcoat, Ameron Amercoat 395FD.

The tank roof exterior repairs consist of the following:

- The roof of Tank 1934 required 210 areas of weld repair (approximately 35 LF). The roof was water blasted and areas of corrosion cleaned by power brush. The entire roof was re-coated.

- There was only minor corrosion present on the roof exterior of Tank 1935. These areas were sand blasted and re-coated.

#### **Other repairs:**

- Roof Top Appurtenances
  - Goose Neck Vents were water blasted for Tank 1934 and sand blasted for Tank 1935, and re-coated and the corroded bolts replaced.
- Access Openings:
  - Tank 1934: all four (4) access opening covers sand blasted and re-coated.
  - Tank 1935, all four (4) access opening covers replaced due to the advanced stage of corrosion.
- Sampling Port: No repair necessary for Tank 1934. For Tank 1935 a new sampling port cover was installed to replace the missing original cover.
- Painter's Hitch at the center of roof on Tank 1934 was replaced. No repair was necessary for Tank 1935.
- Handrail: GPA did not exercise the upgrade to add a railing around the circumference of the tank roof.

#### **3.4.2. Cathodic Protection System**

A new cathodic protection system was installed for both Tank 1934 and 1935 by the Tank 1935 Contractor. This system consists of eighteen (18) Mixed Metal Oxide (MMO) anodes installed vertically around the circumference, 20 ft from the tank shell. These are connected to an air cooled rectifier at the facility electrical control center. The rectifier is also connected to eight (8) MMO anodes protecting the facility pump station.

#### **3.4.3. Leak Detection System**

In the 2<sup>nd</sup> Quarter of 2016, GPA and its partners upgraded the Leak Detection System at the GPA Fuel Bulk Storage Facility. On May 17, 2016, FCI Environmental, Inc. certified the installation of (8) eight brand new PetroSense™ DHP-485 Digital Hydrocarbon replacement probes distributed below (2) two ASTs with volumes of approximately 250,000 barrels of fuel each. This system consists of eight (8) DHP-485 Hydrocarbon Sensors placed in 2-inch diameter slotted PVC pipe under each tank, connected via local junction boxes to a data logger in the facility operator's building. Four sensors are located under each Tank (1934 and 1935). The probes terminate to a PetroSense™ CMS-100 data logger (located at the facility office building) which retrieves data from the probes on a regular interval and the purpose of which is to give early warning of a fuel release. The probes identified as DHP485-1, 2, 3, 4, 5, 6, 7, and 8 with probes DHP485-1, 2, 3, and 4 installed beneath Tank 1934 and probes DHP485-5, 6, 7, and 8 installed beneath tank 1935. The probes and CMS data logger comprise the PetroSense



Continuous Monitoring System. The system also includes a locally installed visual alarm.

The area where the tanks are located was previously impacted by hydrocarbon releases up to until the 1970s. The tanks have since been repaired. However, residual hydrocarbon contamination persists in soil beneath the tanks. The presence of these hydrocarbons causes as elevated baseline from which to measure any future releases.

Additionally, the tanks are located at sea level, and during high tide, the depth to water below the tanks will rise above the installed probes. This will cause drifts in baseline which must be corrected by making periodic adjustments to each probe's baseline offset.

Leak determination is conducted by analyzing compiled data received from probes over time. Changes in probe readings that elevate rapidly over relatively short periods of time can be evidence of a release. In data, a release will be characterized by a significant and rapid positive drift. To determine whether or not positive drift is statistically significant, and therefore an indication of a release, *alarm limits* are determined by evaluating the mean and standard deviation of data for a (3) three month period and creating alarm limits that are (3) three standard deviations above and below each probe's respective baseline. If a probe's readings are elevated above its respective alarm limit, the locally installed visual alarm will trigger and an email message will be sent to each designated member of the logger's alarm distribution list. Remote monitoring can be accessed via internet with proper authorization.

#### **3.4.4. Hydrostatic Testing**

Hydrostatic tests using sea-water was performed on Tank 1935 (11/04/05), and on Tank 1934 (12/20/06), by Island Certs. The tests were certified by a Certified API 653 Inspector to be in conformance with API 653, Section 12 – "Examination and Testing Requirements."

#### **3.4.5. Oil-Water Separator**

Repairs for the oil water separator were completed by the Tank 1934 & 1935 Contractor. This tank had a new steel cover, interior wall, and ceramic tile covering the interior. New piping and pumps with motors provide connections from the pump pits, bulk storage fuel tanks (#1934 & #1935), and to the 12" discharge line, 24" intake line and to the on-site evaporation pond.

#### **3.4.6. Pipeline**

Repairs to the RFO pipeline were completed in September 2019 by AYM International Inc. and certified by Island Certs Corporation in conformance with API 570 assessment guidelines.

### **3.5. Ongoing Upgrades and Repairs**

The facility is currently undergoing system upgrades and repairs in preparation for the gradual transition to ULSD storage.

Tank 1935 is currently out of service for API 653 internal inspection and refurbishment, and is anticipated to be completed after December 2021. The tank will temporarily return to RFO for Ultra-Low Sulfur Fuel Oil (“ULSFO”, 0.20% sulfur max) storage.

Tank 1934 will follow the same process and completion is anticipated in December 2022. Tank 1934 will be recommissioned for ULSD storage.

Tank 1935 will then be re-decommissioned for re-cleaning and final conversion to ULSD storage.

A new ULSD pipeline and pump system will be installed separately, parallel to the existing RFO system with similar configuration. The pipeline will inter-connect into:

- a. Storage Tank 1934 and Tank 1935 and the main transfer pump station;
- b. Tristar’s 16-inch pipeline tie-in
  - a. for bulk ULSD transfers during shipment from the F-1 Dock; and
  - b. for bulk ULSD transfers from the Tristar tanks
- c. Piti 7, Piti 8&9, Kepco, and Ukudu power plants storage tanks

## **4. OPERATIONS AND MAINTENANCE**

The facility is manned twenty-four hours a day, seven days a week, with normal operations spanning from 0600H to 2000H. Normal Operations include storage of fuel oil, transfer of fuel oil into and out of the facility, processing of oily water, delivery of fuel oil to power plants and maintenance and upkeep by facility operators. Contracted security monitors the facility twenty-four hours a day.

### **4.1. Product Movement**

During product movement (vessel discharges, transfer of product from facility to power plants), operations can last for more than twelve hours. Vessel discharge operations require complete product discharge from vessel and may require twenty-four hour operations until product discharge is complete. Emergency Product Movement from the facility to the power plants can last for more than twelve (12) up to twenty-three (23) hours per day.

## 4.2. Organization

Presently, operations of the GPA Bulk Storage Facility is handled through a contractor using contractor employees. The contractor has employed a minimum of two personnel on duty for the transfer operation. One person is in charge of the transfer and the second person will be for the facility maintenance. A separate contracted security guard is employed by the Contractor and is in charge of monitoring access points and restricted areas.

## 4.3. Projects

The following tables summarize the completed and proposed projects for the Fuel Farm.

**Table 4. Tanks 1934 and 1935 Projects**

<b>Project:</b>	<b>Tank Assessment – Tank Nos. 1934 and 1935</b>
<b>Description:</b>	Tank 1934 and 1934 are welded field-constructed steel tanks. The installation and construction of these tanks were completed in 1976. These tanks have never been internally tested for integrity, nor there is a corrosion data from other tanks that could provide similar service information. In February 2001, the United States Environmental Protection Agency (USEPA) issued a Unilateral Administrative Order to Guam Power Authority (GPA) to assess and inspect these tanks as per industry standards to determine its integrity.
<b>Project:</b>	<b>Cleaning and Sludge Disposal – Tank Nos. 1934 and 1935</b>
<b>Description:</b>	To implement the first phase of the USEPA Administrative Order issued to the authority in February 2001 to clean Tanks 1934 and 1935 and properly recover and dispose its contents in preparation for the recommended repairs indicated in the Tank System Integrity Report.
<b>Completion Date:</b>	Tank 1934 (July 2006); Tank 1935 (February 29, 2004)
<b>Project:</b>	<b>Life Extension and Refurbishment of the GPA Bulk Storage Fuel Tank 1935</b>
<b>Description:</b>	The work under this contract shall include all labor, supervision, administration and management; supplying all equipment and materials necessary to repair and/or refurbish Tank 1935 bottom, shell and roof plates; interior and exterior rust protection coat; upgrade of existing oil water separator (OWS); cathodic protection for both tanks 1934 and 1935, leak detection system and horizontal directional drilling (HDD) for LD system for both tanks 1934 and 1935.
<b>Completion Date:</b>	November 30, 2006
<b>Project:</b>	<b>Life Extension and Refurbishment of the GPA Bulk Storage Fuel Tank 1934</b>
<b>Description:</b>	The work under this contract shall include all labor, supervision, administration and management; supplying all equipment and materials necessary to repair and/or refurbish Tank 1935 bottom, shell

and roof plates; interior and exterior rust protection coat; upgrade of existing oil water separator (OWS).

**Completion Date:** May 21, 2007

**Table 5. Fuel Farm Facility Projects**

<b>Project:</b>	<b>Fuel Oil Storage Piping and Pump Upgrade</b>
<b>Description:</b>	Design, construction of a new 6-inch and 12-inch fuel oil piping and installation of three(3) new transfer pumps. Included relocation of existing chain-link fencing, expansion of existing MCC room and extension of existing concrete pads. The new pumps and fuel lines will give GPA flexibility to refill Tanguisson Power Plant with high sulfur when low sulfur fuel is being issued to Cabras and Enron.
<b>Completion Date:</b>	October 15, 2005

<b>Project:</b>	<b>Repair of Bunker Fuel Transfer Pump</b>
<b>Description:</b>	Design, construction of a new pump house and containment structure, and installation of new 12-inch fuel transfer pump and diesel motor, including discharge and intake piping connecting to existing piping and bulb.
<b>Completion Date:</b>	March 30, 2004

<b>Project:</b>	<b>Construction of Tank Farm/Maintenance Building &amp; Cabras SPCC Storage Building</b>
<b>Description:</b>	Construction of a new Design, construction of a new pump house and containment structure, and installation of new 12-inch fuel transfer pump and diesel motor, including discharge and intake piping connecting to existing piping and bulb.
<b>Completion Date:</b>	March 30, 2004

**Table 7. On-going Projects**

<b>Item #</b>	<b>Item Description</b>
1	Installation of ATG with Remote Monitoring
2	Installation of Roofed Structure at the Pump Station
3	Fire Fighting System Upgrade
4	Spare Delivery Pump for Cabras
5	Installation of Fuel Meters with Remote Monitoring
6	Installation of ULSD Pipelines
7	Tank 1934 & Tk1935 API 653 Out-of-Service Inspection
8	Conversion of Fuel Facility from RFO-storage to ULSD Storage

#### 4.4. Historic Spending Patterns

The following tables illustrate the Fees paid for the Management of the Fuel Facility from 2018 onwards. This includes all expenses borne by GPA for the management, operation and maintenance of the facility.

**Table 7. Historic Spending Patterns for the Fuel Bulk Storage Facility – GPA-014-17**

<b>GPA-047-12</b>	<b>2-Year Base Period</b>		<b>3 Year Extension Options</b>			<b>TOTAL</b>
<b>Contractor: IP&amp;E</b>	<b>1<sup>st</sup> of 2 Years</b>	<b>2<sup>nd</sup> of 2 Years</b>	<b>1<sup>st</sup> Year Extn</b>	<b>2<sup>nd</sup> Year Extn</b>	<b>3<sup>rd</sup> Year Extn</b>	<b>4 Years</b>
	<b>(10/01/17 To 09/30/18)</b>	<b>(10/01/18 To 09/30/19)</b>	<b>(10/01/19 To 09/30/20)</b>	<b>(10/01/20 To 09/30/21)</b>	<b>(10/01/21 To 09/30/22)</b>	<b>(10/01/17 To 09/30/21)</b>
<b>Fixed Management Fee* (\$/yr)</b>	\$690,774.18	\$706,040.96	\$728,490.86	\$749,129.79	On-going	<b>\$3,383,652.03</b>
<b>O&amp;M Expenditures</b>	\$74,690.11	\$80,959.30	\$63,954.79	\$47,732.31	On-going	<b>\$ 465,789.58</b>
<b>TOTAL</b>	<b>\$765,464.29</b>	<b>\$787,000.26</b>	<b>\$792,445.65</b>	<b>\$796,862.10</b>	<b>On-going</b>	<b>\$3,898,355.88</b>

**\*Fixed Management Fee Component:**

1. Management, Operation and Maintenance Fees (Expenses and fees for staffing, Utilities, and all other expenses not included in the Contract items)
2. Security CONTRACTOR
3. Equipment (Environmental/ Oil Spills)
4. Inventory (O & M)
5. Oil Spill Response Membership Fees
6. Insurance Fees

#### 4.5. Fuel Bulk Storage Facility Oil Spill History

The RFO pipelines within the facility was last inspected and repaired in September 2019. No major oil spill or leak has occurred to date.

**Invitation For Multi-Step Bid**

**No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT**

**FOR THE**

**GUAM POWER AUTHORITY  
BULK FUEL STORAGE FACILITY**



**Volume IV**

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**CONTRACT**

**(PMC)**

**GUAM POWER AUTHORITY**

**IFB No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT  
FOR THE  
GUAM POWER AUTHORITY BULK FUEL STORAGE FACILITY**

## FORMAL CONTRACT

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

\_\_\_\_\_, (PMC), hereinafter referred to as “**PMC**”, duly organized, licensed, registered and qualified to do business in Guam 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;

## R E C I T A L S

WHEREAS, GPA desires to maintain uninterrupted fuel supply to its Power Plants;

WHEREAS, GPA seeks to improve the management and operations of its Bulk Fuel Storage Facility;

WHEREAS, the current contract for the management of the Bulk Fuel Storage Facility will expire on September 30, 2022; and

WHEREAS, the Consolidated Commission on Utilities has determined that the hiring of **PMC** is a preferred option for GPA to improve the management and operation of the Bulk Fuel Storage Facility;

WHEREAS, the Guam Public Utilities Commission has, through stipulation, ordered that GPA obtain a PMC for Bulk Fuel Storage Facility;

WHEREAS, GPA seeks to engage the professional services and assistance of **PMC** to provide operations, maintenance, and management services, budgeting, procurement, training and such other services as are specified herein;

WHEREAS, GPA has provided adequate public announcement of the need for such services through an Invitation for Bid (IFB) describing the type of services required and specifying the type of information and data required of each offeror;

WHEREAS, GPA has issued a Multi-Step Invitation For Bid for the Performance Management Contract for the GPA Bulk Fuel Storage Facility, GPA- -21; and

WHEREAS, **PMC** submitted a bid for the Performance Management Contract for the GPA Bulk Fuel Storage Facility;

WHEREAS, GPA, upon evaluation of the submitted bid proposals, determined that **PMC** is the most responsive bidder to provide the services set forth in the IFB;

WHEREAS, **PMC** is fully willing to provide, and is capable of providing, the management, operations, maintenance and repair services set forth in the IFB and Agreement in accordance with the terms and conditions thereof;

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; **PMC** and GPA hereby agree as follows:

#### **SECTION 1. DEFINITIONS**

**“\$”** The term “\$” refers to currency in U.S. dollars.

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

**“API”** The term “API” shall mean the American Petroleum Institute.

**“Approved”** The word "Approved," when applied by ENGINEER to PMC's drawings or documents, shall mean that the drawings or documents are satisfactory from the standpoint of interfacing with GPA-furnished components, and/or that ENGINEER has not observed any statement or feature that appears to deviate from the Specification requirements.

**“Approved As Revised”** The words "Approved As Revised," when applied by ENGINEER to PMC's drawings or documents shall mean that the drawings or documents are approved as defined above, except that the corrections shown are required for the proper interfacing with GPA-furnished components or are necessary to be in conformance with the Specification's requirements.

**“Barrel”** The term "Barrel" means a volume equivalent to 42 U.S. gallons.

**“Change Order”** A written instrument to PMC signed by GPA authorizing an addition, deletion, or revision in the goods or special services, or an adjustment in the purchase order price or the delivery time, issued after the effective date of the Contract Agreement (Agreement).

**“Contract”** The term "Contract" means the Performance Management Contract for the GPA Bulk Fuel Storage Facility executed as a result of this IFB.

**“Contract Agreement (Agreement)”** The written agreement between GPA and PMC covering the furnishing of the Goods, Special Services, and other services in connection therewith evidencing what is contemplated and agreed to between the parties including any other Contract Documents either attached to the Agreement or made a part thereof by reference therein.

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

**“Contracting Officer”** The term "Contracting Officer" as used herein means the General Manager of the Guam Power Authority and shall include his authorized representatives.

**“PMC”** The term "PMC" as used herein means the Performance Management Contractor, 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”** A calendar day of twenty-four (24) hours measured from midnight to the next midnight.

**“Delivery Time”** The total number of days or the dates stated in the Agreement for furnishing the Goods and/or Special Services.

**“Defective”** An adjective which when modifying the words Goods or Special Services refers to Goods or Special Services which are unsatisfactory, faulty, deficient, do not conform to the Contract Documents, or do not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents.

**“Drawings”** Drawings are all official drawings approved by the ENGINEER and showing the character and scope of the Goods to be furnished.

**“Effective Date of the Contract Agreement”** The date indicated in the Purchase Agreement on which it becomes effective, or if no such date is indicated, the date by which the Purchase Contract is signed by both parties.

**“ENGINEER”** Wherever the words "ENGINEER" or "ENGINEERS" appear in the CONTRACT Documents, it shall mean the Guam Power Authority's Manager of Generation or Manager of Engineering and shall include his authorized representatives duly appointed as "ENGINEER". GPA shall assign several ENGINEERS as required to cover specialized areas of expertise.

**“ENGINEER's Instructions”** Written instructions issued by ENGINEER which clarify or interpret the CONTRACT Documents or order minor changes or alterations in the Goods or Special Services to be furnished but which do not involve a change in the Purchase Price or the Delivery Time.

**“Forms Enclosed”** The copies of the Formal Contract and Bid Bond, enclosed herewith are incorporated in these General Conditions by reference and are made a part hereof to the same extent as though fully set forth herein.

**“General Manager”** 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.

**“Goods”** All property required to be furnished by PMC under the procurement documents.

**“Modification”** A written amendment of the Purchase Agreement signed by both parties, or Change Order, or ENGINEER's Instructions.

**“Notice”** The term "Notice" as used herein 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. The PMC must provide and maintain a post office address within Guam and file the same with the Contracting Officer.

**“OWNER”** The term "Owner", "GPA" or "Authority" as used herein means the Guam Power Authority, and shall include the Governor of Guam, and/or his authorized representatives.

**“Point of Delivery”** The place at which property in the goods shall pass to GPA shall be CIF landed at job-site, Guam, unloaded.

**“Project”** The plant, facilities, or works the Goods and Services are to be used for or incorporated into.

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

**“PURCHASER”** The Guam Power Authority with whom PMC has entered into the Contract Agreement.

**“Seller”** The PMC.

**“SITE or Site”** The SITE is the area where the Project is to be constructed or executed. In this case, the SITE is the GPA Bulk Fuel Storage Facility as delineated in Volume II Technical and Functional Requirements and Volume III GPA Bulk Fuel Storage Facility Technical Description.

**“Special Services”** Services to be furnished by PMC at the GPA Bulk Fuel Storage Facility as required by the Contract Agreement.

**“Territory”** The Territory of Guam.

## **SECTION 2. PURPOSE AND SCOPE OF SERVICES**

### **2.1 Purpose.**

The PMC agrees to provide all the services as required under Volumes I Commercial Terms and Conditions, Volume II Technical and Functional Requirements, and Volume III Facility Technical Description of the Solicitation herein and Guam Power Authority (GPA) agrees to pay for all the services rendered in the amount as stipulated in Section 6. The services to manage, operate, and maintain the GPA Bulk Fuel Storage Facility will commence on or about October 01, 2022. By awarding this contract, GPA’s goal is to ensure uninterrupted fuel transfer from the Bulk Fuel Storage Facility to the GPA Power Plants, as well as to improve the management, operations and maintenance of GPA’s Fuel Transfer and Inventory Operations and Bulk Fuel Storage Facility.

### **2.2 Scope of Services.**

The GPA Bulk Fuel Storage Facility consists of two (2) bulk storage tanks of 269,000 barrels nominal capacity. An Operations Building adjacent to the pump station is available for the PMC to conduct business during the course of the contract. PMC shall be responsible for the following:

- (a) Overall management, operation, and maintenance of the GPA Bulk Fuel Storage Facility to provide fuel oil product transfer and management to GPA facilities and locations as needed;
- (b) Assist GPA in the completion of Major Repairs and Capital Improvement Projects through project management, project coordination or as otherwise instructed by GPA, in the capacity of Bulk Fuel Storage Facility Operator;
- (c) Engineering assessment and recommendations for overall plant improvements;
- (d) Review, development and update of:
  - (i) Plant Standard Operating Procedures, as required;
  - (ii) Annual update of the Facility Spill Response Plan and Spill Prevention, Control and Countermeasure Plan (SPCC);
  - (iii) Timely update of plans upon the introduction and adoption of any new federal and local laws and regulations;
- (e) Meet specified performance standards and contract requirements;
- (f) Fuel Inventory and Loss Control Management;
- (g) Submission of Daily, Weekly, Monthly and Annual Reports as required by GPA (Generation, Engineering, P&R, SPORD and Accounting Divisions);
- (h) Compliance with Tank System Operation and Maintenance Workplan (Jan. 19, 2007);
- (i) Compliance with all requirements of the Oil Pollution Act of 1990 (OPA '90);
  - (i) Inclusion of all costs associated with OPA '90 within the firm price proposal;
  - (ii) Compliance with oil spill and recovery provisions of OPA'90;
- (j) Purchase, maintain and operate/deploy materials and equipment as identified in the Facility Spill Response Plan and SPCC Plan; and
- (k) Membership with a qualified and certified oil spill response company on Guam;
- (l) All other duties and responsibilities delineated in Volumes I, II and III, and the Amendments to Invitation for Bid No. GPA- -21.

### 2.3 Scope of the Agreement.

This Contract supersedes any and all other agreements related to the GPA Bulk Fuel Storage Facility, either oral or in writing between parties hereto with respect to the retainment of PMC by the Authority and contains all of the covenants and agreements between the parties. Each party to this Contract acknowledges that no representation, promises or agreement, orally or otherwise, has been made by any party, or anyone acting on behalf of any party and that no other agreement not contained in this Contract shall be valid or binding. Any modification of this Contract will be effective only if in writing, and mutually agreed to and signed by both parties. For purposes of this Contract, only the signature of the General Manager will effectively bind GPA to this Contract.

### SECTION 3. CONDITIONS PRECEDENT

#### 3.1 PMC's Submittals.

PMC shall supply the following to GPA, each in form and substance satisfactory to GPA unless such condition precedent is waived by GPA:

- a) copies of resolutions adopted by PMC's Board of Directors authorizing the execution, delivery and performance by PMC of this Agreement certified by the company secretary of PMC in a manner satisfactory to GPA;
- b) a performance bond as specified in **Appendix F** of the Bid Documents.
- c) a copy of the Articles of the Incorporation of PMC certified by the company secretary in a manner satisfactory to GPA;
- d) a copy of PMC's license to do business in Guam.

#### 3.2. GPA's submittals.

GPA shall supply the following, each in form and substance satisfactory to PMC unless such condition precedent is waived by PMC:

- a) copies of resolutions adopted by the Consolidated Commission on Utilities authorizing the execution, delivery and performance by GPA of this Agreement, each certified by the corporate secretary of the CCU in a manner satisfactory to PMC;

#### 3.3 Insurance.

PMC shall obtain all insurance specified in [Section 35](#) of this Agreement.



## SECTION 4. CONTRACT DOCUMENTS

### 4.1 Documents Included.

It is mutually agreed that the following lists of documents which are attached hereto, bound herewith or incorporated herein by reference shall constitute the contract documents, all of which are made a part hereof, and collectively evidence and constitute the contract between the parties hereto, and they are as fully a part of this Agreement as if they were set out verbatim and in full herein, and are designated as follows in their order of precedence:

- a) This Contract
- b) Amendments to IFB GPA- -21
- c) IFB No. GPA- -21
- d) PMC's Proposal for IFB No. GPA- -21
- e) The Performance Bond
- f) Affidavit of Disclosure of Major Shareholders
- g) Audited financial information on PMC's firm and all its sub-contractors that will be used in the Management, Operation and Maintenance of GPA's Bulk Fuel Storage Facility.
- h) Certificate of Good Standing to conduct business in jurisdiction of residence
- i) Non-collusion Affidavit

### 4.2 Discrepancies.

In the case of discrepancies or conflicts between the above-referenced contract documents, this Contract shall take precedence over GPA- -21, and PMC's proposal submitted in response to the IFB. In case of discrepancies or conflicts between the Amendments to GPA- -21, the Amendments shall take precedent. If PMC believes that there is any discrepancy or inconsistency between this CONTRACT and the other contract documents, PMC shall bring such discrepancy to the attention of the General Manager before proceeding with the work affected thereby.

### 4.3 Presumption of Familiarity.

It will be conclusively presumed that PMC has read, examined and agreed to each and every term, condition, provision, covenant or agreement contained within each and every Contract Document. PMC is assumed to 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 PMC will not relieve PMC from responsibility.

## **SECTION 5. CONTRACT TERM**

### **5.1 Term.**

The term of this Performance Management Contract shall be for a three (3) year period commencing on or about October 01, 2022 and shall continue until the midnight of September 30, 2025. The contractual obligation of GPA and PMC is subject to the availability of funds. GPA shall have the right to extend the contract for two (2) additional one-year (1-year) terms with the mutual consent of both parties.

### **5.2 Extension.**

Prior to the expiration of the three-year contract term, GPA may, at its election, extend the contract for up to two additional one-year terms. GPA and PMC may renew this agreement upon the mutual agreement of the parties. If the Agreement shall be renewed, then the parties shall meet and discuss the new terms and conditions of the Agreement six months before Termination Date.

### **5.3 Notice of Extension.**

GPA shall notify PMC in writing its intent to extend the contract for any extension no later than six months before Termination Date. GPA shall give appropriate notice of its intentions regarding its option to exercise contract extension. The notification will include the number of years GPA intends to extend the contract, not to exceed two (2) years.

At the beginning of the 3<sup>rd</sup> contract year GPA and the PMC shall negotiate the contract extension terms based on the optimum requirements for the facility. These requirements shall be considered as starting negotiation points between GPA and the PMC, should GPA elect to exercise the optional contract extension. Final confirmation by mutual agreement between GPA and the PMC for contract extension shall be given after completion of negotiation no less than no later than six months before Termination Date. However, GPA may elect to reverse its decision without penalty at any time within six months of the end of the contract period based on the PMC's poor performance during this period.

**SECTION 6. COMPENSATION FOR SERVICES****6.1 Payment.**

GPA shall pay PMC for costs and services rendered hereunder in accordance with this Agreement. Compensation for services performed and provided by PMC shall be on a monthly basis at the rate stipulated in this section. PMC shall invoice GPA once a month, and payment shall be made within 30 days of after receipt of an acceptable invoice. In the event of any dispute with regard to any portion of the invoice, the undisputed portion shall be paid pending settlement of the dispute. Should GPA fail to make any payment due to PMC under this Agreement, GPA shall pay interest to PMC in accordance with the provisions of the Prompt Payment Act, 5 GCA Sections 22502-22507.

**6.2 Contract Price.**

The Contract Price constitutes the total consideration to be paid by GPA to PMC for the complete delivery of all Contract Items, and for performing other services in connection therewith in accordance with the Contract Documents as amended by the parties pursuant to the Agreement. The Price or Cost for each Contract Item under this Agreement shall remain fixed during the term of this Agreement. Unless expressly provided otherwise in the Contract Documents, the Contract Price is not subject to escalation in respect of materials and/or labor cost or any other factor or variation in rates of exchange, and all duties, responsibilities, and obligations assigned to or undertaken by PMC shall be at its expense without change in the Contract Price. Charges, fees, PMC's profit, and all other expense shall be deemed to be included in the Contract Price. Only a formal Change Order request, accepted by GPA, may change the Contract Price. PMC shall make any claim for an increase in the Contract Price in advance of performance of any such changes. However, GPA reserves the right to challenge or refute such claims.

Table 1 below shows the Price for each Contract Item for each Contract Year, including the optional contract years.

Table 1. CONTRACT PRICE

(Insert Here)

6.3 Payment Milestones and Schedule.

Payment milestones have been selected to clearly identify the actual status of the portion of the Work completed rather than anticipated project progress schedules. Payments will be based on actual completion of each milestone event, where applicable, and not on the scheduled completion date. When a change in the Agreement is approved, the total contract price will be altered to the new total, and the remaining milestone payments will be adjusted.

Milestones shall not be scheduled more frequently than once every month. GPA will not approve a milestone payment until all preceding milestones have been approved. GPA will make payments within thirty days from receipt and approval of the invoice for the completed milestone.

The milestones for payments due to PMC from GPA are as follows:

- (a) Monthly Fees for each Contract Item;
- (b) Reimbursement Payments for Capital Improvement Project (CIP) - related expenditures as agreed to and scheduled between GPA and PMC.

6.4 PMC shall submit for review by GPA monthly invoices accompanied by a progress report describing the work performed during the compensation period. All payments to PMC shall be free of any deductions, including but not limited to withholding taxes.

6.5 The amounts paid or reimbursed to PMC shall in no event exceed the dollar amount indicated above except upon prior written agreement by the parties. Prior to incurring any expense not contemplated in the total fee, PMC shall request prior approval of any such additional expense from GPA. No such expense shall be reimbursable unless approved in advance by GPA.

6.6 Final payment shall be made upon delivery and acceptance of all Services as herein specified and performed under this Agreement. Prior to final payment, and as a condition precedent thereto, PMC shall execute and deliver to the Authority a release of any claims arising under and by virtue of this Agreement against the Authority except any identified written claims in existence at the time of the final payment.

6.7 The prices and costs set forth in this Agreement are based on the assumption that the Services performed will be subject to the Guam Gross Receipts Tax. PMC is responsible for payment of any applicable taxes.

## SECTION 7. AGREEMENT

The Agreement between GPA and PMC shall consist of the tender documents, as resolved by the PMC's final negotiated Proposal and by GPA amendments, and the PMC's proposal, as adjusted by a prioritized list of documents generated during the evaluation and negotiation processes and agreed to and acknowledged in writing by both parties. These documents may consist of, but are not limited to, written answers to questions, letters, and written clarifications to the proposal.

Any formal contract document shall reference GPA tender documents and the PMC's proposal. No oral understanding or statement shall modify the Agreement. Changes to the above documents can only be made in accordance with the procedure for modifications as defined in **Section 1 Changes**.

The resolved tender documents shall take priority over and shall govern in all cases of conflict with the adjusted proposal. The PMC's contractual obligation shall be to fulfill all requirements of the tender documents, as resolved, and to provide all features of the PMC's proposal, as adjusted.

The tender documents are intended to be complementary, what is called for by one shall be as binding as if called for by all. If not otherwise specified in the tender documents, these General Conditions shall apply. If, during performance of the Agreement PMC detects a discrepancy in the tender documents, PMC shall so report to ENGINEER in writing at once and shall obtain a written interpretation or clarification from ENGINEER before proceeding further; however, PMC shall not be liable to GPA for failure to report any conflict, error, or discrepancy in the Contract Documents unless PMC had actual knowledge thereof or should reasonably have known thereof.

All materials, equipment, and services that may reasonably be inferred from the tender documents, as being required to produce the intended result will be supplied whether or not specifically called for. When words that have a well-known technical or trade meaning are used to describe materials, equipment, or services, such words will be interpreted in accordance with such meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the code of any Governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, or code in effect on the effective date of the Agreement except as may be otherwise specifically stated in the Specification or Agreement. ENGINEER as provided in **Section 1 ENGINEER** shall issue clarifications and interpretations of the tender documents.

## SECTION 8. OPERATION OF THIS CONTRACT

The Guam Power Authority's responsibility for the day to day monitoring and enforcement of this Contract resides with the GPA General Manager or his designee. The PMC shall identify to GPA the person(s) responsible for the implementation of the Contract and who shall act as the PMC's point of contact.

## **SECTION 9. PMC'S OBLIGATIONS**

### **9.1 Responsibility within the Physical Boundaries of the Bulk Fuel Storage Facility.**

The PMC's area of responsibility shall include the entire Bulk Fuel Storage Facility within the perimeter fence and the pipeline(s) tie-ins up to the flanges before the isolation valves at the Tristar manifold and the Plants storage tanks.. The pipeline infrastructure to the Ukudu Power Plant is projected to be completed in late 2023 or early 2024. The Invitation For Bid Documents, Volume VI Schedule B identifies the physical boundaries.

### **9.2 Management and Operation.**

The PMC shall, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required in this contract, and as specified in the Invitation for Bid Documents. The PMC shall observe, comply with and be subject to all terms, conditions, requirements, and limitations of the contract and specifications and shall do carry on the Contract to the satisfaction of the OWNER.

The PMC shall manage, operate and maintain the Bulk Fuel Storage Facility and all equipment and structures within the physical boundary of the Fuel Farm, which includes, but is not limited to, the transfer pumps, pipelines, cathodic protection system, leak detection system, oil-water separators, and other accessories, in good, safe and operating condition.

The General Responsibilities of the PMC shall include, but is not limited to:

- (a) Operation of the facility on a twenty-four hour (24-hour), seven-day (7-day) basis. Fuel transfers shall be restricted between Six A.M. (6 A.M.) to Six P.M. (6 P.M.); any fuel transfer beyond these are shall be subject the approval of the Manager of Generation
- (b) Determination of fuel oil quantity for all transfers, receipts, deliveries and for inventory;
- (c) Delivery monitoring;
- (d) Daily physical survey;
- (e) Reporting; and
- (f) All other duties and responsibilities as delineated in Volumes I, II and III of the Invitation for Bid.

### **9.3 Specific Responsibilities.**

Specific responsibilities include, but is not limited to:

9.3.1. Fuel Transfer.

The PMC will be responsible for all the fuel transfer to and from the GPA Bulk Fuel Storage Facility, and should ensure that all activities are done safely, efficiently and effectively. This shall include but is not limited to:

- (a) **Fuel Transfer to Power Plants.** The PMC shall coordinate the delivery of fuel oil to the various GPA Power Plants.
- (b) **Fuel Transfer to and from Off-site GPA-leased Tanks.** The PMC shall coordinate the transfer of fuel from off-site GPA-leased tanks to the Bulk Fuel Storage Facility and vice versa. The PMC will coordinate with the dispatcher of the off-site bulk storage facility to schedule and oversee deliveries of fuel and/or transfer of fuel.
- (c) **Fuel Transfer to and from Oil Tankers/ Vessels.** The PMC shall coordinate the transfer of fuel from Cargo Ship to the GPA Bulk Fuel Storage Tanks (and vice versa) together with GPA, GPA's Fuel Supplier, and other GPA's Fuel Handling PMCs. The PMC shall also be responsible for the submittal and clearing the cargo documents as required by the Guam Customs and Quarantine prior to the vessel arrival.

The PMC shall establish a standard operating procedure or update and improve existing procedures for preventing product contamination and minimizing inventory losses. The PMC shall fulfill all other responsibilities related to Receiving of Bulk Product as described in Volumes I and II of the Invitation for Bid.

9.3.2 Fuel Quality.

The PMC shall ensure that the products in GPA's storage tanks meet the Fuel Specifications required by GPA. The PMC shall not cause to contaminate the product stored in the bulk storage tanks, and shall be liable for any product contamination resulting from the negligent acts of its employees or agents. Such negligent acts shall be subject to claims by GPA against the PMC. Quality specification is listed under Schedule A in Volume VI of the Invitation for Bid.

9.3.3 Maintenance Activities.

The PMC shall incorporate a comprehensive maintenance program that is documented to ensure that all maintenance and upkeep practices are adhered to for full life expectancy of the fuel bulk

storage facility and pipelines. This contract shall be executed as the turnkey management of the facility with the PMC responsibility for all necessary routine repairs and replacements to the equipment and other appurtenances belonging thereto, as necessary to maintain as such in good working condition in order to have a continuous and uninterrupted delivery of fuel during the course of the contract.

(a) Routine Maintenance Activities.

The routine repairs, maintenance, and upkeep of the facility and equipment shall be carried out by the PMC. Routine Maintenance and minor repairs include, but is not limited to:

- Monthly Tank System Inspections
- Pump Station System Integrity Check
- Instrument Calibration
- Pipeline Inspection
- Operation and Maintenance of Tank System, Pumps and Auxiliary (Diesel-driven) Pump System, Valves, Pipeline within the facility from the Tristar Tie-In connection up to the Ukudu Plant storage tank, and all Instrumentation and Electrical Systems
- Cathodic Protection System Operation and Maintenance
- Leak Detection System Operation and Maintenance
- Oil Water Separator Operation and Maintenance
- Maintenance of Building, Fencing, Grounds and others
- Environmental Compliance and other Technical or Professional Services required to as part of proper operation and maintenance of the Bulk Fuel Storage Facility
- All tasks required to ensure compliance with environmental, local and federal regulations (such as those imposed by, but not limited to USEPA, Guam EPA, US Coast Guard, OPA and others).

If such routine maintenance work involves oil spill response and clean-up, expenses incurred for the oil spill response and clean-up shall be treated separate from the costs associated with the routine O&M work and billed on a separate invoice.



All resources required to undertake the routine maintenance shall be handled by the PMC. PMC shall not assign any work to GPA, nor assume that GPA will take on any work related to the major repair or replacement for which the PMC has offered to undertake. In critical circumstances, such as if the activity is required to ensure compliance with local and federal regulations, PMC may consult with GPA to jointly determine the most efficient way of undertaking routine operation and maintenance activities.

The PMC shall be solely responsible for the repair or replacement of equipment if determined that subject equipment was damaged through negligence, misuse or lack of maintenance, regardless of the cost. The PMC shall also be responsible for the cost of oil spill recovery efforts for any product released resulting from such negligence.

The PMC shall fulfill all other responsibilities related to Routine Maintenance as describe in Volumes I and II of the Invitation for Bid.

(b) Major and Non-Routine Maintenance Activities, Services, Repairs and/or Replacements.

The PMC shall advise GPA, verbal and in writing, of any required major and non-routine maintenance activity, service, repair and/or replacement in excess of Ten Thousand Dollars (\$10,000.00). GPA shall conduct the necessary inspections and evaluations, and work with the PMC in the implementation and completion of the activity / service / repair / replacement. Should the need for the activity / service / repair / replacement be due to damages that are determined to be unpreventable, justified, and outside the control of the PMC, then GPA and the PMC shall jointly identify the best solution to remedy the problem. In all other cases, the PMC shall be responsible to bear the costs of replacement. The PMC shall provide GPA with the cost proposal prior to execution of any work and the project shall be approved in advance. The PMC shall then invoice GPA for the reasonable costs and expenses. The PMC shall provide GPA with all statements and supporting documentation associated with the subject activity, service, repair and/or replacement projects. The PMC shall fulfill all other responsibilities related to Routine Maintenance as describe in Volumes I and II of the Invitation for Bid. The PMC administrative charges for any major or non-routine maintenance with a one-time cost over \$10,000.00 shall not exceed 5%.

9.3.5 Right to Inspection.

GPA shall have the right to conduct inspections of any repair and/or replacement projects. In the event of a dispute, an independent inspector shall be appointed, mutually acceptable to both

parties, whose decision as to the quality and/or necessity of the work shall be final and binding on both parties. The independent inspector(s)' fees and charges shall be shared equally by both parties. Payments of any and all invoices of any major repairs or replacements shall be made based on mutually acceptable terms pre-approved by the PMC and GPA.

9.3.6 Equipment.

The PMC is responsible for the purchase, operation, maintenance and deployment of all necessary oil spill equipment as required in the SPCC Plan. Furthermore, the PMC shall maintain an in-house or on-site stock inventory of the materials, as required, for the sole purpose of supporting this contract.

9.3.6 Communications and Reporting.

The PMC is required to fulfill all responsibilities on Communications and Reporting as delineated in Volume II Section 3 of the Invitation for Bid.

9.3.7 Other Operations and Maintenance Activities.

The PMC shall perform their day-to-day management and operations of the Bulk Fuel Storage Facility to include but is not limited to:

- (a) Conduct daily physical survey of the bulk fuel storage tanks immediately after completion of fuel transfer to the power plants.
- (b) End-of-the-Month Physical Survey of the bulk fuel storage tanks at the GPA Bulk Fuel Storage Facility and GPA-leased tanks from other bulk storage facilities, performed by an independent third party inspector acceptable to GPA.
- (c) Monthly Tank System Inspection and Pump Station Integrity Check.
- (d) Regular Meter and Instrumentation Calibration – at least annually, or as recommended by manufacturer.
- (e) Operation and Maintenance of Cathodic Protection System and Leak Detection System
- (f) Compliance with all regulations and requirements.
- (g) Review, update and maintenance of all required Documents, including Standard Operating Procedures.

(h) PMC shall provide monthly reports to GPA regarding all activities stated. GPA may conduct unscheduled spot inspections of the Bulk Fuel Storage Facility including activities required from the PMC.

(i) All other responsibilities indicated in the Invitation for Bid documents.

9.3.8 Personnel.

The PMC shall provide adequate number of qualified and trained personnel to deliver all fuel oil required to all of GPA-owned and contracted power plants at any time the power plants require fuel oil. PMC shall provide all personnel required to safely, efficiently, and legally receive all vessel shipments and conduct delivery of fuel oil required to provide the needs described above and maintain minimum inventory requirements necessary for the assurance of fuel oil supply in all cases. The training (initial and follow-on) for operations, maintenance, and safety, as well as all applicable certifications, are the sole responsibility of the PMC for their personnel. The PMC shall also comply with Staffing Requirements as specified in Volume II Section 4 of the Invitation for Bid Documents.

9.3.9 Coordination with GPA.

PMC shall coordinate with the GPA dispatcher and power plants personnel to schedule fuel deliveries at the convenience of the power plants providing the communication equipment necessary to maintain continuous communications with the GPA dispatch center. PMC shall coordinate with the dispatcher of the off-site bulk fuel storage facility to schedule and oversee deliveries of fuel from the GPA-leased tanks to the power plants.

9.3.10 Oil Spill Recovery Equipment and Inventory.

PMC shall establish and maintain equipment required by the SPCC and OPA '90 facility plan in good operating condition at all times and all others necessary to meet immediate response in case of oil spill or other form of incident that may cause danger to the environment.

PMC shall submit, on a semi-annual basis, an inventory list of essential spare parts to be approved by GPA. PMC shall maintain a minimum inventory of such parts at all times, and ensure that there is sufficient inventory of parts and materials required for the 24-hour operation of the Bulk Fuel Storage Facility. GPA and the PMC shall meet to establish minimum required inventory items and stock levels for regular plant operations and compliance with regulatory requirements. The

PMC shall also ensure that all equipment as required in OPA '90, SPCC Plan and FRP are available and that they are able to operate and deploy all these equipment when needed. Inventory Status Reports shall be submitted to GPA regularly as part of the monthly submission.

The PMC shall also complete and be guided by the requirements under Volume II of the Invitation for Bid Documents.

9.3.11 Performance Guarantees.

The PMC shall meet and comply with all Performance Guarantees stated in the Invitation for Bid.

9.3.12 Capital Improvement Projects (CIPs).

The PMC is responsible for identifying and recommending to GPA all future Capital Improvement Projects (CIPs) they deem necessary to contribute to the operational efficiency of the Bulk Fuel Storage Facility. The PMC shall fulfill responsibilities on Capital Improvement Projects as delineated in Volume II Section 3.6.2 of the Invitation for Bid.

The PMC shall coordinate with GPA in planning and forecasting the needs for the upgrade and/or major repair or replacement of facility equipment, capital improvement projects, and other expenditures for such major maintenance, equipment acquisition, and/or upgrade of the system. In the event that major expenditures are undertaken by the PMC (for expediency), said expenditures will require prior approval by GPA via formal written request and/ or proposals. GPA will reimburse such expenditures upon presentation of satisfactory documentation of expenditures. The PMC administrative charges for any CIPs with a one-time cost over \$10,000.00 shall not exceed 5%.

9.3.13 Uniformed Security.

PMC shall provide uniformed, un-armed security forces from an agency that is accredited as per Government of Guam Regulations, to patrol and safeguard the bulk fuel facility premises on a twenty-four (24) hours, seven (7) days a week basis. Expenses for security shall be under the PMC's Fixed Management Fee.

9.3.14 Grounds Maintenance.

PMC shall maintain and keep the GPA Bulk Fuel Storage Facility neat and clean at all times. PMC shall be responsible for ground maintenance of the tank dikes, impounding basin areas, pump station, operating and maintenance areas, and all others areas within the physical boundaries

of the GPA Bulk Fuel Storage Facility. PMC shall trim grass and cut vegetation and shall not cause any growth to come in contact with equipment, pumps, pipelines, fences and other appurtenances at anytime. Vegetation should be cleared at all times and kept at a distance of no less than 10 feet outside the fence. Expenses for Grounds Maintenance shall be under the PMC's O&M Budget.

9.3.15 Utilities and Transportation.

PMC shall pay for all charges from gas, electricity, light, power, communication, transportation, and other services used, rendered, or supplied upon or in connection with the continuous operations and maintenance of the fuel farm facilities, as part of their O&M Budget.

9.3.16 PMC's Financing Responsibilities.

The PMC shall have the financial capability to support its cash flow requirement associated with and to sustain the maintenance and operation costs of the facility, and shall comply with the requirements as stated in Volume II, Section 3.18 (Financing) of the IFB Documents.

9.3.17 GPA's Financing Responsibilities.

GPA will assume total funding of all capital and O&M expenditures, but reserve the option to seek funding assistance from the PMC. In the event the PMC provides funding, PMC and GPA shall mutually agree on acceptable compensation structure, as illustrated in Volume II, Section 3.18 Financing of the IFB Documents. GPA will reimburse the PMC in a timely manner for the expenses incurred by the PMC in conjunction with projects undertaken under the O&M Budget. The PMC shall present to GPA proof of expense which shall include invoices by vendors, receipts, certificates, proof of payments and delivery on site of materials, equipments, and other related goods and services, included in the invoice as claimed for reimbursement.

## **SECTION 10. QUANTITY AND QUALITY ASSURANCE**

PMC shall be solely responsible for the cost resulting from any direct damages due to losses in fuel quantity and/or failure in quality thereof, caused by the negligence of the PMC.

## **SECTION 11. FEDERAL AND LOCAL REGULATORY COMPLIANCE**

11.1 General Responsibilities.

The PMC shall be responsible for complying with all Environmental, Homeland Security, and other Federal and Local compliance requirements to include, but not limited to the following areas:

- (a) Mandatory membership with a qualified and certified Oil Spill Response Companies on Guam (OSROCO, etc.), as required by law, and to comply with the Oil Pollution Act of 1990 (OPA 1990).
- (b) Conduct all activities such as but not limited to monitoring, report submission and payments of fees, required to comply with all existing and applicable environmental regulations, requirements permits and plans. These include, but are not limited to:
  - OPA '90 / OPA '90 Facility Plan
  - SPCC Plan
  - Facility Response Plan
  - Facility Security Plan
  - NPDES permit
- (c) Establishment and maintenance of equipment required by the SPCC Plan and OPA '90 Facility plan in good operating condition at all times, and all others necessary to meet immediate response in case of oil spill or other form of incident that may cause danger to the environment.
- (d) Remediation of all oil spill incidents to the satisfaction of local and federal regulatory bodies.
- (e) Submit results of all audits, investigations and other local/federal activities to GPA.

#### 11.2 Environmental Compliance.

The PMC shall operate in compliance with all environmental requirements and is responsible for all required activities including but not limited to:

- (a) Monitoring of all tests and results and ensuring compliance with applicable rules and regulations;
- (b) Completion of all necessary corrective actions;
- (c) Conduction of tests on all water supply to comply with NPDES Permit;
- (d) Creation, development and updating of Standard Operating Procedures as required;
- (e) Monitoring all low volume waste streams to be within compliance with all local, federal and international regulations;
- (f) Completion of all activities to ensure compliance with all existing environmental permits and plans that include, but are not limited to the NPDES Permit, BMP, FRP, SPCC and OPA '90;

- (g) Compliance with GPA and Federal Spill Prevention Control and Countermeasures (SPCC) programs and policies to include implementation, monitoring and reporting;
- (h) Submission of all required reports including compliance schedules;
- (i) Record-keeping and equipment maintenance;
- (j) Payment of all applicable fees as stated in the various environmental permits and plans;
- (k) Payment of all penalties from non-compliance with any and all environmental requirements from local and federal bodies.

GPA's Planning and Regulatory Division shall support the PMC in meeting all environmental compliance requirements. P&R shall audit the PMC on a regular basis as a means of monitoring and ensuring that all requirements are satisfied. The PMC shall coordinate all activities on Environmental Compliance, including records and reports, to GPA's Planning and Regulatory Division (P&R). The PMC shall provide full cooperation during P&R's audits and monitoring activities. All corrective measures shall be completed no later than the specified date as required by P&R.

- 11.3 The PMC shall also comply with all other requirements pertaining to Environmental, Homeland Security and other Federal and Local Compliance Requirements as specified in Volume II of the Invitation for Bid.
- 11.4 If at any time during the term of the Contract the Government of the United States or the Territory of Guam, or other instrumentality or agency enacts laws or issues regulations which would require compliance by GPA, PMC shall comply 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 (except taxes, penalties, fees or other charges that may be imposed on PMC because of PMC's failure to make proper tax filings including requests for credits, exemptions, drawbacks or rebates). If the laws or regulation causes an increase or decrease in PMC's cost of performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of PMC for adjustment under this section must be asserted in writing within thirty (3) days from date of receipt by PMC of the notification of 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 "Disputes". However, nothing in this clause shall excuse the PMC from proceeding with the Contract in order to comply with Government laws, rules and regulations.

## **SECTION 12. OIL POLLUTION ACT OF 1990 (OPA '90)**

The PMC is responsible for compliance with the requirements and the oil spill and recovery provisions of the federal law Oil Pollution Act of 1990 (OPA '90 Act) as necessary for the operations of the Bulk Fuel Storage Facility.

## **SECTION 13. OPA'90 Requirement- Oil Spill Response Organization**

The PMC shall present by be or shall become a bona fide member of a certified Oil Spill Response Company on Guam that is duly recognized and approved by federal and regulatory bodies such as the US Coast Guard to fulfill the requirements of the Oil Pollution Act of 1990 (OPA'90). Otherwise, the PMC shall qualify to become an active member or **must secure** an oil spill response service contract with a certified Oil Spill Response Company. Proof of such membership or an oil spill response agreement must be provided to GPA within thirty (30) days of the date of the contract award. Failure to furnish and deliver to the Authority the required membership in the time and manner specified shall constitute a default and grounds for cancellation of Contract.

## **SECTION 14. FACILITY RESPONSE PLAN AND SPILL PREVENTION CONTROL AND COUNTERMEASURE PLAN**

GPA shall provide the existing Facility Response Plan (FRP) and Spill Prevention Control and Countermeasure Plan (SPCC).

The PMC shall review, edit, enhance and obtain regulatory approvals for any changes from the Federal Environmental Protection Agency, Region IX, San Francisco, for such plan as a mandatory requirement under the OPA Act 90, with the PMC as the operator and GPA as the facility owner. GPA shall be furnished with copies of these plans, to be submitted to:

- Manager of Generation (Generation Division)
- Planning and Regulatory Division

The PMC shall, on their own, purchase, maintain and operate or deploy all necessary oil spill equipment as required in the SPCC plan, as an in-house stock inventory.



## **SECTION 15. PROTECTION OF WORK AND PROPERTY**

The PMC shall at all times safely guard the OWNER's property from injury or loss in connection with this contract. He shall at all times safely guard and protect his own work and that of adjacent property (as provided by law and the contract documents) from damage. All passageways, guard fences, lights and other facilities required for protection by laws and regulations and local conditions must be provided and maintained.

## **SECTION 16. WARRANTY**

The PMC's obligation to deliver and perform services in connection therewith in accordance with the Agreement is absolute, and the PMC warrants and guarantees to OWNER that all services will be in accordance with the Contract Documents. The PMC shall provide OWNER with all warranties and guarantees in writing.

Except as otherwise specified all work shall be guaranteed by the PMC against defects resulting from the use of inferior materials, equipment, or workmanship for one year from the date of final completion of any repairs or replacements.

If within any guarantee period, repairs or changes are required in connection with guaranteed work which, in the opinion of the OWNER, is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, the PMC shall promptly upon receipt of notice from OWNER and without expense to the OWNER:

- (a) Place in satisfactory condition in every particular all of such guaranteed work and correct all defects therein; and
- (b) Make good all damages to the building or site or equipment or contents thereof which, in the opinion of the OWNER, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract.

In any case wherein fulfilling the requirements of the contract or of any guarantee embraced in or required thereby the PMC disturbs any work guaranteed under another contract, he shall restore such disturbed work to a condition satisfactory to the OWNER and guarantee such restored work to the same extent as it was guaranteed under such other contract.

If the PMC, after notice, fails to proceed promptly to comply with the terms of the guarantee, the OWNER may have the defects corrected and the PMC and his surety shall be liable for all expense incurred.

All special guarantees applicable to definite parts of the work shall be stipulated in the specifications or other papers forming a part of the contract and shall be subject to the terms of this paragraph during the first year of the life of such special guarantee.

In the event the PMC furnishes special services for installation and startup, such services shall be rendered in a competent and diligent manner and in accordance with the Contract Documents, accepted industry practice and any applicable professional standards.

## **SECTION 17. DEFECTIVE WORK**

No work or material which may be defective in construction or quality or deficient in any of the requirements of the drawings and specifications will be considered accepted as a consequence of the failure of the OWNER to discover or to point out said defects or deficiencies during the construction; nor will the presence of inspectors on the work relieve the PMC from the responsibility of securing the quality and progress of work as required by these specifications.

Any defective work that may be discovered before the completion of the work or within such time as required by the bond shall be replaced by work and materials that shall conform to the spirit and intent of the drawings, specifications and contract.

The fact that the OWNER may have overlooked defective work shall not constitute the acceptance of work. NO PAYMENT WHETHER PARTIAL OR FINAL SHALL BE CONSTRUED TO BE AN ACCEPTANCE OF DEFECTIVE WORK OR IMPROPER MATERIALS.

The OWNER may at any time by order given in writing stop any work not being done according to drawings and specifications and any order so given shall not in any way relieve the PMC from completing his contract and shall not in any way terminate, cancel or abrogate the contract or any part thereof, and the Government of Guam shall not in any way be responsible for the delay due to stopping the work as aforesaid.

## **SECTION 18. INSPECTION OF WORK**

### **18.1 Access to the Work.**

Authorized GPA representatives shall have access at all times to the work for inspection whatever it is in preparation or progress and the PMC shall provide proper facilities for such access and inspection.

18.2 Inspectors.

Inspectors may be placed by the OWNER to supervise each and every subdivision of the work or any parts or process thereof. The authorized inspectors shall have free access to all parts of the work at all times and shall be given every facility, information and means of thoroughly inspecting the work done and the materials used or to be used. The inspectors shall at all times be free to perform their duties and any intimidation of any inspector by the PMC or the employees thereof shall be sufficient reason, if the OWNER shall so decide, to annul the contract.

## **SECTION 19. DEFAULT**

In the event either party of this Contract fails to perform any of the provisions of this Contract, the other party must notify the party in default in writing of the deficiency or non-performance. The party in default has thirty (30) calendar days in which to remedy such default. If such default is not cured within thirty (30) calendar days, the other party may terminate all or part of the Contract. Events of default include but are not limited to the following:

- (a) Failure of PMC to provide evidence of an acceptable performance bond on specified time.
- (b) Failure of the OWNER to pay invoices within 30-days of receipt.
- (c) Failure of PMC to adhere to the terms of the Contract.

## **SECTION 20. LICENSES, PERMITS, TAXES, AND RESPONSIBILITIES**

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

## **SECTION 21. SUBCONTRACTS**

Nothing contained in the contract documents shall be construed as creating any contractual relationship between any sub-PMC and the OWNER. The diffusion or sections of the specifications are not intended to control the PMC in dividing the work among its sub-contractors or to limit the work performed by any trade.

The PMC shall be as fully responsible to the OWNER for the acts and omissions of the PMC's sub-contractors and of persons employed by them, as he is for the acts and omissions of persons directly employed by him.

The PMC shall be responsible for the coordination of the sub-contractors engaged in his work.

The PMC shall, without additional expense to the OWNER, utilize the services of specialty sub-contractors on those parts of the work which are specified to be performed by specialty sub-contractors.

The OWNER will not undertake to settle any differences between the PMC and his sub-contractors or between sub-contractors.

The PMC shall cause appropriate provisions to be inserted in all subcontracts relative to the work including waiver of mechanics liens to bind its sub-contractors by the terms of the contract documents insofar as applicable to the work of sub-contractors and to give the OWNER any exercise over the PMC under any provisions of the contract documents.

## **SECTION 22. ASSIGNMENT OF AGREEMENT**

The PMC shall not assign the whole or any part of this contract or any monies due or to become due hereunder without the written consent of the OWNER and of all the sureties executing any bonds on behalf of the PMC in connection with said contract. In case the PMC assigns the whole or any part of said contract or assigns all or any part of any monies due or to become due under said contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due the PMC or otherwise shall be subject to all of the terms and conditions of said contract or supplemental thereto, the rights and remedies of the OWNER thereunder or arising by operation of the law and to the liens of all persons, firms, and corporations for services rendered or materials supplied in connection with the performance of said contract.

## **SECTION 23. EQUAL OPPORTUNITY**

23.1 The PMC will not discriminate against any employee or applicant for employment because of race, religion, sex, color, age, economic status, or national origin. The PMC will take affirmative action to insure that qualified applicants are employed and that employees are treated during employment without regard to their race, religion, sex, color, age, economic status, or national origin. Such action

shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoffs or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The PMC agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the OWNER setting forth the provisions of this nondiscrimination clause.

- 23.2 The PMC will, in all solicitations or advertisements for employees placed by or on behalf of the PMC, state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color, age, economic status, or national origin.
- 23.3 The PMC will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the OWNER, advising the said labor union or workers' representative of the PMC's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

#### **SECTION 24. 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 25. RESTRICTION AGAINST PMC EMPLOYING CONVICTED SEXOFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES**

GCA 5 §5253(b) restricts the CONSULTANT 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 PMC 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 PMC 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 26. CLAIMS AND DISPUTES**

All controversies between the OWNER and the PMC which arise under, or are by virtue of, this Contract and which are not resolved by mutual agreement of the parties shall be decided as set forth in 5 G.C.A §5427 of the Guam Procurement Law.

#### **SECTION 27. TERMINATION FOR CONVENIENCE**

GPA may terminate the performance of the services under this Contract in accordance with this clause in whole, or in part, whenever GPA determines that such termination of Contract is in the best interest of the Guam Power Authority and its ratepayers.

Any such termination is effected by delivery to the PMC a written Notice of Termination specifying the extent to which services in the Contract is terminated in whole or in part. In the event the OWNER elected to terminate the Contract it shall be effective sixty (60) days after the receipt of such Notice of Termination.

#### **SECTION 28. SURRENDER OF PREMISES**

Upon voluntary or other termination of this Contract or any early termination of the term from whatever cause, PMC shall voluntarily surrender and deliver to GPA the premises, including all buildings, alterations, replacements, changes, additions, and improvements constructed, erected, added or placed on the premises, in as good condition and repair and as clean as the commencement of the term, and as any new buildings, structures, replacements, additions or improvements constructed, erected, added or placed on the premises by the PMC were when completed, with ordinary wear and tear excepted. In the event that the PMC is not able to repair or replace such defective, damaged or lost properties, the cost for such repair or replacement shall be deducted from the PMC's good Performance Bond.

**SECTION 29. FAILURE TO COMPLY WITH LAWS**

In the event the PMC 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 PMC'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 Guam, OWNER may in its sole discretion terminate this Contract upon 30 days written notice.

**SECTION 30. 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.

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 estoppels against, the right of such party to require such performance by the other. Nor shall any such failure to object constitute a waiver or estoppels with respect to any succeeding failure of performance.

**SECTION 31. GOVERNING LAW**

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. 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 PMC waives all rights against OWNER to claim consequential, special or punitive damages.

### **SECTION 32. RELATIONSHIP OF PARTIES**

Nothing contained in the Contract as awarded to the successful offeror 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 PMC and OWNER, and no provisions contained in the Contract nor any acts of the parties shall be deemed to create any relationship between OWNER and PMC, other than the relationship of supplier of services and beneficiary.

### **SECTION 33. NOTICE TO OTHER PARTY**

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

### **SECTION 34. NOTICES**

Any notice, demand or any document required or permitted to be delivered hereunder shall be in writing and may be delivered personally or shall be deemed to be delivered when deposited in the mail, postage prepaid, registered or certified mail, addressed to the parties at their respective address indicated below:

To: \_\_\_\_\_

(PMC)

FAX Number: \_\_\_\_\_

Address: \_\_\_\_\_

TO: GUAM POWER AUTHORITY

Attention: General Manager

FAX Number (671) 648-8163

P.O. Box 2977, Hagatna

Guam 96932-2977



## SECTION 35. PMC'S AND ITS SUB-CONTRACTOR'S INSURANCE

### 35.1. Mandatory Insurance Requirements.

Prior to commencing the work, PMC shall obtain and thereafter maintain during the course of the work Insurance with companies acceptable to GPA. The PMC shall not allow any sub-contractor to commence work on his subcontract until all similar insurance required of the sub-contractor has been so obtained and approved. The minimum limits of insurance shall be as follows unless a higher limit is required by statute:

- A. **General Liability Insurance** including products, completed operations and contractual liability coverage in the amount of \$2,000,000 per occurrence and \$2,000,000 aggregate.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. Cancellation clause of minimum 90 days' prior written notice to GPA.
    1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- B. Commercial Auto Liability insurance covering third party bodily injury and property damage in the amount of \$1,000,000 combined single limit per occurrence.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. MCS 90 Endorsement
  - v. Cancellation clause of minimum 90 days' prior written notice to GPA.
    1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- C. Excess Liability insurance over the General Liability and the Commercial Auto Liability with limits of \$10,000,000 or higher per occurrence/ \$10,000,000 aggregate.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. MCS 90 Endorsement
  - v. Cancellation clause of minimum 90 days' prior written notice to GPA.
    1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- D. Worker's Compensation and Employer's Liability Insurance – Statutory Limits.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as an Additional Insured.
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. Cancellation clause of minimum 90 days' prior written notice to GPA.
    1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.
- E. Professional Liability Insurance including in the amount of \$1,000,000 each claim.
  - i. Policy must be primary and non-contributory with endorsements attached.
  - ii. GPA shall be named as a NAMED INSURED
  - iii. GPA shall be named as Loss Payee
  - iv. Cancellation clause of minimum 90 days' prior written notice to GPA.
    1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.

## F. PMCs All Risk or Builders Risk Insurance

- i. Minimum Limits, deductibles, sub-limits, coverage, and property descriptions per contract or project description.
- ii. Policy must be primary and non-contributory with endorsements attached.
- iii. GPA shall be named as a NAMED INSURED
- iv. GPA shall be named as a Loss Payee
- v. Waiver of subrogation shall be in favor of GPA
- vi. Cancellation clause of minimum 90 days' prior written notice to GPA.
  - 1. GPA must be given minimum 90 days' prior written notice for any material changes in the policy or cancellation of the policy.

If applicable, fuel /hazardous materials transport:

- G. General Liability and the Commercial Auto Liability with limits of \$5,000,000 or higher per occurrence.
- i. Policy must be primary with primary wording endorsement attached.
  - ii. GPA shall be named an additional insured
  - iii. Waiver of subrogation shall be in favor of GPA
  - iv. Cancellation clause of minimum 60 days' prior written notice to GPA
  - v. Policy must have MCS 90 Endorsement

**All policies must contain the following endorsement and on the Certificate of Insurance:**

- H. Cancellation Clause of minimum 90 days' prior written notice to GPA.

GPA must be given minimum 90 days' prior written notice before any material changes in the policy or cancellation of the policy can take effect. Written notice must be addressed to:

Guam Power Authority  
Chief Financial Officer  
PO BOX 2977  
Hagatna, GU  
96932-2977

Certificate of insurance must contain this wording to be acceptable.

35.3. Certificate of Insurance.

PMC shall furnish certificates of insurance and waiver of subrogation endorsement to GPA prior to commencement of work showing evidence of such coverage, including the statement to the effect that cancellation or termination of the insurance shall not be effective until at least (10) days after receipt of written notice to GPA. At all times PMC's insurance shall be primary to any other insurance that may be carried by GPA. The statement of limits of insurance coverage shall not be construed as in any way limiting the PMC's liability under this agreement. GPA shall be an additional insured on all liability coverage and certificates of insurance shall clearly indicate such.

35.4. Insurance Company and Agent.

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

### **SECTION 36. INDEMNITY**

The PMC shall indemnify, defend and hold harmless owner against all loss, damage, or expense (including reasonable attorney's fees incurred by owner) arising out of the performance of the work, including injury or death to any person or persons resulting from the acts or omission of the PMC or the PMC's employees, servants, agents or sub-contractors and from mechanics and materialism liens.

### **SECTION 37. GPA INSURANCE**

GPA agrees that it will keep the property and machinery and equipment insured, at a minimum, against loss or damage by fire with extended coverage endorsement for full replacement value as determined by GPA from time to time. Such insurance shall be issued by financially responsible insurers duly authorized to do business in the state or territory where the property is located and shall contain the standard form of waiver of subrogation. The insurance company shall be required to give GPA not less than thirty days (30) notice in the event of cancellation or material alteration of such coverage. Nothing contained herein shall be construed as creating any liability or responsibility on the part of the PMC for the adequacy of insurance coverage on the property. As to any insurable risks of loss or damage to the property and machinery and equipment not required to be insured hereunder, GPA shall bear the cost of the same. GPA shall be deemed to be self-insured as to the deductible or co-insurance amount applicable to such insurance coverage and shall pay any deductible or co-insurance amount applicable in the event of such loss or damage.

### **SECTION 38. WAIVER OF SUBROGATION**

The parties hereby release each other and their respective officers, employees, and agents from all loss or damage to the Premise property, machinery and equipment and to the fixtures, personal property, equipment and improvements of either GPA or PMC in or on the Property, notwithstanding that any such loss or damage may be due to or result from the negligence of either of the parties or their respective officers, employees or agents. This waiver does not apply to maintenance and repair assumed under this contract by the PMC.

### **SECTION 39. ACCIDENT PREVENTION**

Precaution shall be exercised at all times for the protection of persons (including employees) and property. Equipment and all hazards shall be guarded or eliminated in accordance with the safety provisions of the

latest edition of the Manual of Accident Prevention in Construction published by the Associated General Contractors of America to the extent that such provisions are not in contravention of applicable laws.

Should typhoon warnings be issued, the PMC shall take every practicable precaution to minimize damage and/or danger to persons, to the work, and to the adjacent property. These precautions shall include closing all openings, removing all loose materials, tools and/or equipment from exposed locations, and removing or securing scaffolding and all other temporary work.

#### **SECTION 40. RESPONSIBILITY OF PMC TO ACT IN EMERGENCY.**

In case of an emergency which threatens loss or injury of property and/or safety or life, the PMC shall act, without previous instructions from the OWNER, as the situation may warrant.

#### **SECTION 41. FORCE MAJEURE.**

No failure or omission 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 if the same shall be caused by or arise out of:

- (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 of 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 of Tankers. Loss of tanker tonnage due to sinking or capture by belligerents, to include acts of piracy or to governmental taking whether or not by formal requisition;

- (h) Accidents. Accidents to or adjuncts of shipping navigation;
- (i) Strikes and Quarantine. 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 confiscate, retain, ban export, or otherwise prevent shipment of fuel;
- (l) Mechanical Breakdown. Unavailability of GPA's electric generating plant and any, or all, appurtenances thereto, including transmission and distribution facilities, due to any mechanical operate as designed, emergency outages of equipment or facilities for the purpose of making repairs to avoid breakdown thereof or damage thereto other than regularly scheduled repairs or regular maintenance; or
- (m) 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 42. ATTORNEY'S FEES AND COSTS**

PMC agrees that should a default by either party result in litigation, the successful party shall be entitled to recover its costs and reasonable attorney's fees from the defaulting party.

#### **SECTION 43. CONTRACT BINDING EFFECT**

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

This Contract is binding upon the **PMC** only if **PMC** has been awarded the Contract in response to the **MS IFB GPA- -21**. This Contract is subject to the approval of **GPA** and the Public Utilities Commission and it shall not be binding on part of **GPA** until such approval is made as evidenced by the signatories below.

IN WITNESS WHEREOF the parties hereto have executed this contract as of the day and year first written.

PMC:

OWNER:

(COMPANY NAME AND SEAL)

**GUAM POWER AUTHORITY**

\_\_\_\_\_

\_\_\_\_\_

JOHN M. BENAVENTE, P.E.

General Manager

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

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

CERTIFIED AS TO FUNDS AVAILABLE:

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

By: \_\_\_\_\_

PAMELA AGUIGUI

GPA'S Certifying Officer

Account No. \_\_\_\_\_

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

APPROVED AS TO FORM:

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

By: \_\_\_\_\_

D. GRAHAM BOTHA, Esq.,

GPA Staff Attorney

**PERFORMANCE AND PAYMENT BONDS**

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_

\_\_\_\_\_  
(Name of PMC)

herein after called the PMC and \_\_\_\_\_

\_\_\_\_\_  
(Name of Surety)

a corporation duly organized under the laws of the State of \_\_\_\_\_

(hereafter referred to as: "Surety") authorized to transact business in Guam as Surety, are held and firmly bound unto the Guam Power Authority, as obligee, for use and benefit of claimants as herein below defined, in the amount of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment whereof the PMC and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PMC has by written agreement dated \_\_\_\_\_, 20\_\_\_\_, entered into a Performance Management Contract for the Guam Power Authority Bulk Fuel Storage Facility in accordance with Drawings and Specifications prepared by the Guam Power Authority, which Contract is by reference made a part hereof, and is hereafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the PMC shall promptly and faithfully perform said Contract, and shall promptly make payment to all claimants as hereinafter defined for all labor and material used or reasonably required for use in the performance of the Contract, then this

obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

- A. The Surety hereby waives notice of any alteration or extension of the time made by the Guam Power Authority provided the same is within the scope of the Contract.
- B. Whenever PMC shall be and is declared to be in default under the Contract by the Guam Power Authority, and the Guam Power Authority has performed its Contract obligations, 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 of the lowest responsive, responsible bidder, arrange for a Contract between such bidder and the 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 than 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 PMC under the Contract and any amendments thereto, less the amount properly paid by the Guam Power Authority to PMC. 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 Authority.
- C. A claimant is defined as one having a direct contract with the PMC, or with a sub-contractor of the PMC for labor, material, or both, used or reasonably required for use in the performance of the Contract labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.



- D. The above-named PMC and Surety hereby jointly and severally agree with the Guam Power Authority that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) calendar days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Guam Power Authority shall not be liable for the payment of any costs or expenses of any such suit.
- E. No suit or action shall be commenced hereunder by a claimant:
1. Unless claimant, other than one having a direct contract with the PMC, shall have given written notice to any two of the following:  
  
The PMC, the Guam Power Authority, or the Surety above named, within ninety (90) calendar days after such claimant did or performed that last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be personally served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PMC at any place the principal maintains an office or conducts it business.
  2. After the expiration of one (1) year following the date on which the last of the labor was performed or material was supplied by the party bringing suit.
  3. Other than in a court of competent jurisdiction in and for Guam.
- F. The amount of the payment bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens, which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

SIGNED AND SEALED THIS \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

IN THE PRESENCE OF:

(Note: If the Principles are Partners, each  
must execute the Bond)

---

(WITNESS)

---

(PMC) (SEAL)

---

(TITLE)

---

---

(MAJOR OFFICER OF SURETY)

---

(MAJOR OFFICER OF SURETY)

---

(TITLE)

---

(TITLE)

---

# **Invitation For Multi-Step Bid**

**No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT  
FOR  
THE GUAM POWER AUTHORITY'S BULK FUEL STORAGE FACILITY**



**Volume V**

**APPENDICES**

## **APPENDIX A**

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# **Proposal Checklists**

**DOCUMENT RECEIPT CHECKLIST**

<b>Document Title</b>	<b>Proponent Initial</b>
Volume I Commercial Terms and Conditions	_____
Volume II Technical and Functional Requirements	_____
Volume III Facility Technical Description	_____
Volume IV CONTRACT	_____
Volume V Appendices	_____
Volume VI Schedules	_____
Qualitative Proposal Scoring.xls	_____
Price Proposal Evaluation	_____
Contiguous Amendment Notifications From Amendment No. 1 through	_____
Others:	_____
	_____
	_____
	_____
	_____
	_____

**DOCUMENT SUBMISSION CHECKLIST****PROPOSAL SUBMITTAL CHECKLIST<sup>1</sup>**

	<b>ITEM</b>	<b>QUANTITY (ORIGINALS)</b>	<b>QUANTITY (COPIES)</b>	<b>GPA INITIAL</b>
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	_____	_____	_____
	3.12. Business License	_____	_____	_____

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

## **APPENDIX B**

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# **BID BOND FORM AND INSTRUCTIONS**



# GUAM POWER AUTHORITY

ATURIDÂT ILEKTRESEDÂT GUÅHAN  
P.O.BOX 2977 • HAGÂTNÂ, 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.govguamdocs.com/revtax/docs/SwornAnnualReport\\_LLC\\_0609.pdf](https://www.govguamdocs.com/revtax/docs/SwornAnnualReport_LLC_0609.pdf)  
[https://www.govguamdocs.com/revtax/docs/SwornAnnualReport\\_Corporations.pdf](https://www.govguamdocs.com/revtax/docs/SwornAnnualReport_Corporations.pdf)  
[https://www.govguamdocs.com/revtax/docs/Renewal\\_LLP\\_Registration\\_r1106.pdf](https://www.govguamdocs.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 C**

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# **Ownership & Interest Disclosure Affidavit**



# GUAM POWER AUTHORITY

ATURIDĀT ILEKTRESEDĀT GUĀHAN  
P.O.BOX 2977 • HAGĀTŊA, 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.

OWNERSHIP & INTEREST DISCLOSURE AFFIDAVIT

TERRITORY OF GUAM )  
 )  
HAGATNA, GUAM )

I, undersigned, \_\_\_\_\_, being first duly sworn, deposes and says:  
(partner or officer of the company, etc.)

1. That the name of each person who owns or has owned an ownership interest in the prospective contractor, bidder, or offeror greater than ten (10%) at any time during the twelve (12) month period immediately preceding the date of this solicitation are as follows:

<u>Name</u>	<u>Street Address (Principal Place of Business)</u>	<u>Percentage of Shares Held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
Total percentage of shares:		_____

2. That for any owners listed Section 1 who are artificial persons, the name of each person who owns or has owned an interest in such artificial person (a “second-tier owner”) greater than twenty-five percent (25%) at any time during the relevant disclosure period are as follows:

<u>Name</u>	<u>Street Address (Principal Place of Business)</u>	<u>Percentage of Shares Held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
Total percentage of shares:		_____

3. That for any owners listed Section 2 who are artificial persons, 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 are as follows:

<u>Name</u>	<u>Street Address (Principal Place of Business)</u>	<u>Percentage of Shares Held</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
Total percentage of shares:		_____

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 &amp; 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 &amp; 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 &amp; Position</u>	<u>Street Address (Principal Place of Business)</u>	<u>Contact Information</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

Further, affiant sayeth naught.

Date: 

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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 

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 day of 

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 ,  
20 

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 .

Notary Public 

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In and for the Territory of Guam

My Commission expires 

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## **APPENDIX D**

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# **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 \_\_\_\_\_, 2022.

)Seal(

\_\_\_\_\_  
Notary Public



## **APPENDIX E**

---

# **LOCAL PROCUREMENT PREFERENCE APPLICATION**



Lourdes A. Leon Guerrero  
I Maga 'håga

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

Joshua F. Tenorio  
I Sigundo Maga 'lâhi

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 F**

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# **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  
 \_\_\_\_\_,  
 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 \_\_\_\_\_,  
 20\_\_\_\_, entered into a **PERFORMANCE MANAGEMENT CONTRACT (PMC) FOR  
 THE GPA's BULK STORAGE FACILITY** 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 G**

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# **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

SUBCRIBED AND SWORN to before me this \_\_\_\_day of \_\_\_\_\_, 2022.

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

## **APPENDIX H**

---

# **Ethical Standards Affidavit**



## HAGATNA, GUAM

**SS:**

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 \_\_\_\_\_, 2022.

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

## **APPENDIX I**

---

# **DECLARATION OF COMPLIANCE WITH U.S. DOL 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 \_\_\_\_\_, 2022.

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

## **APPENDIX J**

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**Restriction 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 K**

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# **BIDDER's PROPOSAL COVER PAGE**

**[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 Bid GPA-015-22: PERFORMANCE MANAGEMENT CONTRACT FOR**  
**THE GPA BULK FUEL STORAGE FACILITY**

Signature and Title of Person  
 Authorized to Sign this Bid:

DATE:

---



---

Name and Address of BIDDER;

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**Invitation For Multi-Step Bid**

**No. GPA-015-22**

**PERFORMANCE MANAGEMENT CONTRACT**

**FOR THE**

**GUAM POWER AUTHORITY  
BULK FUEL STORAGE FACILITY**



**Volume VI**

**SCHEDULES**



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<b>Schedule C</b>	Pump Specifications
<b>Schedule D</b>	Office Building Floor Plan
<b>Schedule E</b>	Fuel Farm Facility Organization Chart

## SCHEDULE A

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# Fuel Supply Specifications

## SCHEDULE A

## 1. Diesel Fuel Oil No.2 Specification

DESCRIPTION	ASTM TEST METHOD	UNIT OF MEASURE	LIMITS	
			Minimum	Maximum
Flash Point	D93	deg C	60	
Cloud Point	D2500	deg C		5
Bottom Sediment & Water	D2709	vol %		0.05
Distillation Temp, 10% recovered	D86	degC	180	230
Distillation Temp, 50% recovered	D86	degC	230	310
Distillation Temp, 90% recovered	D86	degC	282	360
Distillation Temp, 95% recovered	D86	degC	300	370
Kinematic Viscosity	D445	mm <sup>2</sup> /s at 40 degC	1.9	4.1
Total Aromatic Hydrocarbons	D6591 or IP391	wt%		30
Dicyclic Aromatic Hydrocarbons	D6591 or IP391	wt%		5
Tricyclic and higher Aromatic Hydrocarbons	D6591 or IP391	wt%		1
Olefin Content	D1319	vol%		5
Ash	D482	wt%		0.01
Sulfur	D4294 or D5453 or D7039	ppmw		10
Sulfur Mercaptan	D3227	ppmw		3
Copper Strip Corrosion Rating (3hrs min at 50oC)	D130			No. 1
Cetane Index	D613 or D976-80 or D4737		46	
Carbon Residue on 10% distillation residue	D189 or D524 or D4530 or D6371	wt%		0.2
Lubricity, HFRR @ 60oC	D6079	micron		400
Conductivity	D2624 or D4308	pS/m	100	600
Density @ 15oC	D4052 or D1298	kg/m3	820	850
Gravity, API @ 60oF	D1295 or D4052		35	41
Color	D1500			2.0
Hydrogen Sulfide in Liquid	IP 570A	mg/kg		2.0
Strong Acid No.	D974	mg KOH/g		Nil
Total Acid No.	D974	mg KOH/g		0.2

Odour	Indirect			Merchantable
Stability (Oxidation), 16Hrs	D2274	mg/L		20
Appearance @ ambient temp	D4176			Clear, bright and free from particulates and water
Haze Rating	D4176			1 <sup>1</sup>
Particulate Matter (Max. 10 micron)	D6217	mg/L		4
Water content	D6304	mg/kg		100
Filter Blocking Tendency (FBT)	D2068 or IP387			1.35
Fatty Acid Methyl Ester (FAME)	D7371-14 or EN14078	vol%		0.1
Guaranteed Heating Value (HHV)	D240	MMBTU/bbl	5.70	
Static Dissipation Additives (Stadis 450)	Declared			Report
Lubricity Additive	Declared			Report
Biodiesel Content	Declared			NIL
Virgin Vegetable & Animal Oils	Declared			NIL
Unhydrotreated Cracked Components	Declared			NIL
Na	D7111	ppmw		0.1
K	D7111	ppmw		0.1
Ca	D7111	ppmw		0.1
V	D7111	ppmw		0.1
Pb	D7111	ppmw		0.1
Ni	D7111	ppmw		0.1
Zn	D7111	ppmw		0.1
Cu	D7111	ppmw		0.1
Ba	D7111	ppmw		0.1

<sup>1</sup> Haze rating 1: No visible free water, particulates or sediment

## 2. Residual Fuel Oil No.6 Specification

Item	Test Parameter	Unit of Measure	Approved Test Method	Acceptable Alternate Test Methods	Minimum Allowed Value	Maximum Allowed Value	Comments
1	<b>Sulphur Content</b>	% mass	ASTM D-4294	ASTM D-2622	N/A	HSFO = 2.00 LSFO = 1.19 ULSFO = 0.20	
2	<b>Sulphur Mercaptan</b>	Ppm (g/kg)	ASTM D-3227	UOP 163		100	
3	<b>Pour Point</b>	Deg C	ASTM D-97	N/A	N/A	21	
4	<b>Flash Point</b>	Deg C	ASTM D-93	N/A	66	N/A	
5	<b>Kinematic Viscosity</b>	cSt at 50 °C	ASTM D-445	ASTM D-2161		175	
6	<b>Sediment By Extraction</b>	% mass	ASTM D-473	N/A	N/A	0.10	
7	<b>Water By Distillation</b>	% by Volume	ASTM D-95	N/A	N/A	0.50	
8	<b>Vanadium Content</b>	Parts Per Million	ASTM D-5708	a)ASTM D-5184 b)ASTM D-5863 c) IP 501 d) IP 433 e) ISO 14597	N/A	90	
9a	<b>Silicon Content</b>	Parts Per Million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A	Combined Al + Si Not to exceed 70 ppm.  Al not to exceed 30 ppm.	Individual results to be reported separately
9b	<b>Aluminum Content</b>	Parts Per Million	ASTM D-5184	a) IP 470 b) IP 377 c) ISO 10487 d) IP 501	N/A		
10	<b>Guaranteed Gross Heating Value (HHV)</b>	Million BTU Per US Barrel	ASTM D-240	N/A	6.10	N/A	
11	<b>Micro- Carbon Residue</b>	% mass	ASTM D-4530	ASTM D-5245 ASTM D-189	N/A	13	
12	<b>Ash</b>	% mass	ASTM D-482	N/A	N/A	0.10	
13	<b>Asphaltenes</b>	% mass	ASTM D-6560	IP 143	N/A	5	
14	<b>Sodium</b>	Ppm	ASTM D-5863/B	ASTM D-5708/B IP288 IP 501	N/A	40	
15a	<b>Total Sediment (Existent)</b>	% mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.10	
15b	<b>Total Sediment (Potential)</b>	% mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.10	
15c	<b>Total Sediment (Accelerated)</b>	% mass	ISO 10307-2	ASTM D-4870 IP 377	N/A	0.10	
16	<b>Compatibility</b>	a) Cleanliness ratio b) Compatibility ratio	ASTM D-4740	N/A	N/A	a) 1 b) 1	a) to be reported from load port b) to be determined on arrival Guam unless otherwise notified in the specific instance. See Note.
17	<b>API Gravity</b>		ASTM D-287	ASTM D-1298 and conversion	11.8	23.0	
18	<b>Density @ 15 °C</b>	Kg/L	ASTM D-287	ASTM D-1298 ASTM D-4052		0.9870	
19	<b>Odor</b>				Report		See Note
20	<b>Hydrogen Sulfide content</b>	Mg/kg	IP-399	IP-570	N/A	2.0	See Note

	(in liquid phase)						
21	Used lubricating Oil (ULO)				The fuel shall be free of ULO		See note
	Zinc	Mg/kg	IP 501	IP 470		10	
	Phosphorus	Mg/kg	IP 501	IP 500		10	
	Calcium	Mg/kg	IP 501	IP 470		30	

SCHEDULE B

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Fuel Farm Facility Lay Out and  
Pipeline Diagram

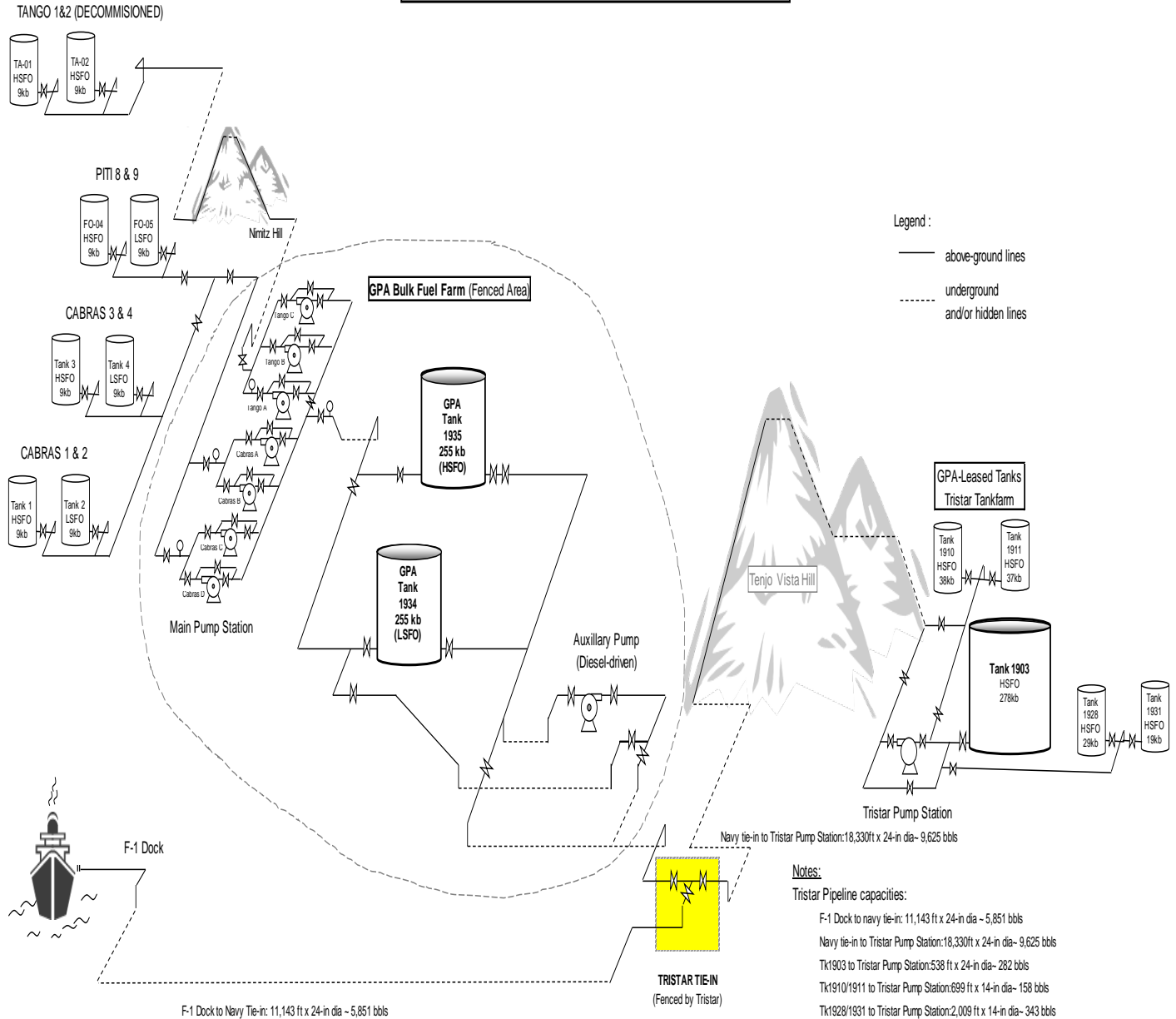
## **SCHEDULE B**

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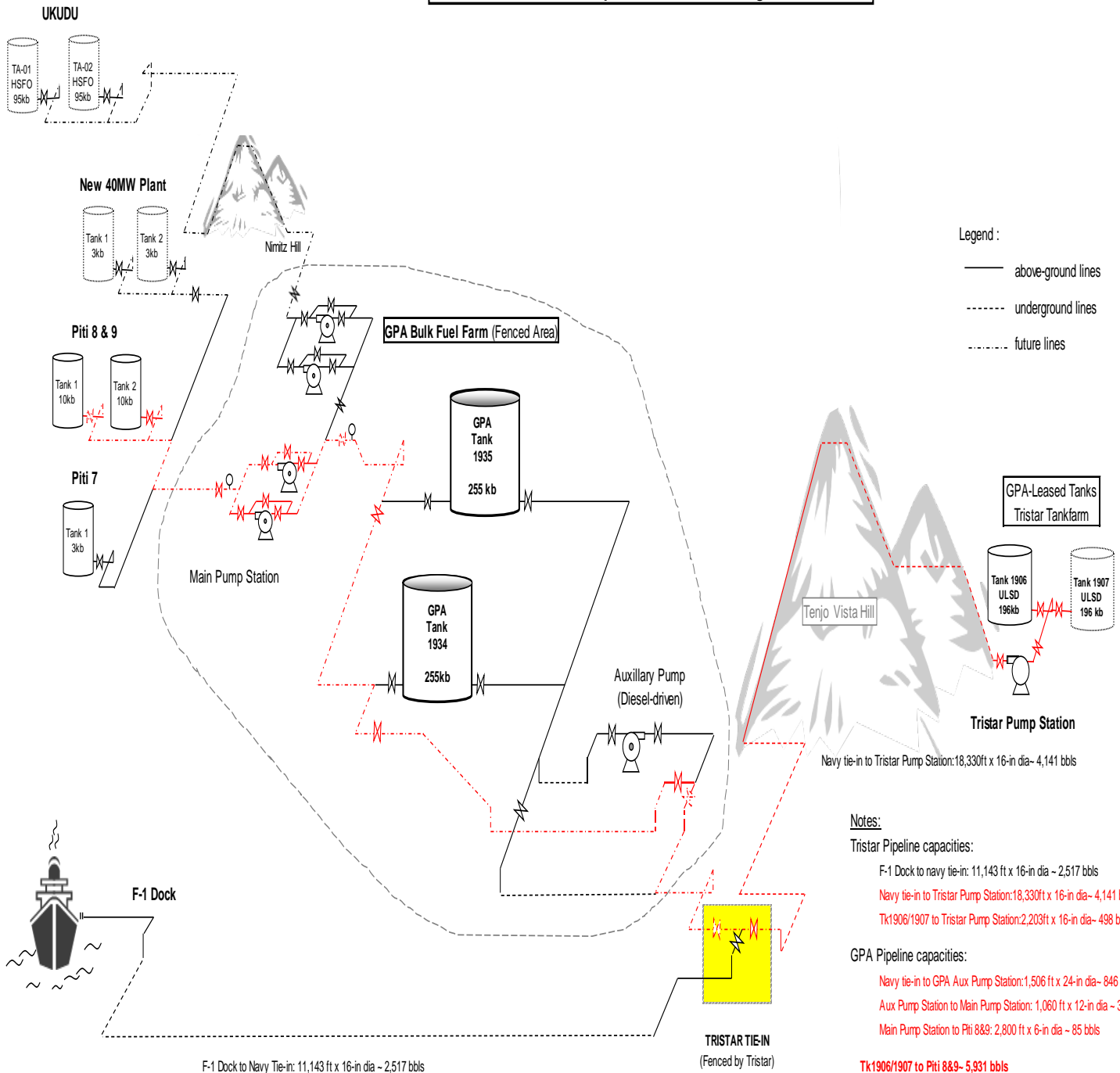
# **Fuel Farm Facility Lay Out Tanks and Pipeline Diagram**



# Current Tanks and Pipeline Schematic Diagram - RFO



### Future Tanks and Pipeline Schematic Diagram-ULSD



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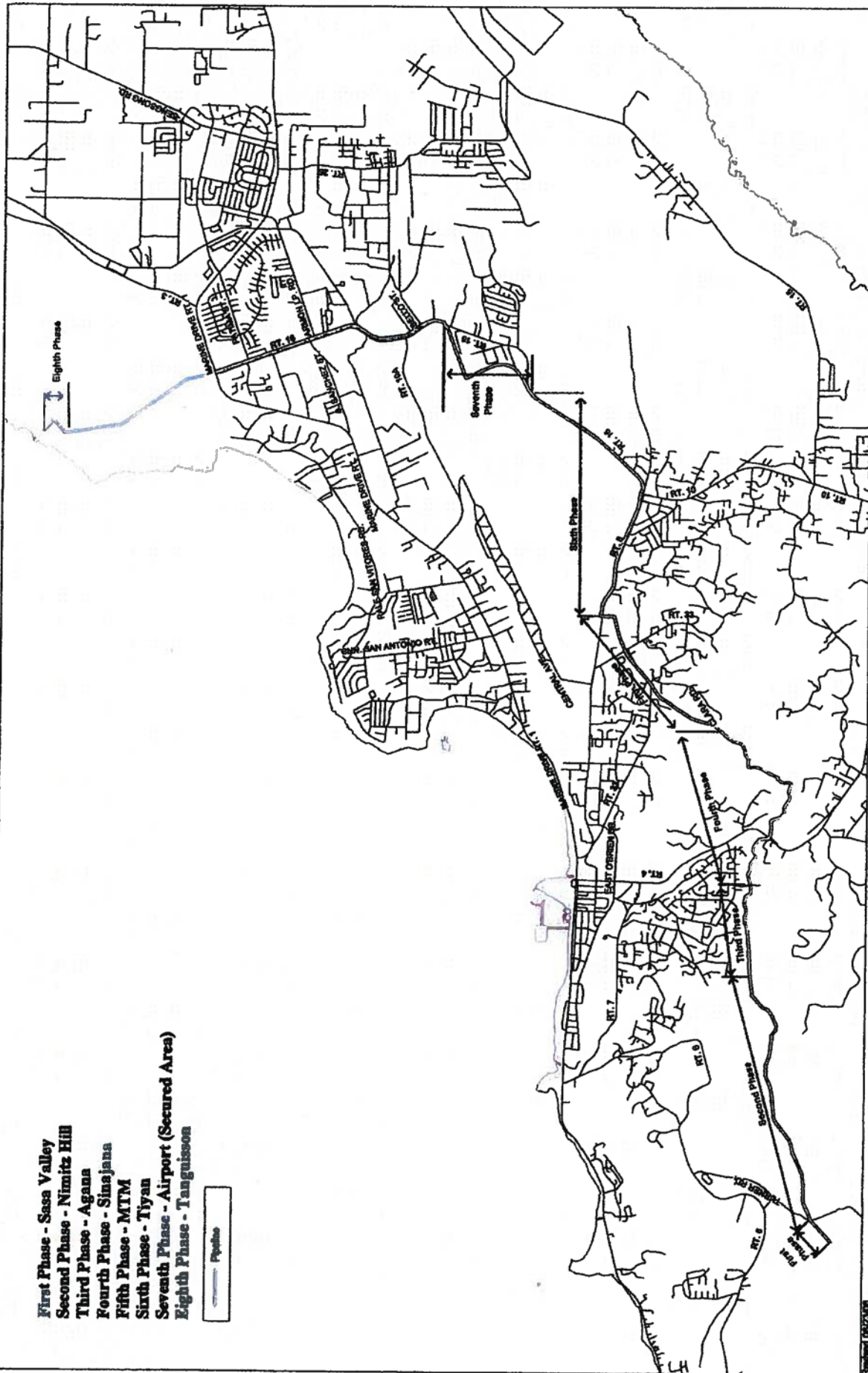
## Pipeline Diagram

(

# TANGUISSON PIPELINE

First Phase - Sasa Valley  
 Second Phase - Nimitz Hill  
 Third Phase - Agana  
 Fourth Phase - Sinsajana  
 Fifth Phase - MTM  
 Sixth Phase - Tiyan  
 Seventh Phase - Airport (Secured Area)  
 Eighth Phase - Tanguisson

Pipeline



Revised 06/23/06  
 This map is only intended to show the general location of the pipeline.

## SCHEDULE C

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### Pump Specifications

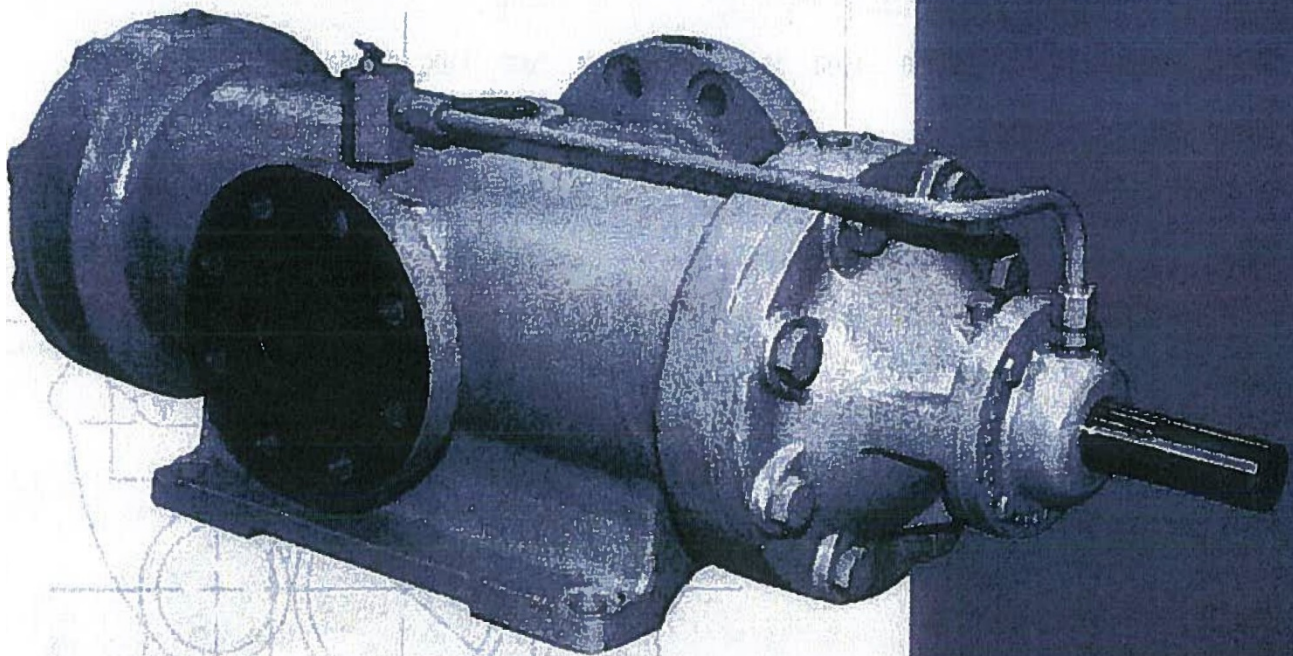
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## Cabras Delivery Pump Specifications





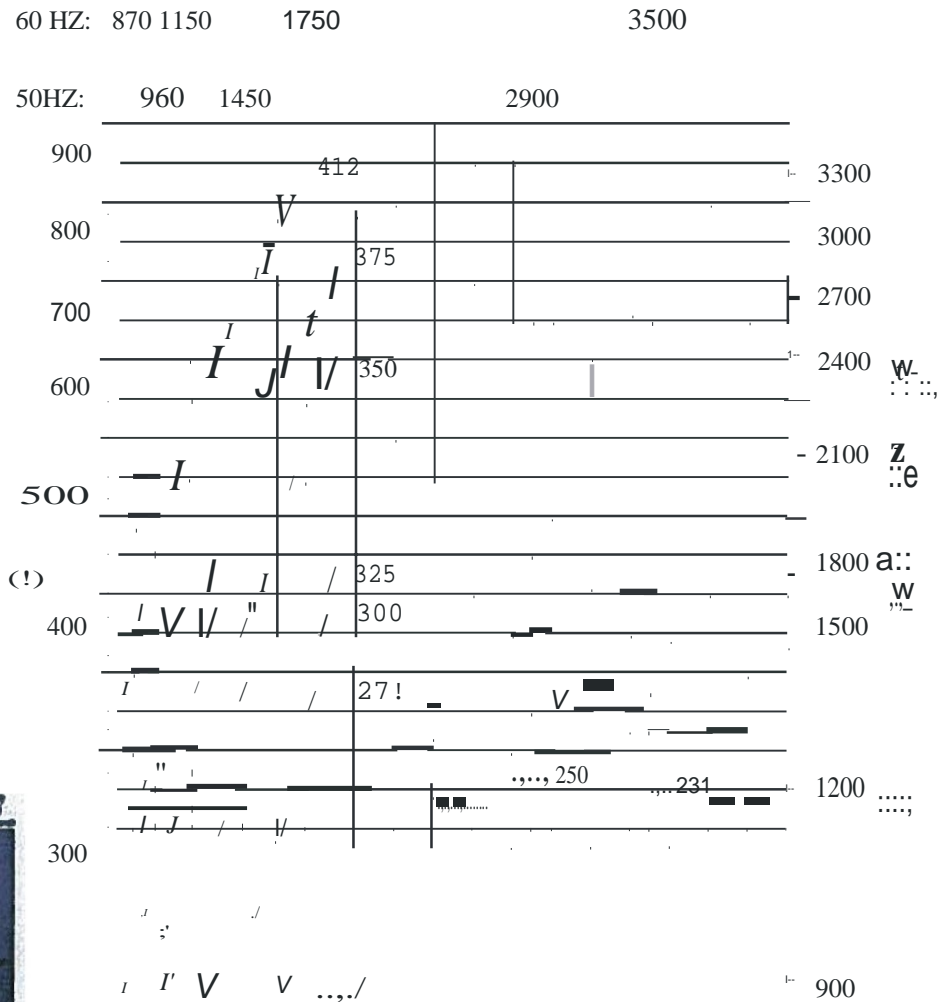
# 324ASERIES THREE SCREW PUMPS



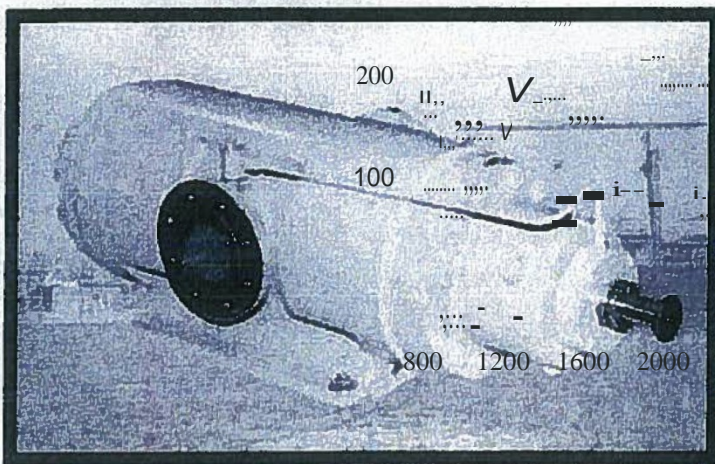
**ROTARY SCREW PUMPS**

*The reliable pump people*

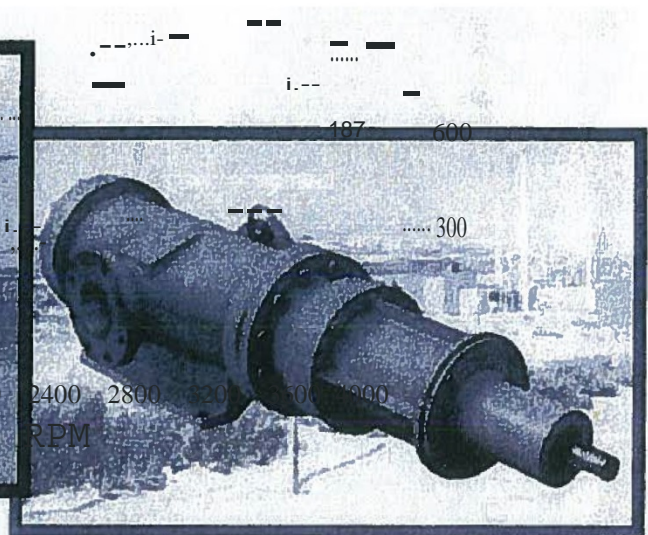
## Performance Shown at 250 PS/0 (17 BAR), 200 SSU (43 CST)



On the cover...324A cast iron cased horizontal pump.



Steel cased 324A pump with fabricated steam jacket

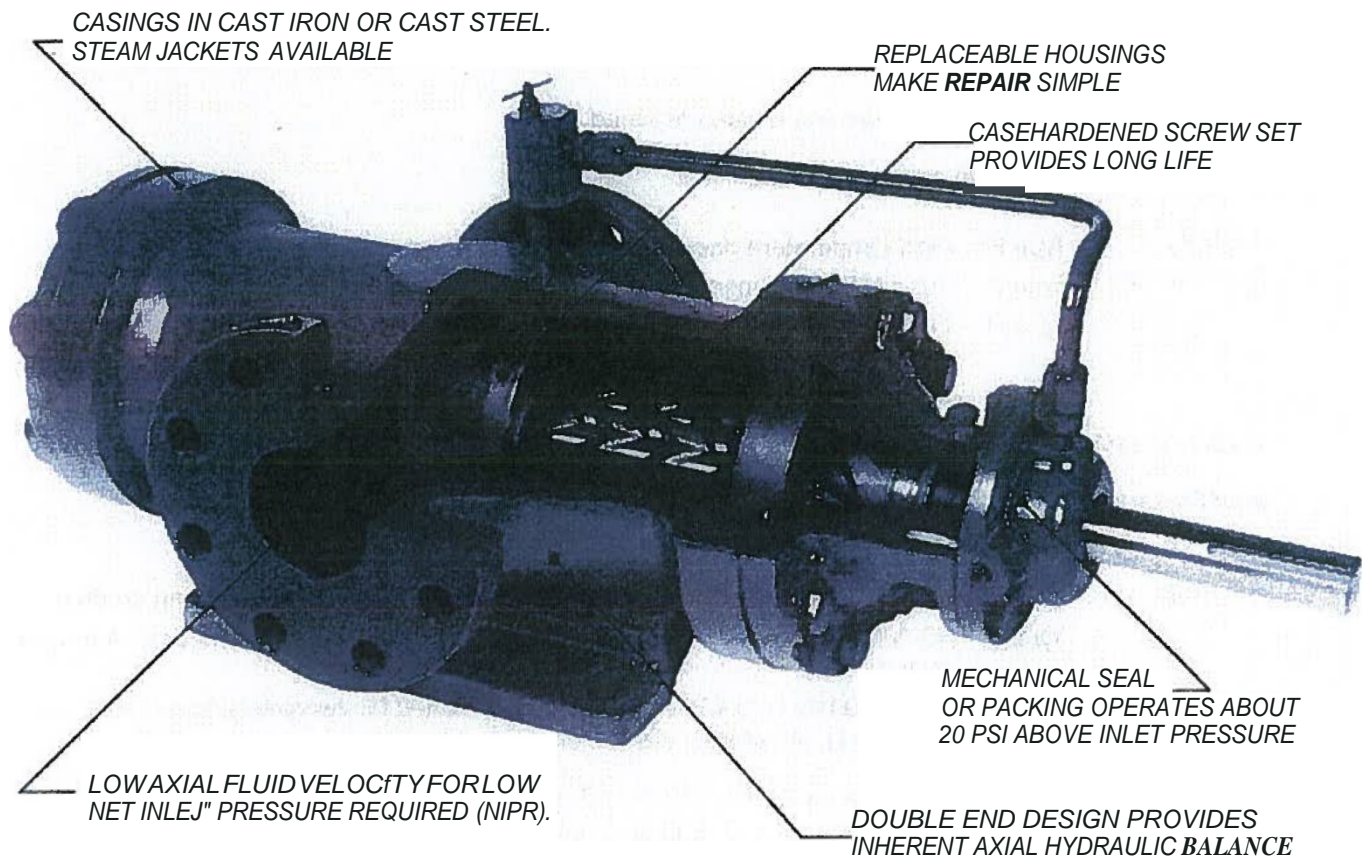




***Magnetic driWI 324A pump lbr up to 200 HP (160 KW)at 3500 RPM***

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## Imo Series C324A Pump



**Model Code Example:**

**C324A B T F S -187 L** Rotation

Shaft Seal and Bearing Type

Series-----'

E=High Temperature Packing  
B=Buna Fitted Mechanical Seal  
H=Fluoroelastomer Fitted Mechanical Seal

Mechanical Seal Seat-----'

Blank= Standard Seat (Type B and H only)  
T = Carbide Seal Seat (Type B and H only)

Mounting

F=Foot Mount  
V=Vertical Mount (Consult Imo)

Blank= Clockwise

D = Counterclockwise

Rotor SiZB

162 through 412

Casing

Blank= Cast Iron

S = Steel

J = Steam Jacketed Steel Case

Y = Steam Jacket Steel Case  
and Packing Cover

## Specifications

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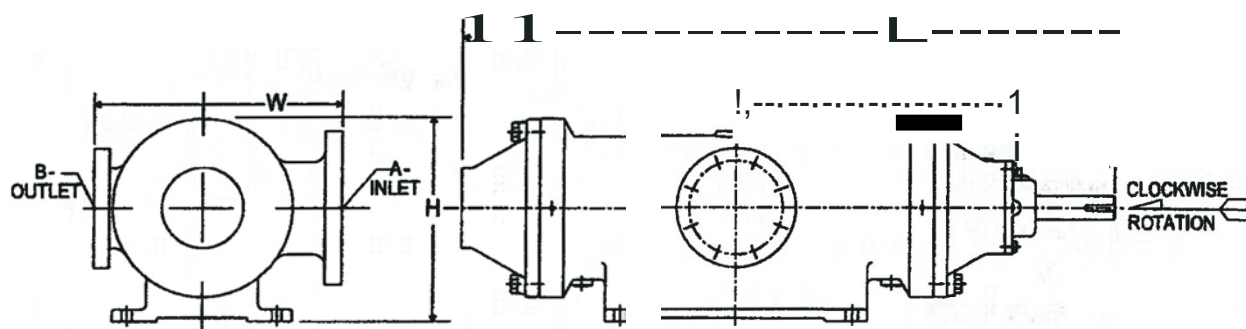
<b>Casing</b>	High tensile, close-grained cast iron. Optional cast steel. Steam jacket available on steel cased pump, 150 PSIG (10 BAR) maximum jacket pressure.
<b>Rotor Housings</b>	Pearlitic gray iron.
<b>Rotors</b>	Alloy steel, ground and nitride hardened.
<b>Gaskets</b>	Cellulose and non-asbestos fiber.
<b>Shaft Seal and Bearing</b>	Type E: High temperature packing for steel cased pumps. Type B: Buna N bellows mechanical seal for lighter duties. Type H: Positive drive mechanical seal with fluoroelastomer o-rings for higher viscosities or temperatures. All pumps use internal cast iron bushing. Sealless magnetic drive pumps also available.
<b>Outlet Pressure</b>	500 PSIG (34.5 BAR) maximum.
<b>Inlet Pressure</b>	25 PSIG (1.7 BAR) maximum for single extended shaft. 50 PSIG (3.4 BAR) maximum for double extended shaft.
<b>Viscosity</b>	Type E: 100 - 25,000 SSU (20-5400 csn) - recommended for residual and crude oils. Type B: 50-3000 SSU (8-650 CST) - recommended for light duty, non-abrasive lube and hydraulic oils. Type H: 50-20,000 SSU ( <b>B-4300</b> CST) - recommended for <b>viscosities above 3000 SSU (650 csn. all residual oils and heavy crude oils.</b>
<b>Temperature</b>	Type E: Cast Iron case, 0 to 400°F (-18 to 204°C) Type E: Steel case, 0 to 500°F (-18 to 260°C) Type B: 0 to 180°F (-18 to 82°C) Type H: 0 to 400°F (-18 to 204°C) <i>Special mechanical seal versions available to 500 °F (260°C)</i>
<b>Speed</b>	Maximum speeds indicated by curve termination.
<b>Drive</b>	Direct only. Double extended shaft versions available for through-drives. Sealless magnetic drives also available. Consult Imo.
<b>Rotation</b>	Clockwise facing pump shaft. Counterclockwise optional on sizes 187 thru 250.
<b>Mounting</b>	May be foot mounted in any attitude. Optional vertical mounting available for certain applications. Consult Imo.
<b>Accessories</b>	Completely mounted pump/driver assemblies with baseplates, etc. built to order are <b>available</b> .
<b>Filtration</b>	Inlet strainers are required to keep contaminants and abrasives out of the pump. They must be selected in consultation with the strainer vendor to prevent pump starvation. Normally, 60 mesh (0.01 inch- 238 micron) for light and 1/8-3/16 inch (3-5mm) openings for heavy oils are recommended.

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## 50-900GPM(1909-3400UM) Pressure to 500PS/G(34BAR}

Series C324A pumps are of the double suction design. They are inherently in axial hydraulic balance due to the symmetry of the flows. Because this pump series is essentially two pumps operating in parallel, the pumps are very compact for their flow range. 324A pumps are especially suitable for higher temperature operation (asphalts, vacuum tower bottoms, etc.) as there are no antifriction bearings requiring separate cooling. In addition, this series is capable of relatively high speeds making it ideal for steam turbine drive where high speeds improves the efficiency of both the driver and the pump.

Several pump sizes are available in corrosion resistant construction for polymer processing at very high viscosities. Other units are available in through-drive configurations allowing a second pump or other device to be driven from the end opposite the drive end. Series 324A is also available in sealless magnetic drive designs. Consult Imoto select the pump best suited for your application.



IRON CASED PUMPS HAVE 250# ANSI FLAT FACED FLANGES  
STEEL CASED PUMPS HAVE 300# ANSI FLAT FLANGES

Size	A		B		H		L		W		WEIGHT	
	INCH	MM	INCH	MM	INCH	MM	INCH	MM	INCH	MM	LBS.	KG
162/187	3	76	2 1/2	64	9 3/4	248	31 1/4	794	11 3/4	299	305	139
231/250	4	102	3	76	12 1/8	308	37 1/8	943	15	381	480	218
275/300	5	127	4	102	12 13/16	326	50 11/16	1288	18	<b>458</b>	850	386
325/350	5	127	4	102	17	432	54 7/8	1394	20-1/2	521	1100	500
375/412	6	152	5	127	17 1/2	445	61 1/8	1553	21	534	1450	659

## Imo Pump Sales Offices

### Houston

Imo Puffl)  
11811 N. Fr  
Suite 190  
Houston, TX 77060

tel 281.448.1337  
fax 281.445.2316

### NswOrleans

Imo Pt.mp  
2637 Edenborn fwerue  
Sulte304  
Metaiie, LA 70002

tel 504.888.3333  
fax 504.888.3337

### Philadelphia

Imo  
515 Slllnp Road  
Suite 222  
NorllWe, fl 19454

tel 215.393.7400  
fax 215.393.7622

### Calgary

ImoPwnp  
5918 5th Street, S.E.  
Unil 14  
Ca Alberta  
Canada T2H1L4  
tel 403.253.7491  
fax 403.252.9833

### Toronto

ImoPllnp  
6750 DMml Drive  
Units 9/209  
Mssissauga, Ontn>  
Canada L5T1LB  
tel 905.564.3344  
fax 005.564.3577



Quality Management System



### bnoPump

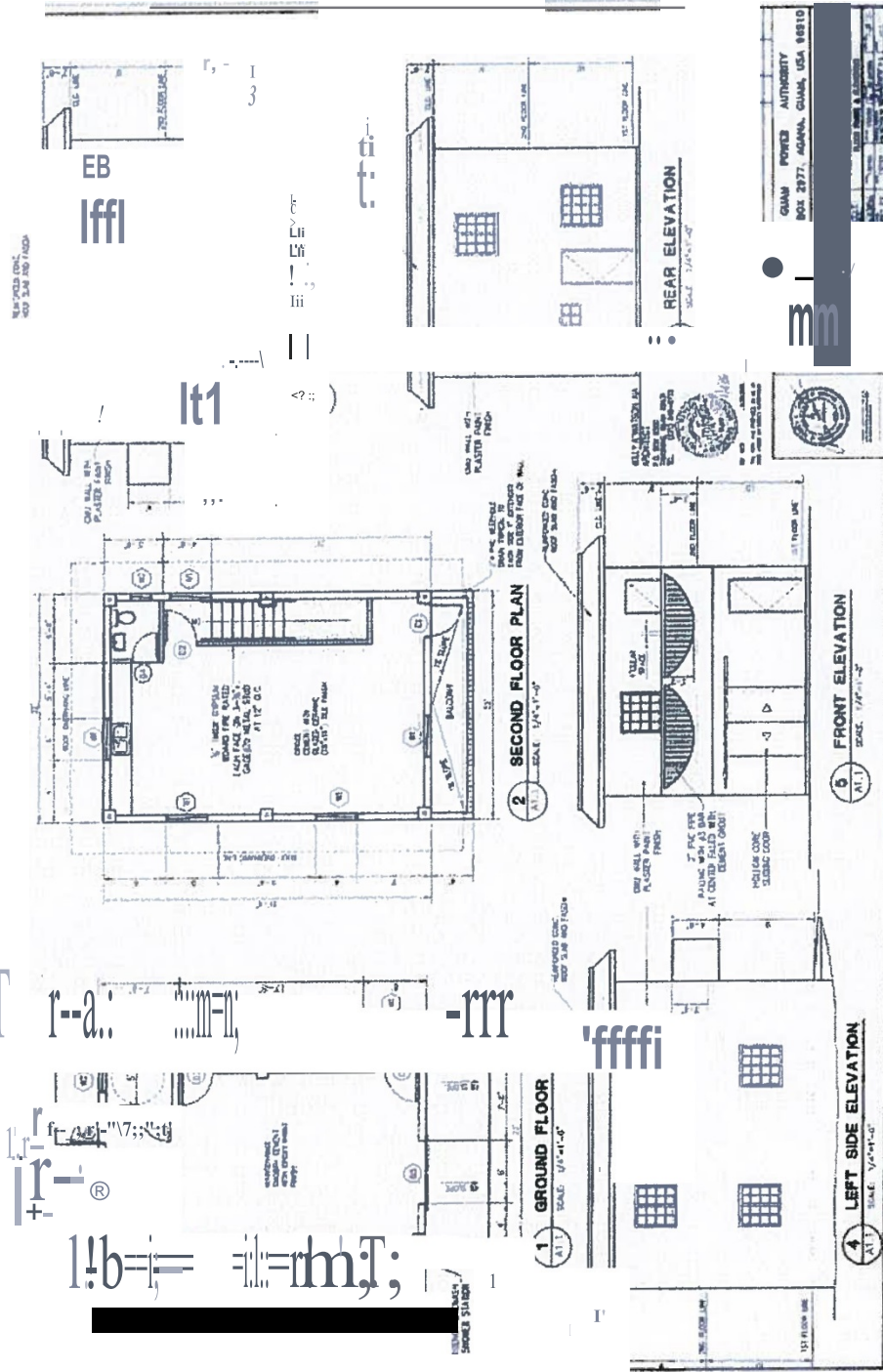
1710 Aiport Road  
PO Bmc 5020  
Monroe, NC USA  
28111.5020

tel 704.289.6511  
fax 704.289.9273  
eman IMOPUMP@VNET.NET  
Keb WWW.IMO-PUMP.COM

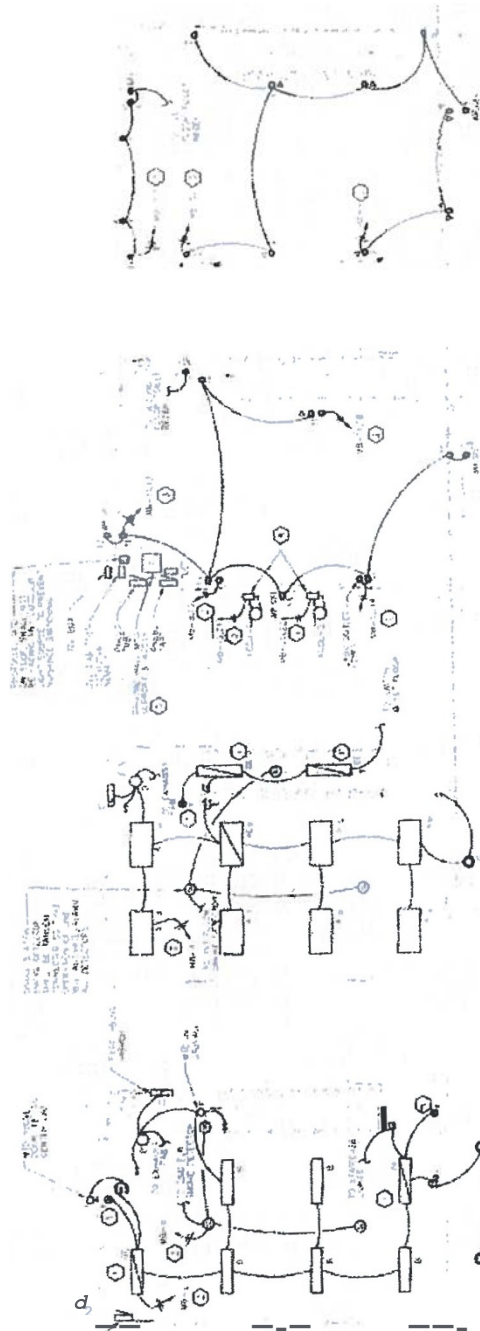
## SCHEDULE D

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### Office Floor Plan







V.I.

GROUND FLOOR POWER PLAN 4 SECOND FLOOR POWER PLAN

SCALE 1/8"=1'-0"

GROUND FLOOR LIGHTING PLAN 2 SECOND FLOOR LIGHTING PLAN

SCALE 1/8"=1'-0"

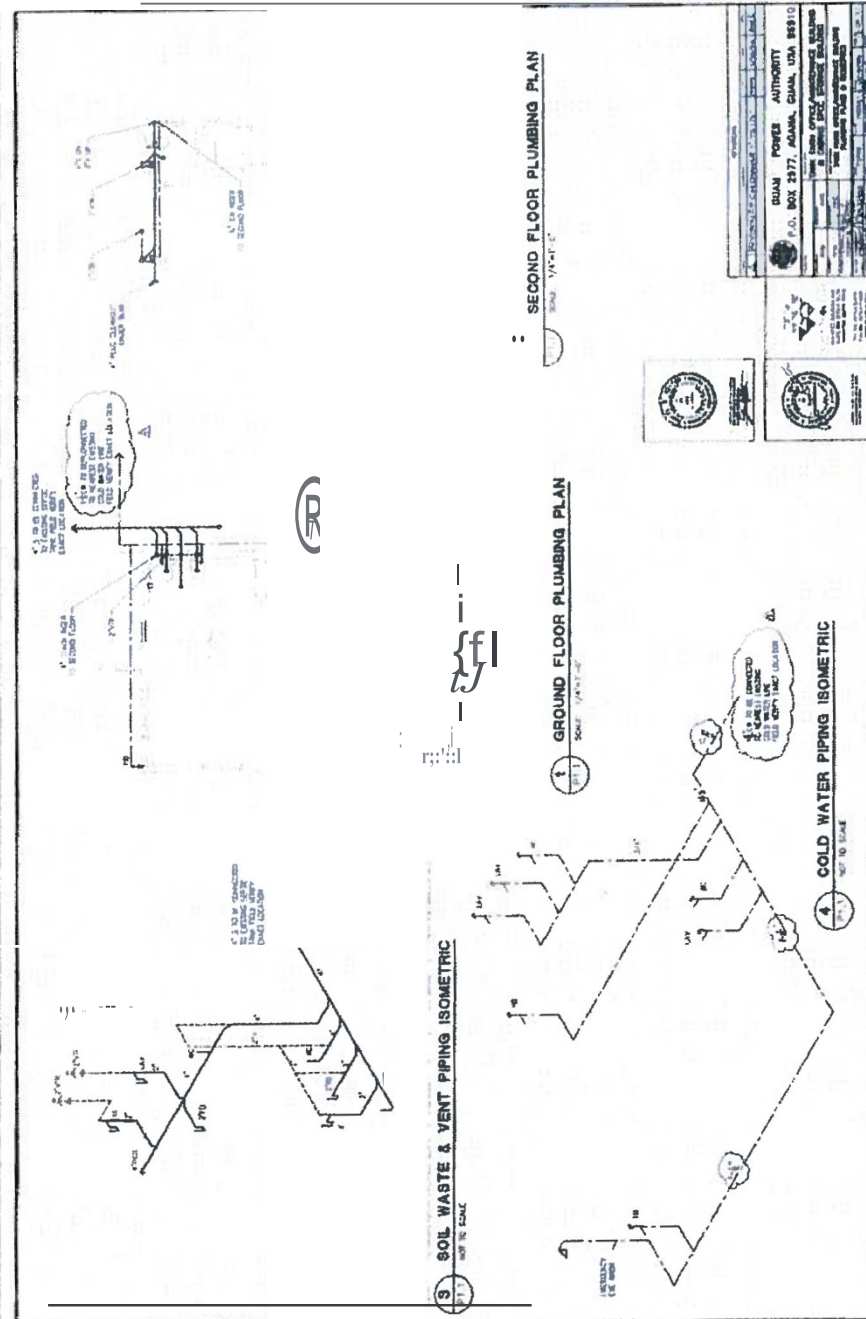
GROUND FLOOR LIGHTING PLAN 2 SECOND FLOOR LIGHTING PLAN

SCALE 1/8"=1'-0"

- 1. FLOOR LIGHTING SYMBOL
- 2. FLOOR LIGHTING SYMBOL
- 3. FLOOR LIGHTING SYMBOL
- 4. FLOOR LIGHTING SYMBOL
- 5. FLOOR LIGHTING SYMBOL
- 6. FLOOR LIGHTING SYMBOL

		<b>POWER AUTHORITY</b> U.S. DEPT. OF THE INTERIOR BUREAU OF RECLAMATION ALBUQUERQUE, NEW MEXICO
<b>PROJECT</b> U.S. DEPT. OF THE INTERIOR BUREAU OF RECLAMATION ALBUQUERQUE, NEW MEXICO		<b>DATE</b> 10/1/77
<b>PROJECT NO.</b> 100-100-100-100		<b>PROJECT NAME</b> U.S. DEPT. OF THE INTERIOR BUREAU OF RECLAMATION ALBUQUERQUE, NEW MEXICO
<b>PROJECT LOCATION</b> U.S. DEPT. OF THE INTERIOR BUREAU OF RECLAMATION ALBUQUERQUE, NEW MEXICO		<b>PROJECT NO.</b> 100-100-100-100

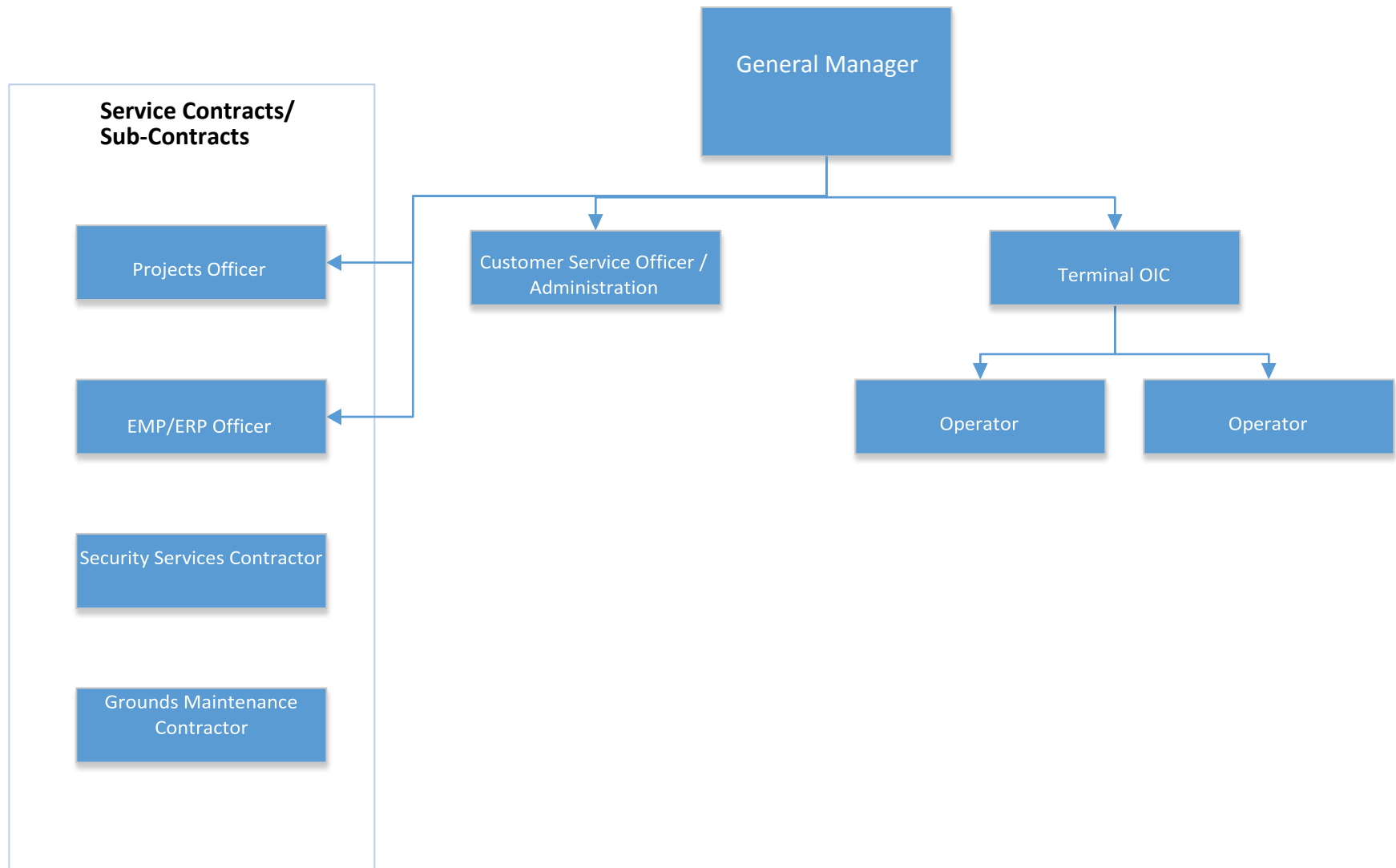




SCHEDULE E

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## Fuel Farm Facility Organization Chart

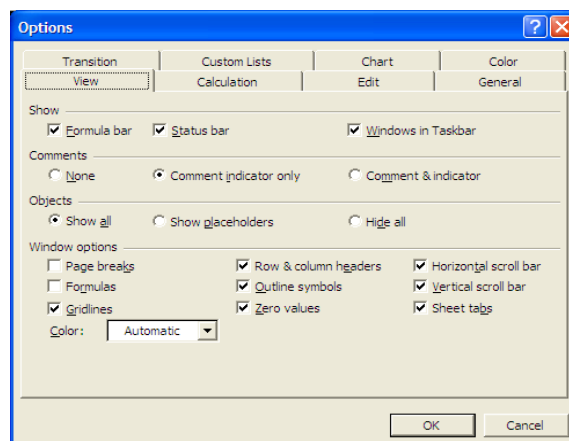


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## **STEP 1 - Qualitative Proposal Scoring Worksheet**

<b>QUALITATIVE / TECHNICAL PROPOSAL INSTRUCTIONS</b> <b>GPA-015-22 Management, Operation and Maintenance of GPA's Fuel Bulk Storage</b>	
<b>Task 0: Replace the Facility with Bidder's Name.</b>	
<a href="#">INSTRUCTIONS</a>	
<p><b>BIDDERS will be given an electronic copy of this Qualitative Proposal Scoring Worksheet which shall be used during evaluation.</b></p> <p>BIDDERS must fill in the Part 1 - Qual Support References tab and return an electronic copy of this workbook with their IFB Submittals. GPA will review the proposals to ensure that the references truly comply with the Bid Requirements.</p> <p>BIDDERS may use the <i>Proposal Scoring Information</i> and <i>Part 2- Qual Eval Worksheet</i> tabs of this workbook to evaluate the strength of their submittals. However, <b>only GPA's Evaluation Committee Scores will count.</b></p> <p>Please refer to figure below for instructions in setting up your MS Excel options prior to using this worksheet.</p>	
<b>This Task is for PROPONENT to Complete</b>	
<p><b>Task 1 PROPONENT Shall Complete Part 1 Qualitative Scoring</b></p>	
<b>Step</b>	<b>Directions</b>
1	Go to the "Part 1 - Qual Support References" Worksheet.
2	In Column C, cite the volume, chapter, section, page number, etc where the information supporting the RFP responder's compliance for the PMC Checklist Item can be found. Be specific as possible. Leave the Cell Blank if the proposal does not contain adequate supporting information.
<b>The Succeeding Tasks are for GPA to Complete</b>	
<p><b>Task 2</b> GPA shall review the Proponent's entries made under Task 1.</p>	
<b>Step</b>	<b>Directions</b>
1	Review PROPONENT Inputs to the Part 1 - Qual Support References. Check the supporting documents to determine whether or not to accept the PROPONENTS entries.
<p><b>Task 3</b> GPA shall evaluate the PROPONENT's qualifications based on the submittals.</p>	
<b>Step</b>	<b>Directions</b>
1	Go to the "Part 2 - Qual Eval Scoresheet" Worksheet.
2	In Column C, Rate the Quality of the PROPONENT's Qualifications based upon his Submittal.

Setup your EXCEL options to the following:



**Qualitative Proposal Scoring: Part 1 - Qualitative Proposal Supporting References / PMC Checklist Items**

Note: Bidder Checklist Items left blank will be scored as zero points in the PMC Qualifications Checklist Score.		Bidder Qualifications Checklist Score:: 100
Item	BIDDER Checklist Items	Task 0: Replace this Text with Bidder's Name. -- Supporting Information Referenced in Proposal.
1	<b>Petroleum and Fuel Bulk Storage Facility Management Experience</b> Supporting information showing a minimum of five (5) years progressive experience in Petroleum Management, Handling or Storage; Ship-to-Shore Transfer and Receiving of Bulk Petroleum Products; Pipeline Product Transfer and other related activities. Supporting information showing a minimum of five (5) years progressive experience in Fuel Facility Management, Operations and Maintenance.	333 333
2	<b>Business Structure and Approach</b> Description of business concepts to be used in performance of contract and meeting or achieving objectives. Description of Operation Model to be utilized in support of the Operations and Maintenance of the Fuel Bulk Storage Facility.	333 333
3	<b>Organizational Chart</b> Provide Proposed Organizational Chart for the management, operations and maintenance of GPA's Fuel Bulk Storage Facility. Include position title and number of employees filling the position, name(s), functions and duties, and qualifications. Describe how facility staffing shall be optimized based on proposed chart.	333 333
4	<b>At least three Years Historical Financial Information, reviewed or audited by qualified reviewing or auditing firm:</b> 0 Balance Sheet (Audited) Income Statement (Audited) Financial Ratios	 333 333 333
5	<b>Insurance Policy</b> Provide a copy of your Insurance Policy for GPA's review, and proof of compliance with GPA's Insurance Requirements.	333
6	<b>Mobilization Capability Checklist</b> Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing.	333
7	<b>General Experience and Expertise</b> Supporting information outlining and/or illustrating past and current successful experience in similar contracts, including project description summaries. Experience with Operation and Maintenance of Fuel Bulk Storage Facility, including successful implementation of capital improvement projects, major repairs, or major operational activities such as tank inspection, pipeline rehabilitation, transition from one fuel type to another, etc. Experience with Fuel Handling, Ship-to-shore transfer and receiving of bulk petroleum products, and Pipeline Product Transfer. Experience with Fuel Facility Maintenance. Knowledge and experience in complying with OPA 90, SPCC Plan, FRP, and other applicable Environmental Regulations and Reporting Requirements (BMP, SPCC, NPDES, etc.)	333 333 333 333 333
8	<b>Other Documents</b> At least three (3) Client References for work performed under a scope similar to this solicitation, and certifications related to Petroleum Handling Work. Certificate of Good Standing to conduct business in jurisdiction of residence. Proof of membership or intent to become a member of a Guam-based oil spill response company, including documentation showing oil spill response company's certification from Coast Guard. Additional Information Provided.	333 333 333 333

## 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
1	<b>Petroleum and Fuel Bulk Storage Facility Management Experience</b>	15		75		15.0%
	Supporting information showing a minimum of five (5) years progressive experience in Petroleum Management, Handling or Storage; Ship-to-Shore Transfer and Receiving of Bulk Petroleum Products; Pipeline Product Transfer and other related activities.	7	5	35	100.0%	.
	Supporting information showing a minimum of five (5) years progressive experience in Fuel Facility Management, Operations and Maintenance.	8	5	40	100.0%	
2	<b>Business Structure and Approach</b>	10		50		10.0%
	Description of business concepts to be used in performance of contract and meeting or achieving objectives.	5	5	25	100.0%	
	Description of Operation Model to be utilized in support of the Operations and Maintenance of the Fuel Bulk Storage Facility.	5	5	25	100.0%	
3	<b>Organizational Chart</b>	15		75		15.0%
	Provide Proposed Organizational Chart for the management, operations and maintenance of GPA's Fuel Bulk Storage Facility. Include position title and number of employees filling the position, name(s), functions and duties, and qualifications.	8	5	40	100.0%	
	Describe how facility staffing shall be optimized based on proposed chart.	7	5	35	100.0%	
4	<b>At least three Years Historical Financial Information, reviewed or audited by qualified reviewing or auditing firm:</b>	9		45		9.0%
	Balance Sheet (Audited)	3	5	15	100.0%	
	Income Statement (Audited)	3	5	15	100.0%	
5	<b>Insurance Policy</b>	3		15		3.0%
	Provide a copy of your Insurance Policy for GPA's review, and proof of compliance with GPA's Insurance Requirements.	3	5	15	100.0%	
6	<b>Mobilization Capability Checklist</b>	3		15		3.0%
	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing.	3	5	15	100.0%	
7	<b>General Experience and Expertise</b>	30		150		30.0%
	Supporting information outlining and/or illustrating past and current successful experience in similar contracts, including project description summaries.	8	5	40	100.0%	
	Experience with Operation and Maintenance of Fuel Bulk Storage Facility, including successful implementation of capital improvement projects, major repairs, or major operational activities such as tank inspection, pipeline rehabilitation, transition from one fuel type to another, etc.	5	5	25	100.0%	
	Experience with Fuel Handling, Ship-to-shore transfer and receiving of bulk petroleum products, and Pipeline Product Transfer.	6	5	30	100.0%	
	Experience with Fuel Facility Maintenance.	6	5	30	100.0%	
	Knowledge and experience in complying with OPA 90, SPCC Plan, FRP, and other applicable Environmental Regulations and Reporting Requirements (BMP, SPCC, NPDES, etc.)	5	5	25	100.0%	
8	<b>Other Documents</b>	15		75		15.0%
	At least three (3) Client References for work performed under a scope similar to this solicitation, and certifications related to Petroleum Handling Work.	5	5	25	100.0%	
	Certificate of Good Standing to conduct business in jurisdiction of residence.	5	5	25	100.0%	
	Proof of membership or intent to become a member of a Guam-based oil spill response company, including documentation showing oil spill response company's certification from Coast Guard.	5	5	25	100.0%	
	Additional Information Provided.					
<b>PMC Qualifications Score</b>		<b>100</b>		<b>500</b>	<b>100.0%</b>	<b>100.0%</b>
<b>Minimum Score - Potentially Acceptable Proposal</b>		375.00				
<b>Minimum Score - Acceptable Proposal</b>		400.00				
<b>Maximum Compliance Score</b>		500.00				
<b>Minimum Percent Score - Potentially Acceptable Proposal</b>		75.0%				
<b>Minimum Percent Score - Acceptable Proposal</b>		80.0%				

**Qualitative Proposal Scoring: PMC Qualifications Checklist**

<b>Bidder Qualifications Checklist Score:</b>		<b>100</b>
Item	BIDDER Checklist Items	Task 0: Replace this Text with Bidder's Name. -- Supporting Information Referenced in Proposal.
1	<b>Petroleum and Fuel Bulk Storage Facility Management Experience</b>	<b>15</b>
	Supporting information showing a minimum of five (5) years progressive experience in Petroleum Management, Handling or Storage; Ship-to-Shore Transfer and Receiving of Bulk Petroleum Products; Pipeline Product Transfer and other related activities.	7
	Supporting information showing a minimum of five (5) years progressive experience in Fuel Facility Management, Operations and Maintenance.	8
2	<b>Business Structure and Approach</b>	<b>10</b>
	Description of business concepts to be used in performance of contract and meeting or achieving objectives.	5
	Description of Operation Model to be utilized in support of the Operations and Maintenance of the Fuel Bulk Storage Facility.	5
3	<b>Organizational Chart</b>	<b>15</b>
	Provide Proposed Organizational Chart for the management, operations and maintenance of GPA's Fuel Bulk Storage Facility. Include position title and number of employees filling the position, name(s), functions and duties, and qualifications.	8
	Describe how facility staffing shall be optimized based on proposed chart.	7
4	<b>At least three Years Historical Financial Information, reviewed or audited by qualified reviewing or auditing firm:</b>	<b>9</b>
	0	
	Balance Sheet (Audited)	3
	Income Statement (Audited)	3
5	<b>Insurance Policy</b>	<b>3</b>
	Provide a copy of your Insurance Policy for GPA's review, and proof of compliance with GPA's Insurance Requirements.	3
6	<b>Mobilization Capability Checklist</b>	<b>3</b>
	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing.	3
7	<b>General Experience and Expertise</b>	<b>30</b>
	Supporting information outlining and/or illustrating past and current successful experience in similar contracts, including project description summaries.	8
	Experience with Operation and Maintenance of Fuel Bulk Storage Facility, including successful implementation of capital improvement projects, major repairs, or major operational activities such as tank inspection, pipeline rehabilitation, transition from one fuel type to another, etc.	5
	Experience with Fuel Handling, Ship-to-shore transfer and receiving of bulk petroleum products, and Pipeline Product Transfer.	6
	Experience with Fuel Facility Maintenance.	6
	Knowledge and experience in complying with OPA 90, SPCC Plan, FRP, and other applicable Environmental Regulations and Reporting Requirements (BMP, SPCC, NPDES, etc.)	5
8	<b>Other Documents</b>	<b>15</b>
	At least three (3) Client References for work performed under a scope similar to this solicitation, and certifications related to Petroleum Handling Work.	5
	Certificate of Good Standing to conduct business in jurisdiction of residence.	5
	Proof of membership or intent to become a member of a Guam-based oil spill response company, including documentation showing oil spill response company's certification from Coast Guard.	5
	Additional Information Provided.	0
<b>Bidder Qualifications Checklist Score:</b>		<b>100</b>



Qualitative Proposal Scoring: Qualitative Evaluation Worksheet					
BID EVALUATOR :			Evaluated PMC Qualifications Score (%): 0		
Part 2- Qualifications Evaluation Scoresheet For Task 0: Replace this Text with Bidder's Name.					
Item	BIDDER Checklist Items	Checklist Weight	Raw Rating Score	Weighted Score	Percent of Total Possible Points For Item
1	<b>Petroleum and Fuel Bulk Storage Facility Management Experience</b>	15		0	0.0%
	Supporting information showing a minimum of five (5) years progressive experience in Petroleum Management, Handling or Storage; Ship-to-Shore Transfer and Receiving of Bulk Petroleum Products; Pipeline Product Transfer and other related activities.	7		0	0.0%
	Supporting information showing a minimum of five (5) years progressive experience in Fuel Facility Management, Operations and Maintenance.	8		0	0.0%
2	<b>Business Structure and Approach</b>	10		0	0.0%
	Description of business concepts to be used in performance of contract and meeting or achieving objectives.	5		0	0.0%
	Description of Operation Model to be utilized in support of the Operations and Maintenance of the Fuel Bulk Storage Facility.	5		0	0.0%
3	<b>Organizational Chart</b>	15		0	0.0%
	Provide Proposed Organizational Chart for the management, operations and maintenance of GPA's Fuel Bulk Storage Facility. Include position title and number of employees filling the position, name(s), functions and duties, and qualifications.	8		0	0.0%
	Describe how facility staffing shall be optimized based on proposed chart.	7		0	0.0%
4	<b>At least three Years Historical Financial Information, reviewed or audited by qualified reviewing or auditing firm:</b>	9		0	0.0%
	0				
	Balance Sheet (Audited)	3		0	0.0%
	Income Statement (Audited)	3		0	0.0%
5	<b>Insurance Policy</b>	3		0	0.0%
	Provide a copy of your Insurance Policy for GPA's review, and proof of compliance with GPA's Insurance Requirements.	3		0	0.0%
6	<b>Mobilization Capability Checklist</b>	3		0	0.0%
	Proof Of Capability To Mobilize Full Support Services No Later Than 30 days after contract signing.	3		0	0.0%
7	<b>General Experience and Expertise</b>	30		0	0.0%
	Supporting information outlining and/or illustrating past and current successful experience in similar contracts, including project description summaries.	8		0	0.0%
	Experience with Operation and Maintenance of Fuel Bulk Storage Facility, including successful implementation of capital improvement projects, major repairs, or major operational activities such as tank inspection, pipeline rehabilitation, transition from one fuel type to another, etc.	5		0	0.0%
	Experience with Fuel Handling, Ship-to-shore transfer and receiving of bulk petroleum products, and Pipeline Product Transfer.	6		0	0.0%
	Experience with Fuel Facility Maintenance.	6		0	0.0%
	Knowledge and experience in complying with OPA 90, SPCC Plan, FRP, and other applicable Environmental Regulations and Reporting Requirements (BMP, SPCC, NPDES, etc.).	5		0	0.0%
8	<b>Other Documents</b>	15		0	0.0%
	At least three (3) Client References for work performed under a scope similar to this solicitation, and certifications related to Petroleum Handling Work.	5		0	0.0%
	Certificate of Good Standing to conduct business in jurisdiction of residence.	5		0	0.0%
	Proof of membership or intent to become a member of a Guam-based oil spill response company, including documentation showing oil spill response company's certification from Coast Guard.	5		0	0.0%
	Additional Information Provided.				
Evaluated PMC Qualifications Score				0	0.0%

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## **STEP 2 - Price Proposal Worksheet**

### Multi Step Bid GPA-015-22 Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility

**VENDOR NAME:**

(Enter name of company here)

**INSTRUCTIONS:**

- (1) Fill in highlighted fields below. Enter only Constant or Increasing Fees. Front-end Loaded or Decreasing Fees, Reimbursements and Exceptions not allowed.
- (2) Contract Item 1 (Management and Administration Fees) should be exclusive of Contract Items 2 to 7.
- (3) Contract item 6 ("Operation and Maintenance Budget (Required)") will be expanded in the "O&M Budget (Required)" tab.
- (4) Contract Item 7 is for all O&M expenses in addition to the "O&M Budget (Required)". This will not be included in the evaluation of price proposal. If not submitting optional O&M items, please indicate "No Bid".
- (5) Contract Item 8 are additional costs expected if complying with the Optional Insurance Requirements. If not submitting for any or all of the Optional Insurance Requirements (Contract Item 8 Optional Insurance Requirements), please indicate "No Bid."
- (6) An entry of "0" or blank for any of the Contract Items mean Bidder does not expect to incur any costs pertaining to these items.

GPA has the option to award all, some or none of the CONTRACT ITEMS below.

CONTRACT ITEMS (BREAKDOWN)			Contract Year			OPTIONAL Contract Years	
			1	2	3	1	2
MANDATORY	1	Management and Administration Fees (Include all expenses for staffing, office maintenance, expenses for utilities and communications, management fees and administration fees)	\$ -	\$ -	\$ -	\$ -	\$ -
	2	Security Contractor	\$ -	\$ -	\$ -	\$ -	\$ -
	3	Spill Response Company Membership Fees	\$ -	\$ -	\$ -	\$ -	\$ -
	4	Insurance Fees (Volume I - 5.41A)	\$ -	\$ -	\$ -	\$ -	\$ -
	5	Inventory - Environmental / Oil Spill Equipment <i>*Oil Spill Response &amp; Environmental Compliance (OPA 90, SPCC and FRP, etc.)</i>	\$ -	\$ -	\$ -	\$ -	\$ -
	6	Operation and Maintenance Budget (REQUIRED) <i>*PLEASE EXPAND AND PROVIDE INFORMATION IN "O&amp;M Budget (Required)" tab/worksheet.</i>	\$ -	\$ -	\$ -	\$ -	\$ -
		<b>TOTAL PRICE PROPOSAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -
OPTIONAL		<b>OPTIONAL ITEMS:</b>					
	7	Operation and Maintenance Budget (optional) <i>*PLEASE EXPAND AND PROVIDE INFORMATION IN "O&amp;M Budget (optional)" tab/worksheet. These items are for O&amp;M activities that the bidder may deem necessary for the fuel farm but is not included in the O&amp;M Budget (REQUIRED). GPA and the Contractor will discuss these costs during the Contract Finalization period. THIS IS NOT INCLUDED IN THE EVALUATION OF PRICE PROPOSAL AND WILL BE ADDITIONAL INFORMATION ONLY.</i>	\$ -	\$ -	\$ -	\$ -	\$ -
		<b>Total of Optional Operation and Maintenance Budget</b>	\$ -	\$ -	\$ -	\$ -	\$ -

**GPA-015-22 Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility****VENDOR NAME:**

(Enter name of company here)

**INSTRUCTIONS:**

- (1) Fill in highlighted fields below. Enter only Constant or Increasing Fees. Front-end Loaded or Decreasing Fees, Reimbursements and Exceptions not allowed.
- (2) An entry of "0" or blank for any of the Contract Items mean Bidder does not expect to incur any costs pertaining to these items.
- (3) The total cost for the O&M (Required) Budget will be part of the evaluation of lowest price proposal.
- (4) Proponents cannot add to any of the items below. For services where specifications are required, please illustrate or describe in a separate sheet.
- (5) Total cost should be equivalent to line item 6 of BIDDER DATA ENTRY .
- (6) Each line item in the O&M Budget Breakdown should be broken down further, see additional tabs "O&M 1" through "O&M 17". For example, for line item 1, "O&M of Tank System (Tk 1934, Tk 1935, Diesel Tank, Sump, etc.)", bidder should enter the costs for each year on columns D through H on this worksheet. And then on tab labeled "O&M 1", bidder shall enter each activity falling under "O&M of Tank System" and the corresponding costs. The total cost for each contract year for all activities in "O&M 1" should match the cost on this worksheet.

GPA has the option to award all, some or none of the CONTRACT ITEMS below.

O&M BUDGET BREAKDOWN (please breakdown specific activities under each item further in the corresponding tabs)		Contract Year			OPTIONAL Contract Years	
		1	2	3	1	2
1	O&M of Tank System (Tk 1934, Tk 1935, Diesel Tank, Sump, etc.)	\$ -	\$ -	\$ -	\$ -	\$ -
2	O&M of all Pumps in the Facility	\$ -	\$ -	\$ -	\$ -	\$ -
3	O&M of all Valves & Pipeline System (includes pipe supports, etc.) within the facility up to Navy Tie-In	\$ -	\$ -	\$ -	\$ -	\$ -
4	O&M of Oil Water Separator (OWS) System	\$ -	\$ -	\$ -	\$ -	\$ -
5	O&M of Auxiliary (diesel-driven) Pump System	\$ -	\$ -	\$ -	\$ -	\$ -
6	O&M of Leak Detection (LD) System	\$ -	\$ -	\$ -	\$ -	\$ -
7	O&M of Cathodic Protection (CP) System	\$ -	\$ -	\$ -	\$ -	\$ -
8	O&M of all Instrumentation and Electrical Systems	\$ -	\$ -	\$ -	\$ -	\$ -
9	Building & Fencing Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -
10	Grounds Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -
11	Other Maintenance	\$ -	\$ -	\$ -	\$ -	\$ -
12	Environmental Compliance	\$ -	\$ -	\$ -	\$ -	\$ -
13	Technical Services (please specify)	\$ -	\$ -	\$ -	\$ -	\$ -
14	Other Professional Services (please specify)	\$ -	\$ -	\$ -	\$ -	\$ -
15	Other Contractual Services (please specify)	\$ -	\$ -	\$ -	\$ -	\$ -
16	Inventory for Operation & Maintenance Activities	\$ -	\$ -	\$ -	\$ -	\$ -
17	Equipment Rental (please specify or explain)	\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL</b>	\$ -	\$ -	\$ -	\$ -	\$ -

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]



**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]



**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**INSTRUCTIONS:**

**Under Column A below, list all activities falling under this O&M item. Under Columns B through F, list the corresponding costs.**

[illegible]

**GPA-015-22 Management, Operation and Maintenance of GPA's Fuel Bulk Storage Facility**

**VENDOR NAME:**

(Enter name of company here)

**INSTRUCTIONS:**

- (1) Fill in highlighted fields below. Enter only Constant or Increasing Fees. Front-end Loaded or Decreasing Fees, Reimbursements and Exceptions not allowed.
- (2) If left blank, this means there are no additional O&M items that the proponent will require to operate and maintain the facility.
- (3) Proponents may use own descriptions, and add to the line items below if needed.
- (4) Total cost should be equivalent to line item 7 of BIDDER DATA ENTRY .
- (5) For evaluation purposes, cost for Item 18 should be entered under "Contract Year 1".

**GPA has the option to award all, some or none of the CONTRACT ITEMS below.**

O&M BUDGET BREAKDOWN		Contract Year			OPTIONAL Contract Years	
		1	2	3	1	2
1		\$ -				
2		\$ -	\$ -	\$ -	\$ -	\$ -
3		\$ -	\$ -	\$ -	\$ -	\$ -
4		\$ -	\$ -	\$ -	\$ -	\$ -
5		\$ -	\$ -	\$ -	\$ -	\$ -
6		\$ -	\$ -	\$ -	\$ -	\$ -
7		\$ -	\$ -	\$ -	\$ -	\$ -
8		\$ -	\$ -	\$ -	\$ -	\$ -
9		\$ -	\$ -	\$ -	\$ -	\$ -
10		\$ -	\$ -	\$ -	\$ -	\$ -
11		\$ -	\$ -	\$ -	\$ -	\$ -
12		\$ -	\$ -	\$ -	\$ -	\$ -
13		\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -	\$ -	\$ -
	TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -

## 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 One Hundred Fifty Thousand Dollars (US\$150,000.00)**. 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 equal to the **Annual Contract Fee** 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 31 a, 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.