

PROCUREMENT POLICY

POLICY NUMBER: GETHC POLICY 2

Effective Date: 12/29/2023

Cash Management, Procurement Guidelines, and Procedures

PURPOSE

It is the purpose of this Policy, to provide standard procurement policies and procedures for the Guam Ethics Commission

GENERAL POLICY

It shall be the policy of the Guam Ethics Commission to procure supplies and services from the lowest responsive and responsible bidder, consistent with quality and service, and to conduct procurement activities in the manner that shall best serve the public interest.

DEFINITIONS

As used in this Policy:

- a) "Supplies" means any item or article, except real estate, which is furnished to or used by the Guam Ethics Commission, including, but not limited to, printing of stationery, forms and journals; reproduction or publications and binding; repair and maintenance items, and fuel, furnishings and foodstuffs; and all materials and equipment.
- b) "Services" means any rental or facilities, remodeling, renovations or new construction of buildings, rental repair or maintenance of equipment, machinery or other personal property, but does not include contracts for professional or personal services, or other services incident to employment.
- c) "Procurement" means any authorized acquisition of supplies and services, including purchase, rental, lease, sale or trade by the Chairperson of the Committee on Rules, or its authorized delegate(s) within the purview of these regulations, and not in conflict with applicable laws.
- d) "Purchasing Agent" means the Executive Director of the Guam Ethics Commission.
- e) "Procurement Officer" means the employee designated by the Executive Director, authorized to procure supplies and services for the Guam Ethics Commission by

purchase, rental, lease, or trade.

DUTIES AND RESPONSIBILITIES OF THE PURCHASING AGENT

The Purchasing Agent shall:

- 1) disqualify suppliers who default in performance, or who supply poor quality goods from any bidding or negotiation for a stated period of time not to exceed a maximum of one (1) year.
- 2) disqualify suppliers who fail to comply with appropriate licensing requirements.
- 3) regulate the storage and distribution of supplies to avoid loss and waste, and account for properties and equipment; and to establish a replacement schedule to avoid costly maintenance of obsolete equipment.
- 4) prescribe the procedures and distribute forms to be used for submitting requisitions for supplies and services, and for processing procurement transactions; and
- 5) provide such other matters as may be required to effectuate the policies and procedures provided in this Policy.

DUTIES AND RESPONSIBILITIES OF THE PROCUREMENT OFFICER

The Procurement Officer shall:

- 1) purchase or contract for the purchase of all supplies and services for the Guam Ethics Commission in accordance with the provisions of this Policy and applicable laws.
- 2) prescribe the manner, place and date of delivery of supplies and materials procured for the Guam Ethics Commission
- 3) prescribe the manner of inspecting supplies and materials upon delivery of the supplies before acceptance, and of making test of samples submitted with bids to determine compliance with ordering specifications.
- 4) determine whether a surety bid bond or cash deposit shall be submitted with any bid, or whether a surety performance bond shall be required before a contract is entered into, and if required, to prescribe the amount thereof and to enforce forfeiture of such bond or deposit upon failure of the successful bidder to enter into contract within the prescribed time or to perform the contract in a satisfactory manner.
- 5) prescribe, on item basis, the amount of liquidated damage to assess defaulter for breach of contract.

PURCHASING AND CONTRACTING PROCEDURES.

The following procedures shall govern all procurement of supplies and services.

Petty Cash: \$500

A petty cash fund is established to improve the efficiency of Guam Ethics Commission operations. These funds are available to purchase minor items when it would be otherwise impractical to purchase items through the usual purchasing methods. The maximum petty cash fund amount is \$500.00. The maximum requested amount is \$500.00.

- I. Requirement: The requestor completes the Petty Cash form justifying the need for a petty cash fund. Procurement Officer approval is required. Petty cash ORIGINAL receipts must be submitted within one week of receiving approval. The correct change (if any) must be submitted with the original receipts. If items are not purchased within the week or by an approved date by the Procurement Officer, the petty cash fund must be returned to refund the petty cash box. Petty cash fund is replenished as soon as the fund balance reaches \$100.00.

Blanket Purchase Agreements

- I. Requirement: Approved by the Executive Director. When anticipated repetitive needs for supplies or services by establishing “charge accounts” with qualified sources of supply and is to be used only if the services or supplies cannot be properly identified as to the quantity and the type of services or supplies required.
- II. Individual purchases under BPAs shall not exceed \$15,000 for supplies or services or \$50,000 for construction.

Small Purchases 500 and \$[25,000]

- I. Requirement: Approved by the Executive Director. Requires three written quotes from vendors. This generally requires that specifications be emailed/faxed to at least three vendors. Award shall be made to the lowest responsible and responsive bidder.
- II. Acceptable Quote Documentation: (a) Facsimile quote, (b) Written quote provided by vendor, (c) Memo documenting oral quotation by vendor – must include vendor name, vendor representative, date, and amount of quote, or (d) Internet print out of price list.

Procedures Small Purchase Thresholds

<p>Requestor / Procurement Officer</p> <ol style="list-style-type: none">A. Determine supplies or services needed.B. Solicit required number of quotes and select a vendor (for purchases falling under the micro-purchase and small purchase thresholds).C. Create requisition order.
<p>Executive Director/Purchasing Agent</p> <ol style="list-style-type: none">A. Perform compliance review and funds certification for the purchase.B. If noncompliant with contract/grant/procurement requirements, return to requestor for more information or additional documentation.C. If compliant, requisition is approved and purchase order is created.D. Approved purchase orders are forwarded to the requestor.

Competitive sealed bidding: Purchase of Supplies and Equipment above \$25,000

- I. Requirement: Must be approved by the Executive Director. The Guam Ethics Board of Commissioners will serve as a resource in providing advice on proposals, bids, and identification of vendors, when necessary.
- II. Invitation for Bid (IFB) shall be mailed, emailed, or furnished to a sufficient number of vendors to secure competition. Competitive bidding shall follow procurement standards set forth in the Guam Procurement Law 2 G.A.R Div. 4 Chap. 3 §309 and the following Sealed Bid Process:
- III. Acceptable Quote Documentation: Sealed bid packages or email bid packages received by the Guam Ethics Commission.
 - a. Bids above \$250,000 must be afforded adequate public notice at least Fifteen (15) days before the bid due date. Bids must be solicited from an adequate number of known suppliers. Vendors have fifteen (15) days to respond from the date of notice (unless unusual circumstances prevail; reason must be documented). The IFB must be posted on a newspaper circulated in Guam no less than fifteen (15) days before the due date and must include:
 - i. A statement requiring offerors to include their contact information in their bids.
 - ii. Specifications and pertinent attachments.
 - iii. A description of the items or service being solicited sufficient to allow potential bidders to submit bids in response to the bid.
 - iv. A bid submission deadline and award decision timeline.

- v. A statement that only written bids will be accepted and can be
 1. hand delivered
 2. mailed to the street address on the IFB; or
 3. emailed to the email address indicated on the IFB.
- IV. Bids submitted after the bid submission deadline will not be accepted.
- V. Pre-bid conferences may be scheduled and, if scheduled, Pre-bid conference information will be contained in the bid packet or an amendment to the bid packet.
- VI. The Guam Ethics Commission Executive Director may extend the deadline for bid submission beyond 15 days of public notice. Deadline extension must be documented and posted on a circulated newspaper on Guam.
- VII. Receipt and Handling of IFB submissions.
 - a. Hard copies of the bids and modifications thereof for bids hand delivered or mailed to the Guam Ethics office, shall be time stamped upon receipt and held in a secure place until the established due date, or
 - b. For digital copies of bids emailed to the Guam Ethics Commission, the date and time of the sent email shall serve as the official submission date and time and the documents will be downloaded and held in a secure place until the established due date.
 - c. Bids must be opened publicly at a location specified in the IFB. The bids shall be opened, recorded, and evaluated.
- VIII. Evaluation and Award Process
 - a. The Evaluation Committee may seek clarification from bidders.
 - b. The bids shall be evaluated and compared.
 - c. The Bid is awarded to the responsible, responsive bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.
 - d. An evaluation report which includes a price analysis will be signed by the Evaluation Committee chair and submitted to the Guam Ethics Commission Executive Director for approval.
 - e. A notification of award will be sent to successful bidder within ten days of the approval of the evaluation report to the Guam Ethics Executive Director.

Competitive Sealed Bidding: For professional services above \$25,000

- I. Requirement: Must be approved by the Executive Director. The Guam Ethics Commissioners will serve as a resource in providing advice on proposals, bids and identification of vendors, when necessary. Solicitations for professional services, such as architects, engineers, lawyers, land surveyors, and other professionals, shall be in the form of a Request for Proposals (RFP). RFPs shall follow procurement standards set forth in the Guam Procurement Law 5 GCA
§5216; 2 GAR, Div. 4 §3114(c)(1) and following RFP Process:
- II. Adequate public notice shall be made at least Fifteen (15) days before the proposal due date and notice of the RFP shall be posted on a circulated newspaper on Guam no less than fifteen (15) days prior to the deadline for submission of proposals. Guam Ethics Commission may send notice of the RFP to companies or individuals known to provide the required professional services.
- III. Sealed Price Proposals: Proposals shall be submitted with Sealed Price Proposals to the Guam Ethics Commission Office on or before the deadline for submission of Proposals.
- IV. RFPs shall include:
 - a. A description of the professional services required.
 - b. A copy of or a description of the type of contract to be used.
 - c. A description of the work to be performed.
 - d. The start date of the work and the duration of the professional services.
 - e. The deadline for the submission of proposals.
 - f. A statement that only written Proposals and Sealed Price Proposals will be accepted.
 - g. A statement indicating that the sealed price proposals must be submitted:
 - i. in a separate, sealed envelope to be opened only after the proposals have been evaluated, or
 - ii. a password protected digital file with the password included in the proposal to be downloaded and printed only after the proposals have been evaluated.
 - h. A statement that offerors may request portions of their proposals which contain trade secrets or proprietary data to remain confidential. Guam

Ethics Commission shall review all such requests approve them only if such portions of the proposals contain trade secrets or proprietary data and shall provide a written decision to the offeror making such request that grants or denies the request and which states Guam Ethics Commission reasons for doing so.

- i. A statement regarding the minimum information proposals must contain including:
 - i. Offeror contact information and principal place of business.
 - ii. The abilities, qualifications, and experience of all persons assigned to provide the required services.
 - iii. Description of past performance on similar contracts.
 - iv. Detailed plan explaining how the services will be performed.
 - v. The factors that Guam Ethics Commission will use to evaluate the proposals.
- V. Proposals submitted after the deadline for the submission of proposals will not be accepted.
- VI. Pre-Proposal conferences may be scheduled and information regarding Pre-Proposal conferences, if any, will be contained in the RFP or an RFP amendment.
- VII. Questions from offerors will be accepted in writing by the Guam Ethics Commission Procurement Officer up to five (5) days before the submission deadline. Responses will be shared with all offerors.
- VIII. The Guam Ethics Commission Executive Director may extend the deadline for submission of proposals beyond the fifteen (15) day public notice period. Any such extension will be posted on a circulated newspaper on Guam.
- VIII. Receipt and Handling of Proposals and RFP submissions.
 - a. Proposals and modifications shall be delivered to Guam Ethics Commission via:
 - i. Hard copies of Proposals delivered to the Guam Ethics Commission office and time stamped upon receipt and held in a secure place until the established due date.
 - ii. Digital bids emailed to the Guam Ethics Commission, the date and time of the sent email shall serve as the official submission date and time and the documents will be downloaded and held in a secure place until the established due date.
 - b. Proposals shall have a sealed price proposal included in a separately sealed envelope or in a password protected digital file with the password included as part of the proposal.

- c. Proposals shall not be opened publicly nor disclosed to unauthorized persons but shall be opened in the presence of two more members of the Evaluation Committee.

IX. Evaluation and Award Process

- a. Proposals shall be ranked by the Evaluation Committee with the most qualified offeror ranked first, the second most qualified offeror ranked second, etc.
- b. Once the ranking process is complete, the committee will open the most qualified offeror's sealed price proposal and begin negotiations with the most qualified offeror. If price and contract terms can be agreed upon, Guam Ethics Commission shall award the contract to the most qualified offeror. If Guam Ethics Commission is unable to agree on price and contract terms with the most qualified offeror, the Guam Ethics Commission shall terminate negotiations with that offeror in writing and proceed with negotiating with the next most qualified offeror or offerors, in the order they are ranked, until price and contract terms can be agreed upon and the contract is awarded.
- c. An evaluation report which includes a cost analysis and the outcome of any pricing negotiation with the offeror or offerors will be signed by the Evaluation Committee chair and submitted to the Guam Ethics Executive Director for approval.
- d. A notification of award will be sent to the successful offeror within ten business (10) days following the approval of the evaluation report to the Guam Ethics Commission Director.

Sole source/noncompetitive procurement

- I. Requirement: All sole source procurements require written justification as to why no other bidder will be suitable or acceptable to meet the need. A sole source procurement must be approved in writing by the Guam Ethics Executive Director before an item is procured. Sole source procurements are allowed only in the following situations:
 - a. compatibility of equipment, accessories, or replacement parts is of paramount consideration;
 - b. sole supplier's item is needed for trial use or testing;
 - c. sole supplier's item is to be procured for resale;
 - d. public utility services are to be procured;
 - e. supplies are offered through bankruptcy or receivership sales, or other disposition at lower than prevailing market prices;
 - f. public exigency or emergency declared by the of Guam will not permit

- a delay resulting from competitive solicitation;
 - g. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Principal Investigator for the grant project;
 - h. after an IFB or RFP solicitation in which no bids or proposals are submitted and another solicitation would be ineffective as determined in writing by the Procurement Officer.
- II. Quotes. Guam Ethics Commission shall solicit a Quote from the sole source, in the form of:
- i. facsimile quote
 - ii. written quote provided by vendor
 - iii. internet printout; and, if the price for the item or service is reasonable, Guam Ethics Commission may award the contract to the sole source.
- III. Establishing a Pre-qualified Pool of vendors for a specific product/service/material or for unspecified quantity purchases

The Guam Ethics Commission may establish a pre-qualified pool of vendors for a specific product(s), service or material using the following process:

- a. The Guam Ethics Commission must post a Request for Information (RFI) soliciting a specific product(s), service, or material on a newspaper recirculated in Guam or government website for a period of fifteen (15) days. A submission deadline will be included in the RFI. To ensure maximum participation, the RFI should be sent via email or fax to multiple offerors. In addition to the website posting, Guam Ethics Commission may decide to announce via media or social media outlet to ensure maximum participation.
- b. The RFI must contain clear and accurate description of the requirements for the material, product, or service procured and identify all requirements which offerors must fulfill in order to participate in the pre-qualified pool.
- c. All offerors who submit their required documents prior to the published deadline and who meet Guam Ethics Commission requirements may qualify to participate in the pre-qualified pool.
- d. All prequalified lists of persons, firms, or products which are used in acquiring goods and services must be current and include enough qualified sources to ensure maximum open and free competition.
- e. All offerors in a pre-qualified pool will be utilized on a rotating basis by Guam Ethics Commission when making purchases for specific product(s), service or material as indicated in the initial RFI.
- f. Each pre-qualified pool must be updated on an annual basis.

IV. Composition, Roles, and Responsibilities of a Bid Evaluation Committee

The Bid Evaluation Committee shall be a three (3) member committee which shall consist of the Executive Director, other administrators, and employees. The Guam Ethics Board of Commissioners may also be invited to sit on the Bid Evaluation Committee to provide advice and input.

Roles and responsibilities include ensuring that the Bid was conducted in a manner providing full and open competition as specified in Guam Procurement Law.

V. Price and Cost Analysis for Evaluation Purposes

Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, and discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

a. Price Analysis for Bids:

Price analysis is the process of determining whether the price is reasonable and acceptable. The analysis should include an evaluation of price for the same or similar products or services, details of the research conducted, details of negotiations with the vendor or contractor, or details of other efforts made by the program to validate price reasonableness. Price comparisons, not limited to the following, may be used in the price analysis:

- i. Comparison with bids in the current procurement action
- ii. Comparison with prior price quotations for the same or similar items or services
- iii. Comparison with a published catalog price or published price list (a vendor's quotation or correspondence does not qualify as a published price list)
- iv. Comparison with prices available on the open market
- v. Comparison with an in-house estimate (e.g., the cost of the work if performed by own staff) or an independent cost estimate (e.g., cost review by a third-party expert)
- vi. Comparison with prevailing rates in the industry
- vii. The price analysis must be documented and attached to the purchase order.

b. Cost Analysis for RFPs

Cost analysis is the process of reviewing and evaluating each element of cost to determine reasonableness, allocability, and allowability. In the analysis, consider the following:

- i. Specific elements of cost.
- ii. The necessity for certain costs.
- iii. The reasonableness of amounts estimated for necessary costs.
- iv. The reasonableness of allowances for contingencies.
- v. The basis used for allocation of indirect costs.
- vi. The appropriateness of allocations of indirect costs to the proposed contract.
- vii. The reasonableness of the total cost.

Generally, cost analysis, rather than price analysis, is used to evaluate offered prices for complex procurement actions, or when comparative data to perform a price analysis does not exist. These comparisons are documented in a memo from the Commission Staff to the Executive Director who must approve the fair and reasonable cost.

VI. Appeal Process

An offeror may appeal a decision made by the IFB or RFP Evaluation Committee by following the Appeal Process.

Step One

The offeror must submit their appeal in writing to the Guam Ethics Commission Executive Director within ten (10) days of the bid award notice. The offeror must specifically cite the section of the Guam Ethics procurement policy which they feel has been unfairly applied.

The Guam Ethics Commission Executive Director must respond to the appeal in writing within ten (10) days of the filing of the appeal. The Executive Director will only consider the issue stated in writing and will not consider any new issues.

Step Two

If the offeror does not accept the decision of the Guam Ethics Commission Executive Director, the offeror may submit a second appeal to the Guam Ethics Commission Board of Commissioners within ten (10) days of receiving the appeal response from the Guam Executive Director.

The Chair of the Guam Ethics Commission Board of Commissioners may call a committee meeting to respond to the appeal comprised of five Board Members of

his/her choosing. The committee will only consider the original issue stated in writing and will not consider any new issues. The Chair will respond in writing to the appeal within ten working days. The Chair of the Guam Ethics Commission Board of Commissioners decision is final. The process ends.

VII. Contracting with Minority Businesses and Women's Business Enterprises

CFR Procurement Standards 200.319 (b) prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals. However, CFR Procurement Standards 200.321 specifies that Guam Ethics Commission must take necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

These steps are indicated in CFR Procurement Standards 200.319. Local purchases are encouraged where possible.

VIII. Cancellation of an RFP or Bid

RFPs and IFBs may be cancelled due to lack of funding, lack of an adequate number of respondents, when public notice timelines were not followed, or other reason documented by the Procurement Officer. If an RFP or IFB is cancelled, the Guam Ethics Commission will notify those offerors who responded to the RFP or IFB of the cancellation. Public notice of cancellations will also be posted on a newspaper circulated in Guam.

IX. Rejection of Bid or Proposal

RFPs and IFBs may be rejected if they do not contain the basic information as stated in #5 and #6 above.

EFFECTIVE DATE

This policy shall be in effect upon the adoption of the Commission at a publicly announced / open meeting and signed by the Chairperson of the Commission

AMENDMENTS

The Commission may make any amendments to this policy as it deems necessary, provided that such action be done by an affirmative vote of four (4) or more members at a publicly announced / open meeting.

GETHC Policy 2: Procurement Policy – Adopted and Amended: December 2023

APPROVED AND ADOPTED



CHRISTOPHER A. CRUZ
CHAIRMAN

12/29/2023

Date