

## **APPENDIX A**

### **MANDATORY FORMS**

Reminder to Prospective Offerors

Offeror's Profile

Affidavit Disclosing Ownership and Commissions

Affidavit re Non-Collusion

Affidavit re No Gratuities or Kickbacks

Affidavit re Ethical Standards

Declaration re Compliance with U.S. D.O.L. Wage Determination

Affidavit re Contingent Fees

**REQUEST FOR PROPOSAL NO: DYA RFP-15-001**

**DESCRIPTION:**

**YOUTH PROGRAMS FOR RUNAWAYS, HOMELESS, OR VICTIMS OF ABUSE**

**REMINDER TO PROSPECTIVE OFFERORS**

Offerors are reminded that the following mandatory forms are required to be signed and must be submitted together with the proposal in the proposal envelope, one (1) original and three (3) copies. These forms include:

- (X) OFFEROR'S PROFILE
- (X) AFFIDAVIT DISCLOSING OWNERSHIP and COMMISSIONS – AG Procurement Form 002
- (X) AFFIDAVIT re NON-COLLUSION– AG Procurement Form 003
- (X) AFFIDAVIT re NO GRATUITIES or KICKBACKS – AG Procurement Form 004
- (X) AFFIDAVIT re ETHICAL STANDARDS – AG Procurement Form 005
- (X) DECLARATION RE COMPLIANCE WITH U.S. D.O.L. WAGE DETERMINATION – AG Procurement Form 006
- (X) AFFIDAVIT re CONTINGENT FEES – AG Procurement Form 007
- (X) COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS
  - The above affidavits must be notarized and dated.
  - Date of signature of the Bidder and the Notary date must be the same.

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, I, \_\_\_\_\_, authorized representative of \_\_\_\_\_ acknowledge receipt of this special reminder to prospective Offeror with the above referenced RFP.

\_\_\_\_\_  
Authorized Representative's Signature

**NOTE: PROPOSAL AND PRICE PROPOSAL MUST BE SUBMITTED IN SEPARATE ENVELOPES AND MUST BE MARKED "PROPOSAL" AND "PRICE PROPOSAL". FAILURE TO COMPLY WITH THIS REQUIREMENT, OFFEROR WILL BE DEEMED NON RESPONSIVE.**

**OFFEROR'S PROFILE FOR DYA RFP NO.:** \_\_\_\_\_

1.	Proposal for:	<b>YOUTH PROGRAMS FOR RUNAWAYS, HOMELESS, OR VICTIMS OF ABUSE</b>
2.	Name of Offeror:	
	Name of Business:	
	Address:	
	Office Telephone Number:	
	Fax Number:	
3.	E-mail address:	
	Type of Business Indicate status, check one:	<input type="checkbox"/> Governmental Unit established by law <input type="checkbox"/> Private Non-Profit Corporation <input type="checkbox"/> Proprietary Agency <input type="checkbox"/> Private for Profit <input type="checkbox"/> Other: Specify _____
4.	Location of the principal place of business or central office.	
5.	Location of proposed place of business, if different from above.	
6.	Date of Incorporation, as applicable.	
7.	Number of years in business:	
8.	Contact Number:	









**FORM E**  
**DECLARATION RE COMPLIANCE WITH U.S. D.O.L. WAGE DETERMINATION**

RFP No.: DYA RFP-15-001

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 ("Offeror") for the provision of a service to the government of Guam, and in such cases where the Offeror 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 Offeror 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 an Offeror by the government of Guam shall be used to determine wages, which shall be paid to employees pursuant to this Article. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination, as required by this Article, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply.

**§ 5802. Benefits.**

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

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

\_\_\_\_\_  
Signature

>

WD 05-2147 (Rev.-17) was first posted on www.wdol.gov on 12/30/2014

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REGISTER OF WAGE DETERMINATIONS UNDER  
 THE SERVICE CONTRACT ACT  
 By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
 EMPLOYMENT STANDARDS ADMINISTRATION  
 WAGE AND HOUR DIVISION  
 WASHINGTON D.C. 20210

Diane C. Koplewski                      Division of  
 Director                                      Wage Determinations

Wage Determination No.: 2005-2147  
 Revision No.: 17  
 Date Of Revision: 12/22/2014

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Service Contract Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

States: Guam, Northern Marianas, Wake Island

Area: Guam Statewide  
 Northern Marianas Statewide  
 Wake Island Statewide

**\*\*Fringe Benefits Required Follow the Occupational Listing\*\***

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		12.50
01012 - Accounting Clerk II		13.53
01013 - Accounting Clerk III		15.59
01020 - Administrative Assistant		17.67
01040 - Court Reporter		15.38
01051 - Data Entry Operator I		10.48
01052 - Data Entry Operator II		11.99
01060 - Dispatcher, Motor Vehicle		13.06
01070 - Document Preparation Clerk		12.25
01090 - Duplicating Machine Operator		12.25
01111 - General Clerk I		10.29
01112 - General Clerk II		11.28
01113 - General Clerk III		12.32
01120 - Housing Referral Assistant		17.15
01141 - Messenger Courier		10.12
01191 - Order Clerk I		11.23
01192 - Order Clerk II		12.25
01261 - Personnel Assistant (Employment) I		14.33
01262 - Personnel Assistant (Employment) II		14.90
01263 - Personnel Assistant (Employment) III		16.48
01270 - Production Control Clerk		18.34
01280 - Receptionist		9.67
01290 - Rental Clerk		11.10
01300 - Scheduler, Maintenance		13.75
01311 - Secretary I		13.75
01312 - Secretary II		15.38

01313	- Secretary III	17.15
01320	- Service Order Dispatcher	11.57
01410	- Supply Technician	17.67
01420	- Survey Worker	15.26
01531	- Travel Clerk I	11.61
01532	- Travel Clerk II	12.57
01533	- Travel Clerk III	13.44
01611	- Word Processor I	12.25
01612	- Word Processor II	13.75
01613	- Word Processor III	15.38
05000	- Automotive Service Occupations	
05005	- Automobile Body Repairer, Fiberglass	13.34
05010	- Automotive Electrician	13.06
05040	- Automotive Glass Installer	12.10
05070	- Automotive Worker	12.10
05110	- Mobile Equipment Servicer	8.59
05130	- Motor Equipment Metal Mechanic	13.06
05160	- Motor Equipment Metal Worker	12.10
05190	- Motor Vehicle Mechanic	13.06
05220	- Motor Vehicle Mechanic Helper	10.12
05250	- Motor Vehicle Upholstery Worker	12.10
05280	- Motor Vehicle Wrecker	12.10
05310	- Painter, Automotive	12.37
05340	- Radiator Repair Specialist	12.10
05370	- Tire Repairer	7.81
05400	- Transmission Repair Specialist	12.10
07000	- Food Preparation And Service Occupations	
07010	- Baker	10.47
07041	- Cook I	9.54
07042	- Cook II	11.78
07070	- Dishwasher	7.25
07130	- Food Service Worker	7.78
07210	- Meat Cutter	11.86
07260	- Waiter/Waitress	7.59
09000	- Furniture Maintenance And Repair Occupations	
09010	- Electrostatic Spray Painter	14.38
09040	- Furniture Handler	8.85
09080	- Furniture Refinisher	14.38
09090	- Furniture Refinisher Helper	10.66
09110	- Furniture Repairer, Minor	12.51
09130	- Upholsterer	14.38
11000	- General Services And Support Occupations	
11030	- Cleaner, Vehicles	8.23
11060	- Elevator Operator	8.23
11090	- Gardener	10.99
11122	- Housekeeping Aide	8.33
11150	- Janitor	8.23
11210	- Laborer, Grounds Maintenance	9.14
11240	- Maid or Houseman	7.25
11260	- Pruner	8.23
11270	- Tractor Operator	10.33
11330	- Trail Maintenance Worker	9.14
11360	- Window Cleaner	9.14
12000	- Health Occupations	
12010	- Ambulance Driver	15.81
12011	- Breath Alcohol Technician	15.81
12012	- Certified Occupational Therapist Assistant	21.70
12015	- Certified Physical Therapist Assistant	21.70
12020	- Dental Assistant	13.20
12025	- Dental Hygienist	29.85
12030	- EKG Technician	23.96
12035	- Electroneurodiagnostic Technologist	23.96

12040 - Emergency Medical Technician	15.81
12071 - Licensed Practical Nurse I	14.14
12072 - Licensed Practical Nurse II	15.81
12073 - Licensed Practical Nurse III	17.63
12100 - Medical Assistant	11.54
12130 - Medical Laboratory Technician	14.14
12160 - Medical Record Clerk	11.82
12190 - Medical Record Technician	13.59
12195 - Medical Transcriptionist	14.14
12210 - Nuclear Medicine Technologist	34.75
12221 - Nursing Assistant I	10.03
12222 - Nursing Assistant II	11.30
12223 - Nursing Assistant III	12.31
12224 - Nursing Assistant IV	13.84
12235 - Optical Dispenser	15.81
12236 - Optical Technician	14.14
12250 - Pharmacy Technician	13.41
12280 - Phlebotomist	13.84
12305 - Radiologic Technologist	22.64
12311 - Registered Nurse I	20.70
12312 - Registered Nurse II	25.32
12313 - Registered Nurse II, Specialist	25.32
12314 - Registered Nurse III	30.64
12315 - Registered Nurse III, Anesthetist	30.64
12316 - Registered Nurse IV	36.72
12317 - Scheduler (Drug and Alcohol Testing)	19.59
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	15.06
13012 - Exhibits Specialist II	18.66
13013 - Exhibits Specialist III	22.83
13041 - Illustrator I	15.06
13042 - Illustrator II	18.66
13043 - Illustrator III	22.83
13047 - Librarian	20.66
13050 - Library Aide/Clerk	12.00
13054 - Library Information Technology Systems Administrator	18.66
13058 - Library Technician	15.06
13061 - Media Specialist I	13.46
13062 - Media Specialist II	15.06
13063 - Media Specialist III	16.80
13071 - Photographer I	12.82
13072 - Photographer II	14.32
13073 - Photographer III	17.75
13074 - Photographer IV	21.73
13075 - Photographer V	26.30
13110 - Video Teleconference Technician	12.91
14000 - Information Technology Occupations	
14041 - Computer Operator I	13.65
14042 - Computer Operator II	15.76
14043 - Computer Operator III	17.56
14044 - Computer Operator IV	19.50
14045 - Computer Operator V	21.81
14071 - Computer Programmer I	(see 1) 15.73
14072 - Computer Programmer II	(see 1) 19.50
14073 - Computer Programmer III	(see 1) 23.84
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1) 24.23
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	13.65
14160 - Personal Computer Support Technician	19.50

15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	24.23
15020 - Aircrew Training Devices Instructor (Rated)	29.32
15030 - Air Crew Training Devices Instructor (Pilot)	33.30
15050 - Computer Based Training Specialist / Instructor	24.23
15060 - Educational Technologist	22.82
15070 - Flight Instructor (Pilot)	33.30
15080 - Graphic Artist	20.47
15090 - Technical Instructor	17.65
15095 - Technical Instructor/Course Developer	21.58
15110 - Test Proctor	13.87
15120 - Tutor	13.87
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	8.08
16030 - Counter Attendant	8.08
16040 - Dry Cleaner	9.34
16070 - Finisher, Flatwork, Machine	8.08
16090 - Presser, Hand	8.08
16110 - Presser, Machine, Drycleaning	8.08
16130 - Presser, Machine, Shirts	8.08
16160 - Presser, Machine, Wearing Apparel, Laundry	8.08
16190 - Sewing Machine Operator	9.86
16220 - Tailor	10.33
16250 - Washer, Machine	8.46
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	14.49
19040 - Tool And Die Maker	18.20
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	12.49
21030 - Material Coordinator	18.34
21040 - Material Expediter	18.34
21050 - Material Handling Laborer	10.65
21071 - Order Filler	9.66
21080 - Production Line Worker (Food Processing)	12.49
21110 - Shipping Packer	13.33
21130 - Shipping/Receiving Clerk	13.33
21140 - Store Worker I	13.23
21150 - Stock Clerk	18.58
21210 - Tools And Parts Attendant	12.49
21410 - Warehouse Specialist	12.49
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	20.69
23021 - Aircraft Mechanic I	19.70
23022 - Aircraft Mechanic II	20.69
23023 - Aircraft Mechanic III	21.74
23040 - Aircraft Mechanic Helper	13.70
23050 - Aircraft, Painter	18.50
23060 - Aircraft Servicer	16.09
23080 - Aircraft Worker	17.38
23110 - Appliance Mechanic	14.49
23120 - Bicycle Repairer	9.74
23125 - Cable Splicer	15.43
23130 - Carpenter, Maintenance	13.00
23140 - Carpet Layer	13.55
23160 - Electrician, Maintenance	14.99
23181 - Electronics Technician Maintenance I	14.72
23182 - Electronics Technician Maintenance II	15.05
23183 - Electronics Technician Maintenance III	18.31
23260 - Fabric Worker	12.60
23290 - Fire Alarm System Mechanic	15.43
23310 - Fire Extinguisher Repairer	11.67
23311 - Fuel Distribution System Mechanic	15.43

23312 - Fuel Distribution System Operator	13.01
23370 - General Maintenance Worker	11.95
23380 - Ground Support Equipment Mechanic	19.70
23381 - Ground Support Equipment Servicer	16.09
23382 - Ground Support Equipment Worker	17.38
23391 - Gunsmith I	11.67
23392 - Gunsmith II	13.55
23393 - Gunsmith III	15.43
23410 - Heating, Ventilation And Air-Conditioning Mechanic	15.76
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	16.55
23430 - Heavy Equipment Mechanic	15.15
23440 - Heavy Equipment Operator	13.73
23460 - Instrument Mechanic	15.43
23465 - Laboratory/Shelter Mechanic	14.49
23470 - Laborer	10.65
23510 - Locksmith	14.49
23530 - Machinery Maintenance Mechanic	17.38
23550 - Machinist, Maintenance	15.43
23580 - Maintenance Trades Helper	9.92
23591 - Metrology Technician I	15.43
23592 - Metrology Technician II	16.41
23593 - Metrology Technician III	17.37
23640 - Millwright	15.43
23710 - Office Appliance Repairer	14.38
23760 - Painter, Maintenance	13.55
23790 - Pipefitter, Maintenance	15.32
23810 - Plumber, Maintenance	14.38
23820 - Pneudraulic Systems Mechanic	15.43
23850 - Rigger	15.43
23870 - Scale Mechanic	13.55
23890 - Sheet-Metal Worker, Maintenance	15.21
23910 - Small Engine Mechanic	13.55
23931 - Telecommunications Mechanic I	19.01
23932 - Telecommunications Mechanic II	19.76
23950 - Telephone Lineman	18.24
23960 - Welder, Combination, Maintenance	14.66
23965 - Well Driller	15.43
23970 - Woodcraft Worker	15.43
23980 - Woodworker	11.67
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	10.09
24580 - Child Care Center Clerk	12.58
24610 - Chore Aide	12.43
24620 - Family Readiness And Support Services Coordinator	12.44
24630 - Homemaker	16.12
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	15.43
25040 - Sewage Plant Operator	14.49
25070 - Stationary Engineer	15.43
25190 - Ventilation Equipment Tender	10.73
25210 - Water Treatment Plant Operator	14.49
27000 - Protective Service Occupations	
27004 - Alarm Monitor	10.90
27007 - Baggage Inspector	7.35
27008 - Corrections Officer	12.05
27010 - Court Security Officer	12.05
27030 - Detection Dog Handler	10.90
27040 - Detention Officer	12.05
27070 - Firefighter	12.05

27101 - Guard I	7.37
27102 - Guard II	10.90
27131 - Police Officer I	12.05
27132 - Police Officer II	13.40
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	9.53
28042 - Carnival Equipment Repairer	10.08
28043 - Carnival Equipment Worker	7.78
28210 - Gate Attendant/Gate Tender	13.18
28310 - Lifeguard	11.01
28350 - Park Attendant (Aide)	14.74
28510 - Recreation Aide/Health Facility Attendant	10.76
28515 - Recreation Specialist	18.26
28630 - Sports Official	11.74
28690 - Swimming Pool Operator	17.71
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	15.20
29020 - Hatch Tender	15.20
29030 - Line Handler	15.20
29041 - Stevedore I	14.22
29042 - Stevedore II	16.25
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (see 2)	35.77
30011 - Air Traffic Control Specialist, Station (HFO) (see 2)	24.66
30012 - Air Traffic Control Specialist, Terminal (HFO) (see 2)	27.16
30021 - Archeological Technician I	17.49
30022 - Archeological Technician II	19.56
30023 - Archeological Technician III	24.21
30030 - Cartographic Technician	23.18
30040 - Civil Engineering Technician	21.93
30061 - Drafter/CAD Operator I	17.49
30062 - Drafter/CAD Operator II	19.56
30063 - Drafter/CAD Operator III	20.74
30064 - Drafter/CAD Operator IV	24.21
30081 - Engineering Technician I	14.62
30082 - Engineering Technician II	16.41
30083 - Engineering Technician III	18.36
30084 - Engineering Technician IV	22.34
30085 - Engineering Technician V	27.83
30086 - Engineering Technician VI	33.66
30090 - Environmental Technician	21.10
30210 - Laboratory Technician	20.74
30240 - Mathematical Technician	23.34
30361 - Paralegal/Legal Assistant I	19.06
30362 - Paralegal/Legal Assistant II	21.53
30363 - Paralegal/Legal Assistant III	26.35
30364 - Paralegal/Legal Assistant IV	30.80
30390 - Photo-Optics Technician	21.93
30461 - Technical Writer I	22.17
30462 - Technical Writer II	27.10
30463 - Technical Writer III	32.79
30491 - Unexploded Ordnance (UXO) Technician I	22.74
30492 - Unexploded Ordnance (UXO) Technician II	27.51
30493 - Unexploded Ordnance (UXO) Technician III	32.97
30494 - Unexploded (UXO) Safety Escort	22.74
30495 - Unexploded (UXO) Sweep Personnel	22.74
30620 - Weather Observer, Combined Upper Air Or (see 2)	20.74
Surface Programs	
30621 - Weather Observer, Senior (see 2)	23.00
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	8.15
31030 - Bus Driver	9.69

31043 - Driver Courier	8.97
31260 - Parking and Lot Attendant	7.25
31290 - Shuttle Bus Driver	9.99
31310 - Taxi Driver	8.21
31361 - Truckdriver, Light	8.97
31362 - Truckdriver, Medium	11.61
31363 - Truckdriver, Heavy	12.48
31364 - Truckdriver, Tractor-Trailer	12.48
99000 - Miscellaneous Occupations	
99030 - Cashier	7.46
99050 - Desk Clerk	9.70
99095 - Embalmer	22.74
99251 - Laboratory Animal Caretaker I	16.24
99252 - Laboratory Animal Caretaker II	17.04
99310 - Mortician	22.74
99410 - Pest Controller	13.28
99510 - Photofinishing Worker	11.95
99710 - Recycling Laborer	10.76
99711 - Recycling Specialist	16.27
99730 - Refuse Collector	10.24
99810 - Sales Clerk	8.95
99820 - School Crossing Guard	15.03
99830 - Survey Party Chief	20.30
99831 - Surveying Aide	11.54
99832 - Surveying Technician	15.00
99840 - Vending Machine Attendant	20.19
99841 - Vending Machine Repairer	23.57
99842 - Vending Machine Repairer Helper	20.19

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ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.02 per hour or \$160.80 per week or \$696.79 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; and 4 weeks after 3 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not

list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformance may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives.

Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an

employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

#### Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent

information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.



**APPENDIX B**

**SAMPLE FORMS**

Proposed Budget Analysis  
Staffing Pattern

Each Offeror must submit a price proposal for each year and enclose a complete budget proposal for all years in a separate sealed envelope marked "Price Proposal."

Only one (1) envelope of the Offeror's price should be submitted in a separate sealed envelope.

Furthermore, the Offeror includes a realistic and detailed line-item budget of project costs and demonstrates how cost estimates were derived, including estimated percentage of direct and indirect services of each program staff. Calculations include estimation of methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated.

The Offeror demonstrates how the funds requested are reasonable, necessary, and essential to accomplish the services as required by and consistent with the program requirements (Section III. Scope of Services).

The budget clearly delineates any allocation of resources, provides narrative budget justification that describes how the categorical costs is derived, and discusses the necessity, reasonableness, and allocation of the proposed costs.

Refer to the following samples forms for creating a Proposed Budget Analysis and Staffing Pattern.

**SAMPLE**

**YOUTH PROGRAMS FOR RUNAWAYS, HOMELESS, OR VICTIMS OF ABUSE**

**PROPOSED BUDGET ANALYSIS**

**Department of Youth Affairs**

**October 1, 2016 to September 30, 2019**

<b>Activity</b>	<b>Budget Category</b>	<b>2016 Annual Cost Year 1</b>	<b>2017 Annual Cost Year 2</b>	<b>2018 Annual Cost Year 3</b>	<b>2019 Annual Cost Year 4</b>	<b>Object Class</b>
<b>GRAND TOTAL</b>		\$0	\$0	\$0	\$0	

\_\_\_\_\_  
**Signature, Service Provider      Date**

\_\_\_\_\_  
**Adonis J. Mendiola, Director      Date**

**SAMPLE**

**PROPOSED BUDGET ANALYSIS  
YOUTH PROGRAMS FOR RUNAWAYS, HOMELESS, OR VICTIMS OF  
ABUSE**

**Department of Youth Affairs  
October 1, 2016 to September 30, 2019**

	2016	2017	2018	2019
<b>Annual Cost</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>
111 - Salary	\$0	\$0	\$0	\$0
113 - Benefits	\$0	\$0	\$0	\$0
220- Travel	\$0	\$0	\$0	\$0
230 - Contract	\$0	\$0	\$0	\$0
240 - Supplies	\$0	\$0	\$0	\$0
250 - Equipment	\$0	\$0	\$0	\$0
271 - Drug Testing	\$0	\$0	\$0	\$0
290 - Miscellaneous	\$0	\$0	\$0	\$0
361 - Power	\$0	\$0	\$0	\$0
362 - Water	\$0	\$0	\$0	\$0
363 - Telephone	\$0	\$0	\$0	\$0
<b>TOTAL</b>	\$0	\$0	\$0	\$0

\_\_\_\_\_  
**Signature, Service Provider      Date**

\_\_\_\_\_  
**Adonis J. Mendiola, Director      Date**

## SAMPLE STAFFING PATTERN

Position Title	Name	Grade/ Step	Annual Salary	Percentage of Time Charged to Program	Amt to be charged to program	6.2% FICA	12% Benefits	1.45% Medicare	Total
<b>Grand Total:</b>					\$	\$	\$	\$	\$

\_\_\_\_\_ **Signature, Service Provider**      **Date**

\_\_\_\_\_ **Adonis J. Mendiola, Director**      **Date**

## **APPENDIX C**

DYA Civil Rights Policy  
Compliance with Federal Laws and Regulations

## DEPARTMENT OF YOUTH AFFAIRS

### CIVIL RIGHTS COMPLIANCE POLICY

*As a recipient of federal financial assistance from the U.S. Department of Justice (DOJ), Office of Juvenile Justice and Delinquency Prevention, the Guam Department of Youth Affairs (DYA) is committed, as a matter of principle, and in compliance with applicable federal laws, to prohibiting discrimination and behaviors, which, if repeated, could constitute discrimination. Accordingly, this policy establishes written procedures for 1) individuals to follow in filing an employment or services discrimination complaint with the DYA; and 2) DYA employees to follow when they receive complaints alleging employment or services discrimination from employees, clients, customers, program participants, applicants, or consumers of the DYA or of DYA subgrantees receiving federal financial assistance from DOJ. This policy applies to all employees of the DYA and all of its contractors and subgrantees.*

The DYA directs that its transactions and the operation of all DYA-funded subgrantee programs and activities shall not discriminate or retaliate on the basis of race, color, religion, national origin, sex, age, or disability. Harassment on any of the above-stated grounds is a form of prohibited discrimination.

The DYA, its contractors, and its subgrantees have the obligation to comply with the following federal civil rights laws:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in the delivery of services (42 U.S.C. § 2000d), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789d(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794) and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132) and the DOJ implementing regulations at 28 C.F.R. Part 35;
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54;

- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I; and
- The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ federal financial assistance for inherently religious activities (28 C.F.R. Part 38).

## DEFINITIONS

A. “A person with a disability” means any person who: (1) has a physical or mental impairment that substantially limits one or more of such person’s major life activities; (2) has a record of such an impairment; or (3) is regarded as having an impairment that is not both transitory and minor.

B. “Complainant” refers to the person or persons initiating the complaint.

C. “Harassment” is a form of behavior that is characterized by conduct: (1) based on race, color, national origin, sex, religion, disability, or age; and (2) if sufficiently severe, persistent, or pervasive, could reasonably be expected to create an intimidating, hostile, or offensive working or learning environment.

D. “Respondent” is the person or persons against whom a complaint has been initiated.

E. “Retaliation” refers to adverse actions taken by an employer or service provider because an individual engaged in a protected activity, such as opposing a discriminatory practice or participating in a discrimination complaint process.

## COMPLAINT PROCEDURES

### A. Filing a Complaint

A person who believes that s/he has been harassed or been subject to discriminatory treatment within the DYA or by a DYA subgrantee because of race, color, national origin, sex, age, religion, or disability, or has been retaliated against for engaging in protected activity, is urged to file a complaint through the DYA Civil Rights Officer. The current Civil Rights Officers are Rebecca J. Respicio, rebecca.respicio@dya.guam.gov, (671) 735-5032; or Sollie Onedera, sollie.onedera@dya.guam.gov, (671) 735-5037. Generally, formal complaints must be filed with the Civil Rights Officer within 180 calendar days of the alleged discrimination. If the complaint is not filed on time, the complainant shall provide the reason for the delay and request a waiver of this filing requirement. The DYA shall decide whether to grant the waiver. The complaint may be filed in a letter, in an e-mail, in person, or over the phone. In anticipation of filing a complaint, an individual may find it beneficial to contact the Civil Rights Officer to obtain policy clarification, advice, or assistance.

Because the DYA is a government of Guam Line Agency, employees are subject to the Department of Administration's Personnel Rules and Regulations, located specifically under Appendix F, Equal Employment Opportunity and Chapter 11 Adverse Action Procedures.

## **B. Referral of Complaint to Civil Rights Officer**

If an employee of the DYA other than the Civil Rights Officer receives a discrimination complaint from an employee, client, customer, program participant, applicant, or consumer of the DYA or of a DYA subgrantee, s/he shall submit the complaint to the Civil Rights Officer within five (5) business days of receiving the complaint. Furthermore, the DYA shall provide the complainant with a written notice acknowledging receipt of the complaint and explaining that the complaint will be resolved within forty-five (45) calendar days of the DYA's receipt of the complaint.

A DYA subgrantee shall advise the Civil Rights Officer of an employment or services discrimination complaint filed against it within ten (10) business days of receiving the complaint.

## **C. External Agencies**

While the DYA encourages individuals to file any employment or services discrimination complaint with the DYA, the agency's policies and procedures are not intended to impair or limit the rights of anyone to seek a remedy available under state or federal law. As an alternative or in addition to filing a complaint with the DYA, an individual may wish to file a complaint with an external agency for investigation, such as a local or state human rights commission, or an appropriate federal agency. For instance, if a complainant alleges a violation of a federal employment discrimination law that is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), the DYA acknowledgement letter will inform the complainant that s/he may file a complaint directly with the EEOC and provide the following contact information:

U.S. Equal Employment Opportunity Commission  
Los Angeles District Office  
Roybal Federal Building  
225 East Temple St., 4<sup>th</sup> Floor  
Los Angeles, CA 90012  
Telephone: 1.800.669.4000  
TTY: 1.800.669.6820

<http://www.eeoc.gov/field/losangeles/charge.cfm>

If a complainant alleges a violation of a federal civil rights law that is enforced by the Office for Civil Rights (OCR), Office of Justice Programs, DOJ, the DYA acknowledgement letter will inform the complainant that s/he may file a complaint directly with the OCR and provide the following contact information:

Office for Civil Rights  
Office of Justice Programs

U.S. Department of Justice  
810 7th Street NW  
Washington, DC 20531  
Telephone: 202.307.0690  
TDD/TTY: 202.307.2027  
<http://www.ojp.usdoj.gov/about/ocr/complaint.htm>

## **D. Complaint Evaluation, Investigation, and Resolution Proceedings**

### **Evaluation of the Complaint**

The DYA evaluates each complaint it receives to determine whether it can investigate the complaint. The DYA makes this determination with respect to each allegation in the complaint. The DYA shall dismiss the complaint if the following is determined:

- The DYA lacks jurisdiction over the complaint;
- The complaint was not filed timely and a waiver will not be granted;
- The complaint is unclear or incomplete and the complainant does not provide the information the DYA requests within twenty (20) calendar days of the request; or
- The allegations raised by the complaint have been resolved.

If a complaint cannot be resolved within sixty (60) calendar days of the DYA's receipt of it or the respondent remains unwilling to negotiate an agreement, the Civil Rights Officer will refer the matter to the EEOC, if the complaint involves employment discrimination, or to the OCR, if the complaint involves services discrimination, for investigation and resolution. The DYA shall notify the EEOC or the OCR in writing of any referral within ninety (90) calendar days of its receipt of the complaint. If the DYA refers the complaint to an external agency, the Civil Rights Officer will provide a written notice to the complainant stating that the complaint was referred to an external agency, notifying the complainant of that external agency's contact information, and identifying the civil rights provision(s) involved.

If the DYA determines that it will investigate the complaint, it shall issue letters of notification to the complainant and the respondent. Opening a complaint for investigation in no way implies that the DYA has made a determination with regard to the merits of the complaint. During the investigation, the DYA is a neutral fact-finder. The DYA shall collect and analyze relevant information and evidence from the complainant, the respondent, and other sources as appropriate. The DYA shall ensure that the investigations are legally sufficient and address the allegations raised in the complaint.

If the DYA elects to investigate a complaint that involves a federal civil rights law over which the OCR has jurisdiction, the OCR retains authority (1) to conduct supplementary or *de novo* investigations; (2) to approve, modify, or reject recommended findings; (3) to approve, modify or reject proposed voluntary resolutions; and (4) to initiate formal enforcement action.

## **Investigation of the Complaint**

The DYA may use a variety of fact-finding techniques in its investigation of a complaint. These techniques may include reviewing documentary evidence submitted by both parties; conducting interviews with the complainant, respondent's personnel, and other witnesses; and conducting site visits. At the conclusion of its investigation, the DYA shall determine with regard to each allegation whether a preponderance of the evidence supports a conclusion that the respondent failed to comply with the law.

The DYA's determination shall be explained in a letter of findings sent to the complainant and the respondent. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements of OCR policy and they should not be relied upon, cited, or construed as such. The DYA's formal policy statements are approved by a duly-authorized DYA official and made available to the public.

## **Resolution of the Complaint after a Determination of Noncompliance**

If the DYA determines that a respondent failed to comply with one of the civil rights laws the OCR enforces, the DYA will contact the respondent and will attempt to secure the respondent's willingness to negotiate a voluntary resolution agreement. If the respondent agrees to resolve the complaint, the respondent will negotiate and sign a written resolution agreement describing the specific remedial actions that the respondent will undertake to address the area(s) of noncompliance identified by the DYA. The terms of the resolution agreement, if fully performed, will remedy the identified violation(s) in compliance with applicable civil rights laws. The DYA shall monitor the respondent's implementation of the terms of the resolution agreement to verify that (1) the remedial actions agreed to by the respondent have been implemented consistent with the terms of the agreement and (2) the area(s) of noncompliance identified were resolved consistent with applicable civil rights laws.

If the respondent refuses to negotiate a voluntary resolution agreement or does not immediately indicate its willingness to negotiate, the DYA will inform the respondent it has thirty (30) calendar days to indicate its willingness to engage in negotiations to voluntarily resolve identified areas of noncompliance, or the DYA shall forward the case to either the EEOC, if the complaint alleges employment discrimination within that agency's jurisdiction, or the OCR, if the complaint allege services discrimination within that agency's jurisdiction.

## **Request for Reconsideration or Appeal of DYA's Determination**

The DYA is committed to a high-quality resolution of every case. The DYA affords an opportunity to the complainant to submit a request for reconsideration or an appeal of a DYA determination that is not in the complainant's favor. If the complainant disagrees with the DYA's decision to dismiss or administratively close a complaint for any reason (e.g., jurisdiction, timeliness, or other administrative reasons), s/he may send a written request for reconsideration to the Civil Rights Officer within sixty (60) calendar days of the date of the DYA's administrative closure letter. If the complainant disagrees with the DYA decision finding insufficient evidence to support the complaint allegation(s) after investigation, s/he may send a

written appeal to the Civil Rights Officer within sixty (60) calendar days of the date of the DYA's letter of findings. Requests for reconsideration and appeals shall be sent to:

Civil Rights Officer  
Guam Department of Youth Affairs  
Government of Guam  
P.O. Box 23672  
GMF, Barrigada, Guam 96921

The review process provides an opportunity for complainants to bring information to the DYA's attention that may change the DYA's decision. For both requests for reconsideration and appeals, the complainant must explain why s/he believes the factual information was incomplete, the analysis of facts were incorrect, and/or the appropriate legal standard was not applied, and how those would change the DYA's determination in the case. Failure to do so may result in the denial of the request for reconsideration or appeal. The review process will not be a *de novo* review (i.e., the DYA shall not review the matter as if no previous decision has been rendered) of the DYA's decision.

#### **E. Policy Dissemination**

The DYA Civil Rights Compliance Policy will be made available to all employees, clients, customers, program participants, applicants, subgrantees, and consumers. This Policy shall be included with orientation materials given to all new employees, available on shared computer access, and available on the DYA's website ([dya.guam.gov](http://dya.guam.gov)), and given to employees during training on the policy. Non-discrimination clauses shall also be incorporated in all agreements, award packets, and contracts with vendors who contract with the DYA. Furthermore, all subgrantees of the DYA must acknowledge reviewing the policy by initialing a special condition before receipt of their award.

#### **F. Training and Subgrantee Monitoring**

The DYA shall provide training for agency employees on the Civil Rights Compliance Policy periodically. The training shall include an overview of complaint policies and procedures, including an employee's responsibility to refer potential discrimination issues and discrimination complaints from employees, clients, customers, program participants, applicants, subgrantees, and consumers to the Civil Rights Officer.

Through its compliance monitoring process, the DYA ensures that subgrantees have procedures in place for responding to discrimination complaints that employees, clients, customers, program participants, applicants, and consumers file directly with the subgrantee. The DYA also ensures that subgrantees notify their employees, clients, customers, program participants, applicants, and consumers of prohibited discrimination and the procedures for filing an employment or services discrimination complaint.

## **COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS:**

### **Clean Air Act**

Offeror agrees to comply with Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and sub grants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). Violation shall be reported to ED and the Regional Office of the Environmental Protection Agency (EPA).

### **Byrd Anti-Lobbying**

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – applies to contracts over \$100,000. Offeror as part of this Agreement certifies compliance with 31 U.S.C. 1352 and agrees to provide a copy of the Byrd Anti-Lobbying certification to the OAG, and to require any subcontractor of \$100,000 or more to file a Byrd Anti-Lobbying certification. Offeror represents that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The disclosures are to be forwarded from Offeror and its subofferors up to the Government.

### **Debarment and Suspension**

Debarment and Suspension (E.O. 12549 and E.O. 12689)—No contract may be made to parties listed on the General Services Administration's List of Parties excluded from Federal Procurement or No procurement Programs in accordance with E.O. 12549 and E.O. 12689—Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and Offerors declared ineligible under statutory or regulatory authority other than E.O. 12549. Offeror certifies that Offeror, nor any of Offeror's trustees, officers, directors, agents, servants or employees (whether paid or voluntary) is debarred or suspended or suspended on federal, state or local debarment and suspension lists; or otherwise excluded from or ineligible for participation in federal or local assistance programs.

### **Drug-Free Work Place**

Offeror acknowledges that the Government maintains a drug free work place in compliance with Drug-Free Workplace Act of 1988 (Pub. L.100-690) and Offeror and subofferors agree to comply with the Drug-Free Work Place Act.

### **DRUG-FREE WORKPLACE (MAY 2001)**

a) *Definitions.* As used in this clause=

“*Controlled substance*” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 – 1308.15.

“*Conviction*” means a finding of guilt (including a pleas of *nolo contend ere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“*Criminal drug statute*” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance. “*Drug-free workplace*” means the site(s) for the performance of work done by the Offeror in connection with a specific contract where employees of the Offeror are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“*Employee*” means an employee of a Offeror directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Offeror employee who has other than a minimal impact or involvement in contract performance.

“*Individual*” means an Offeror/Offeror that has no more than one employee including the Offeror.

- b) The Offeror, if other than an individual, shall – within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration-
- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Offeror’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;
  - (2) Establish an ongoing drug-free awareness program to inform such employees about-
    - (i) The dangers of drug abuse in the workplace;
    - (ii) The Offeror’s policy of maintaining a drug-free workplace;
    - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - (3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;
  - (4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
    - (i) Abide by the terms of the statement; and
    - (ii) Notify the employer in writing of the employee’s conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
  - (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
  - (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any

employee who is convicted of a drug abuse violation occurring in the workplace;

- (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.
  - (8) The Offeror, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
  - (9) In addition to other remedies available to the Government, the Offeror's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Offeror subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

### **Technology Access for Blind or Visually Impaired**

The Offeror acknowledges that no government funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired.

### **Certification of Non-Discrimination**

If a contract for services is awarded to the Offeror, then the service Consultant must comply with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act) (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and other neighborhood organizations); and 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations).

Offeror will designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as a

liaison in all civil rights matters with the Office of Justice Programs and the Office for Civil Rights (OCR), Office of Justice Programs.

Offeror will inform the public of affected persons' rights to file a complaint of discrimination with the OCR for investigation. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the OCR and DYA.

Offeror will provide an Equal Employment Opportunity Plan (EEO) to the OCR and the DYA, if it is a state government, a local government, or a for-profit entity that has 50 or more employees and receives a single award for \$500,000 or more that is subject to the administrative provisions of the Safe Streets Act; otherwise, it will provide a certification to the OCR and the DYA that it has a current EEO on file, if it has 50 or more employees and receives a single award for \$25,000 or more, but less than \$500,000, that is subject to the administrative provisions of the Safe Streets Act. For state governments, local governments, and for-profit entities receiving less than \$25,000, or for state governments, local governments, and for-profit entities with fewer than 50 employees, regardless of the amount of the award, no EEO is required. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency. To ensure compliance with the Safe Streets Act and Title VI of the Civil Rights Act of 1964, the Consultant must take reasonable steps to ensure that LEP persons have meaningful access to its programs and activities. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. The Consultant is encouraged to consider the need for language services for LEP persons served or encountered both in developing its budgets and in conducting its programs and activities. Additional assistance and information regarding your LEP obligations can be found at <http://www.lep.gov>.

In accordance with federal civil rights laws, the Offeror will not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

**Civil Rights Requirements**

Service Consultant: \_\_\_\_\_

Civil Rights Contact Person: \_\_\_\_\_

Title/ Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Number of persons employed by the organizational unit: \_\_\_\_\_

\_\_\_\_\_  
Signature

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires \_\_\_\_\_, \_\_\_\_\_.

**APPENDIX D**

**SAMPLE FORM OF CONTRACT**

**Sample Terms and Conditions**  
**CONTRACTUAL AGREEMENT**

**BETWEEN**

**DEPARTMENT OF YOUTH AFFAIRS**

**AND**

---

**RFP No.: DYA RFP-15-001**  
**Youth Programs for Runaways, Homeless, and Victims of Abuse**

THIS AGREEMENT is entered into by and between the **DEPARTMENT OF YOUTH AFFAIRS**, an agency of the Government of Guam (**DYA**), whose address is P.O. Box 23672, GMF, Barrigada, Guam 96921 and \_\_\_\_\_ (**Service Provider**) whose address is \_\_\_\_.

**WHEREAS**, the **DYA** has provided adequate public announcement of the need for such services from qualified nongovernmental organizations to provide services to youths who are runaways, homeless or victims of abuse, through a request for proposals **DYA RFP-15-001**; describing the type of services required and specifying the type of information and data required of each Offeror and the relative importance of particular qualifications; and

**WHEREAS**, this project is 100% locally funded by the Government of Guam; and

**WHEREAS**, the services to be rendered are of a special and temporary nature which has been determined to be in the best public interest to be performed under contractual agreement by professional personnel other than employees in the service of the **DYA**; and

**WHEREAS**, the **Service Provider** has submitted a statement of qualifications and an interest in providing such services; and

**WHEREAS**, the award of this contract to the **Service Provider** has been made pursuant to a written finding by the **DYA** that the **Service Provider** is the best qualified based upon evaluation factors set forth in the request for proposals, and negotiations of compensation have been determined to be fair and reasonable;

**WHEREAS**, funds have been appropriated, allocated and made available to fund this program.

**WITNESSETH**, the **DYA** and the **Service Provider** in consideration of mutual covenants hereinafter set forth, agree as follows:

## **SECTION I. PURPOSE:**

To provide services for youths under 18 who are runaways, homeless, or victims of abuse, inclusive of those juvenile offenders, status and non-offenders involved in the juvenile justice system or auspices of the DYA and youth who are not already receiving services from the child welfare or juvenile justice system on Guam.

## **SECTION II. SCOPE OF SERVICES:**

The Service Provider shall perform the professional services set forth in the type of services required (to be completed at a later date). DYA and Service Provider's negotiated costs for type of services required; and in accordance with all applicable Federal, Government of Guam, and DYA laws, rules and regulations

The type of services are for youth under 18 who are runaways, homeless, or victims of abuse, inclusive of those juvenile offenders, status and non-offenders involved in the juvenile justice system or auspices of the DYA and youths who are not already receiving services from the child welfare or juvenile justice system on Guam.

The Request for Proposal DYA RFP-15-001 and the Service Provider's proposal are incorporated by reference into this Agreement and are made part of this Agreement. In the event of any conflict among these documents, the following order or precedence shall apply: any contract amendment(s), in reverse chronological order; then this Agreement itself; then the Request for Proposal; then Service Provider's Best and Final Offer(s), in reverse chronological order; the Service Provider's proposal.

## **SECTION III. SERVICE PROVIDER'S RESPONSIBILITIES:**

- A. \_\_\_\_\_ agrees to accept appointment as Service Provider to the Department of Youth Affairs (DYA) providing best efforts to the performance of duties and responsibilities as outlined below in accordance with the laws, rules, regulations, and policies of the DYA.

Service Provider shall provide services as indicated in the approved project proposal.

Service Provider shall supply all items necessary to accomplish the goals and objectives specified in the approved project proposal. Funding outlined in Section IV of this Agreement may be used to acquire all necessary items to accomplish the goals and objectives contained in the approved project proposal.

Submit the following Program Reports:

1. Monthly Statistical Data of Referrals and Clientele Population of runaways, homeless and victims of abuse, due no later than 15 days after the end of the month;

2. Monthly Financial Status Report (MFSR) with copies of support documents (e.g. invoices, purchase orders) due no later than 15 days after the end of the month, regardless of whether any expenditures were incurred. The report will be in the form prescribed by the DYA. Invoice(s) submitted will not be processed until the MFSR is received for the service period invoiced;
3. Quarterly Performance Reports on project activities and Youth/Parent Evaluations, due no later than 15 days after the end of each quarter that the project is funded;
4. Quarterly Reports on project activities, procurement of equipment over \$5,000, detailed inventory listing purchases, and quarterly financial report, due no later than 15 days after the end of each quarter, pursuant to Public Law 32-181, Chapter XIII, Section 7, for Non-Profit Organizations; and
5. Cumulative Project Report, due no later than 30 days after the expiration of the Agreement. The Cumulative Project Report shall include both process and outcome data describing achievement of the goals and objectives contained in the Service Provider's approved project proposals. A copy of all evaluation tools will be appended to the report. The Cumulative Project Report will identify specific information on the types of activities that were provided. A written assessment of the program's impact must be submitted and it must address the evaluation indicators identified in the program.
6. Submit a Property Inventory Report to DYA, due no later than 30 days after the termination of the contract. All equipment which is purchased with program funds should be reflected on the report.

Failure to submit any report required of any information by the DYA in a timely manner shall be grounds for termination of the Agreement, discontinuance of funding, and delay in payment.

All reports or correspondence will be addressed to the Director of the Department of Youth Affairs.

Immediately inform the DYA should it encounter any problems in the implementation of the program contained in its approved application.

Reimburse the account for any ineligible expenses that it may have incurred using local funds.

Allow without prior notice the DYA and DYA auditors to have access for the audit and examination of any books, documents, papers and records of the funds granted to the under this Agreement.

Special Funds may not be used: To replace funds that would, in the absence of federal assistance, be available or forthcoming of the organization. Special Funds must be used to increase the total amount of such other funds the grantee organization uses. A Special Fund recipient may not use the funds to defray any costs that the recipient is already obligated to pay; Not to use Special Funds to

purchase equipment or hardware that are not part of or that are not identified in Service Provider's proposal as contained in its application or approved by the DYA; Not to use Special Funds to hire personnel except as identified in the proposal; Not to use Special Funds for unrelated training or conferences, T-shirts, goodie bags, food not associated with working lunches, or for construction. Special Funds may be used for supplies directly related to conducting workshops. For example, name tags, easels, folders, paper, pens/pencils, drug prevention literature and commemorative souvenir booklets can be purchased.

Submit to the DYA all requests for reprogramming of funds on or before June 30<sup>th</sup> of each program year, requests after this date will be considered disapproved. Decisions by the DYA will be made in consultation with the Service Provider. No funds may be reprogrammed without the DYA's prior authorization

Provide information and data as required by the DYA.

Give credit to the DYA when a press release is issued or interview is given for any activity/activities funded in part or in total under the program and identity the amount of funding.

Identify and designate a Project Coordinator specific to the program specified in the Service Provider's application.

- B. The Service Provider shall be responsible for the professional and technical accuracy of all work and materials furnished under this Agreement. The Service Provider shall, without additional cost to the DYA, correct or revise all errors or deficiencies in its work.
- C. The DYA review, approval, acceptance of, and payment of fees for services required under this Agreement, shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the Service Provider's failure to perform this Agreement and the Service Provider shall be and remain liable to the DYA for all costs of any kind which may be incurred by the DYA as a result of the Service Provider's negligent performance of any of the services performed under this Agreement.

#### **SECTION IV. DYA RESPONSIBILITIES:**

- A. Designate liaisons to serve as DYA's coordinators to act a point of contacts for all communication between the Service Provider and DYA's Divisions of Youth Development Division and Vocational Rehabilitation and Support Services.
- B. Conduct monitoring activities to ensure compliance with this Agreement and Scope of Services.

- C. Record and monitor financial activities of the Service Provider as they pertain to monies allocated for the services of youth who runaways, homeless, or victims of abuse.
- D. Process payments for services satisfactorily completed and accepted.

**SECTION V. TERM:**

- A. Effective date. The effective date of any award shall be the date of signature by the Governor.
- B. The initial term of the contract shall be from the effective date or October 1 2015, whichever is later, through September 30, 2016 with an option for renewal up to three (3) additional one (1) year periods, upon the option of DYA.
- C. Renewal Terms. At the option of DYA, and as agreed to by the Service Provider, the contracts may be renewed for up to three (3) one-year renewals (each term being a "Renewal Term"), to be recertified subject to the availability, appropriation, and allocation of funds, not to exceed four (4) years. Upon expiration of the final Renewal Term, the contracts shall expire, unless sooner terminated.

Funds may be certified in different increments during the fiscal year on this procurement. In the event funds are not appropriated or otherwise made available to support services, the contracts shall be cancelled and the Service Provider shall be notified in a timely manner and reimbursed or the reasonable value of any non-recurring costs incurred but not amortized in price of supplies or services delivered under the contract.

**SECTION VI. COMPENSATION FOR SERVICES:**

- A. Service Provider shall be compensated monthly upon the clearance of monthly invoices by the government of Guam.
  - 1. Payment shall be based upon actual costs, as defined in 2 GAR Division 4 § 7101 (1), submitted less disallowed costs and penalties, as applicable. Compensation based upon the aggregate of actual cost submitted may be less than the agreed upon compensation, but in no event shall it exceed the agreed upon compensation, unless otherwise provided for.
  - 2. The Object Categories and their negotiated and agreed upon amounts shall be expended for intended and allowable program expenditures through the term of the contract.
  - 3. No additional costs are allowable without prior written approval by the government of Guam. Any cost above the agreed upon amounts shall be at the expense of the contractor.
  - 4. Personnel costs associated to direct services of this contract shall be submitted in an itemized format. The invoice should reflect only those services fees incurred for the

current billing period. Each invoice should also include the total amount billed from the inception of the contract. All invoices are subject to review and approval by the government of Guam.

5. An equitable adjustment to compensation for services may be authorized by government of Guam if the time for performance or services requested are increased or decreased over that agreed to, but only any changes must be in keeping with the scope of works as set forth in the Request for Proposals. Contractor must submit advanced written requests for modification to the government of Guam and must justify the adjustment within each Object Category.

## B. Invoices

In any reporting month there exists a discrepancy in the statistical, narrative or financial reports submitted by contractor to the government of Guam, 10% of the invoice amount after applying any penalties or disallowed costs, shall be withheld until the discrepancy has been resolved to the satisfaction of the government of Guam.

The Service Provider shall submit invoices to the Director of the Department of Youth Affairs. The DYA shall compensate the Service Provider by progress payments based upon the delivery of approved submittals of designated work as follows:

1. Upon review and acceptance of the Monthly Statistical Data of Referrals and Clientele Population Reports.
2. Upon review and acceptance of the Monthly Financial Status Reports (MFSR), the DYA shall reimburse the Service Provider for expenditures covered in the report. An invoice requesting payment for expenditures covered in the report shall accompany all MFSR.
3. Upon review and final acceptance of the completed work of the Service Provider by the DYA, the Service Provider will be paid based on the MFSR and the submission of an invoice reflecting expenditures covered in the Final MFSR.

## C. Final Payment and Release of Claims

Final payment shall be made upon satisfactory delivery and acceptance of all services as herein specified and performed. Prior to final payment and as a condition precedent thereto, the Service Provider shall execute and deliver to DYA a release, in a form provided by the DYA of claims against the DYA arising under and by virtue of the contract.

## **SECTION VII. SERVICE PROVIDER AGREES:**

- A. That the Service Provider understands that it is an independent contractor, and as such there shall be no benefits accruing to the Service Provider or the Service Provider's employees from this Agreement, such as:
  1. Insurance coverage provided by the DYA.
  2. Participation in the DYA retirement system.

3. Accumulation of vacation leave, or sick leave as a DYA employee.
- B. That there shall be no withholding of taxes by the DYA.
  - C. That the Service Provider will, within thirty (30) days after any claim accrues arising out of or in connection with this Agreement provided herein, give written notice to the DYA and the Attorney General of Guam of such claim, setting forth in detail all the facts relating thereto and the basis for such claim; and that he/she will not institute any suit or action against the DYA in any court or tribunal in any jurisdiction based on any such claim later than one (1) year after such filing. Any action or suit on any claim shall not include any item or matter not specifically mentioned in the proof of claim above specified. It is agreed that if such action or suits instituted proof by the Service Provider of its compliance with the provisions of this paragraph shall be a condition precedent to any recovery; and that this paragraph does not constitute a waiver of any applicable statutes of limitations.
  - D. That the Service Provider will be subject to inspection and monitoring by the DYA as designated by Executive Order No. 2008-15 and in accordance to the core requirements of the Juvenile Justice and Delinquency Prevention Act of 2002.
  - E. Determination of referrals for services by the DYA shall be given to the DYA within seven (7) days following the Service Provider's receipt of referrals.
  - F. Case reviews shall convene with DYA's attendance for review of program infractions of clientele and determination of status within 48 hours following infractions.
  - G. The Service Provider shall procure and maintain at its own expense insurance for its business including, but not limited to worker's compensation and general liability insurance. The Service Provider shall provide the DYA with copies of its certificates of insurance upon the request of the DYA.

#### **SECTION VIII. SCOPE OF AGREEMENT:**

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the retainment of the Service Provider by the DYA and contains all of the covenants and agreements between the parties with respect to such retainment in any manner whatsoever. Each party to this Agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any parties, which are not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged. For the purpose of this paragraph and of the entire agreement the signature of the Governor is the only signature that will bind the DYA.

#### **SECTION IX. ASSIGNMENT OF AGREEMENT:**

The Service Provider may not assign this Agreement, or any sum becoming due to the Service Provider under the provisions of this Agreement, without the prior written consent of the DYA.

#### **SECTION X. GENERAL COMPLIANCE WITH LAWS:**

The Service Provider shall be required to comply with all Federal and Guam Laws and ordinance applicable to the work. Service Provider shall attach a copy of appropriate business license or a statement of exemption pursuant to section 26203 Title 11, Guam Code Annotated.

#### **SECTION XI. CONFIDENTIALITY:**

In the event the Service Provider will be given access to any confidential information, the Service Provider agrees to comply with all applicable Government rules and procedures, Guam privacy rules and regulations and all Federal rules and regulations.

#### **SECTION XII. ACCESS TO RECORDS AND OTHER REVIEW:**

The Service Provider, including its subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under the contract, for inspection by the DYA. Each subcontract by the Service Provider pursuant to this Agreement shall include a provision containing the conditions of this Section. No subcontracting is permitted by the Service Provider under this Agreement without the prior written approval of the DYA.

#### **SECTION XIII. OWNERSHIP OF DOCUMENTS:**

All briefs, memoranda, and other incidental Service Provider work or materials furnished hereunder shall be and remain the property of the DYA including all publication rights and copyright interest, and may be used by the DYA without any additional cost to the DYA.

#### **SECTION XIV. INDEMNITY:**

Service Provider agrees to save and hold harmless the DYA, its officers, agents, representatives, successors and assigns and other government agencies from any and all suits or actions of every nature and kind, which may be brought for or on account of any injury, death, or damage arising or growing out of the acts or omissions of the Service Provider, Service Provider's officers, agents, servants, or employees under this agreement.

#### **SECTION XV. CHANGE ORDER:**

The DYA may at any time, by written order make any change in the services to be performed hereunder. If such changes cause an increase or decrease in the costs of doing the work under

this Agreement, or in the time required for this performance, an equitable adjustment shall be made and the agreement shall be modified in writing accordingly.

## **SECTION XVI. TERMINATION FOR DEFAULTS Reference [GAR §6101 (8)]**

### **A. Default.**

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

### **B. Service Provider's Duties.**

Notwithstanding termination of the Agreement and subject to any directions from the DYA, Service Provider shall take timely, reasonable, and necessary action to protect and preserve property in possession of Service Provider in which the territory has an interest.

### **C. Compensation.**

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

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

Except with respect to defaults of subcontractors, Service Provider shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the contractor to make progress in the prosecution of the work here under which endangers such performance) if Service Provider has notified the DYA within 15 days after the cause of the delay and the failure arises out

of causes such as: acts of God; act of the public enemy; acts of the territory and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Service Provider 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 Service Provider to meet the Agreement requirements. Upon request of the Service Provider, the DYA 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 Service Provider's progress and performance would have met the terms of the Agreement, the delivery schedule shall be revised accordingly, subject to the rights of the territory under the clause entitled (in fixed-price contracts, "Termination" for Convenience in cost-reimbursement contract) "Termination". (As used in this Paragraph of this clause the term "subcontractor" means subcontractor at any tier.)

E. Erroneous Termination for Default.

If, after notice of termination of Service Provider's right to proceed under the provisions of this clause, it is determined for any reason that Service Provider was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (d) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the territory, 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 the territory, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to Service Provider's rights under Chapter 9 (Legal and Contractual Remedies) of the Guam Procurement Regulations.

F. Additional Rights and Remedies.

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

G. Liquidated Damages. Reference: GAR § 6101(9) (a) Reference: GAR § 6101(9) (a)

When the Service Provider is given notice of delay or nonperformance as specified in Paragraph (d) (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 reasonably obtains similar supplies or services if the Service Provider is terminated for default, or until the Service

Provider provides the supplies or services if the Service Provider is not terminated for default. To the extent that the Service Provider'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 Service Provider remains liable for damages caused other than by delay.

## **SECTION XVII. TERMINATION FOR CONVENIENCE: Reference [GAR §6101]**

### **A. Termination**

The DYA may, when the interest of the territory so require, terminate this Agreement in whole or in part, for the convenience of the territory. The DYA shall give written notice of the termination to the Service Provider specifying the part of the contract terminated and when termination becomes effective.

### **B. The Service Provider's Obligation**

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

### **C. Right to Supplies**

The DYA may require the Service Provider to transfer title and deliver to the territory in the manner and to the extent directed by the DYA:

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

The Agreement shall, upon direction of the DYA, protect and preserve property in the possession of the Service Provider in which the territory has an interest. If the DYA does not exercise this right, the Service Provider shall use best effort to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code of Guam, §2706 is quoted at the end of this §6101 (10) (d)

Utilization of this Section in no way implies that the territory has breached the contract by exercise of the Termination for Convenience Clause.

D. Compensation

1. The Service Provider 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 §3118 (Cost Pricing Data) of the GAR bearing on such claim. If the Service Provider fails to file a termination claim within one year from the effective date of termination, the DYA may pay the Service Provider, if at all, an amount set in accordance with Subparagraph Section D (3) of this Paragraph.
2. The DYA and Service Provider may agree to a settlement provided the Service Provider has filed a termination claim supported by cost or pricing data to the extent required by §3118 (Cost Pricing Data) to the Guam Procurement Regulations and that the settlement not exceed the total contract price plus settlement costs reduced by payments previously made by the territory, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated.
3. Absent complete agreement under Subparagraph (b) of this Paragraph, the Government 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 Agreement;
  - (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 Service Provider would have sustained a loss if the entire Agreement 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 the Service Provider's Obligations of this clause. These costs must not include costs paid in accordance with Subparagraph D 3 of this Paragraph; and
  - (iv) the reasonable settlement costs of the Service Provider 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 Agreement 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 Agreement. The total sum to paid the Service Provider under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Service Provider reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under

Subparagraph D (2) of this Paragraph, and the Agreement price of work not terminated.

4. Cost claimed, agreed to, or established under Subparagraph (b) and (c) of the Paragraph shall be in accordance with Chapter 7 (Cost Principles) of the GAR. 12 GCA §2706 (UCC) states:

“§2076. Seller’s Resale Including Contract for Resale.

- (i) Under the conditions stated in §2703 on seller’s remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with an incidental damages allowed under the provisions of this division (§2710), but less expenses saved in consequence of the buyer’s breach.
- (ii) Except as otherwise provided in subdivision (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more 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 reasonable identified as referring to the broken Agreement, but it is not necessary that the goods be in existence or that any of all them have been identified to the Agreement before the breach.
- (iii) Where the resale is at private sale the seller must give the buyer reasonable notification of the Service Provider’s intention to resell.
- (iv) Where the resale is at public sale.
  - (a) Only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and
  - (b) It must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of resale; and
  - (c) If the goods are not to be within the view of those attending the sale, the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and
  - (d) The seller may buy.
  - (e) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one of more of the requirements of this section.
  - (f) The seller is not accountable to the buyer for any profit made on any resale. A person is the position of a seller (§2707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (subdivision (3) of §2711).

## **SECTION XVIII. PROGRAM TRANSITION**

In the event of the termination, the Service Provider shall take all steps necessary to ensure a smooth and professional transition of the program to prevent any interruption of the services to the clients and to preserve the integrity of the program. The Service Provider shall immediately prepare to relinquish all program related information, files, major equipment items, service contributions, and program income ( contributions, donations, and gifts) remaining balances and all other operational and administrative and service documents and/or items to DYA.

## **SECTION XIX. SEVERABLE PROVISIONS:**

If any provisions of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the Agreement and the Agreement shall be enforced according to its valid and subsisting terms and provisions.

## **SECTION XX. GOVERNING LAW:**

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of Guam.

## **SECTION XXI. EFFECTIVE DATE OF AGREEMENT:**

This Agreement shall take effect upon the date of the Governor's signature.

## **SECTION XXII. FUNDING:**

This procurement is 100% funded by the DYA appropriation funds for contracting services to youth who are runaways, homeless, or victims of abuse, Public Law \_\_\_\_\_. This Agreement is subject to the availability, appropriation, and allocation of funds.

## **SECTION XXIII. MANDATORY DISPUTE RESOLUTION:**

- A. DYA and the Service Provider agree to attempt resolution of all controversies which arise under, or are by virtue of, procurement and any resulting contracts through mutual agreement. If the controversy is not resolved by mutual agreement, then the Service Provider shall request DYA in writing to issue a final decision within sixty days after receipt of the written request. If DYA does not issue a written decision within sixty days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the Service Provider may proceed as though DYA has issued a decision adverse to the Service Provider.
- B. DYA shall immediately furnish a copy of the decision to the Service Provider, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt.

- C. DYA's decision shall be final and conclusive, unless fraudulent or unless the Service Provider appeal the decision.
- D. This subsection applies to appeals of DYA's decision on a dispute. For money owed by or to DYA under the Service Provider, the Service Provider shall appeal the decision in accordance with the Government Claims Act by initially filing a claim with the Office of the Attorney General no later than eighteen months after the decision is rendered by DYA or from the date when a decision should have been rendered. For all other claims by or against DYA arising under the contracts, the Office of the Public Auditor has jurisdiction over the appeal from the decision of DYA. Appeals to the Office of the Public Auditor must be made within sixty days of DYA's decision or from the date the decision should have been made.
- E. The Service Provider shall exhaust all administrative remedies before filing an action in the Superior Court of Guam in accordance with applicable laws.
- F. The Service Provider shall comply with DYA's decision and proceed diligently with performance of the contracts pending final resolution by the Superior Court of Guam of any controversy arising under, or by virtue of, the contracts, except where the Consultant claims a material breach of the contracts by DYA. However, if DYA determines in writing that continuation of services under the contracts is essential to the public' health or safety, then the Service Provider shall proceed diligently with performance of the contracts notwithstanding any claim of material breach by DYA.

#### **SECTION XXIV. CLAIMS AGAINST THE DYA:**

The Service Provider expressly recognizes that the Government Claims Act (Title 5 of the Guam Code Annotated, Chapter 6) applies with respect only to claims of money owed by or to the Service Provider against the DYA if the claim arises out of or in connection with this Agreement. The Service Provider also expressly recognizes that all other claims by the Service Provider against the DYA are subject to the Guam Procurement Law (Title 5 of the Guam Code Annotated, Chapter 5).

#### **SECTION XXV. CONSENT TO JURISDICTION:**

The Service Provider hereby expressly consents to the jurisdiction of and the forum of the courts of Guam with respect to any and all claims which may rise by reason of this Agreement, except as otherwise may be provided by the Guam Procurement Law. The Service Provider waives any and all rights it may otherwise have to contest the same or proceed in a different jurisdiction or forum.

## **SECTION XXVI. MANDATORY REPRESENTATION BY SERVICE PROVIDER:**

- A. General Ethical Standards [2 GAR Div. 4 §11103(b)]. With respect to this Agreement and any other contract that the Service Provider may have, or wish to enter into, with any government of Guam agency, the Service Provider represents that it has not knowingly influenced, and promises that it will not knowingly influence, any government employee to breach any of the ethical standards set forth in the Guam Procurement Law and in any of the Guam Procurement Regulations.
- B. Prohibition Against Gratuities and Kickbacks [2 GAR Div. 4 §11107(e)]. With respect to this Agreement and any other contract that the Service Provider may have or wish to enter into with any government of Guam agency, the Service Provider represents that he has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in the Guam Procurement Regulations.
- C. Prohibition Against Contingent Fees [2 GAR Div. 4 §11108(h)]. The Service Provider represents that it has not retained a person or anyone upon an agreement or understanding for a percentage, commission, brokerage, or other contingent arrangement, except for retention of bona fide employees or bona fide established commercial selling agencies, to solicit or secure this Agreement or any other contract with the government of Guam or its agencies.
- D. Service Provider's Warranty as to Employees and Sex Offenses [5 GCA §5253(b)]. The Service Provider warrants that no person providing services on behalf of the Service Provider has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of 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. The Service Provider warrants that if any person providing services on behalf of the Service Provider is convicted of a sex offense under the provisions of Chapter 25 of the Title 9 GCA, or an offense 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. Any Service Provider found in violation of this section, after notice from the DYA, after notice from the Service Provider's authority of such violation, shall within twenty-four (24) hours, take corrective action and shall report such action to the Service Provider's authority. Failure to take corrective action with the stipulated period may result in the temporary suspension of the Agreement at the discretion of the DYA.

**SECTION XXVII. WAGE AND BENEFIT COMPLIANCE – SERVICE PROVIDER PROVIDING SERVICES PURSUANT TO 5 GCA §§5801-5805.**

- A. The Service Provider with regard to all persons it employs whose purpose in whole or in part is the direct delivery of services contracted for, with the DYA in this procurement, shall pay such employees in accordance with the Wage Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor for such labor as is employed in the direct deliverance of deliverables to the DYA. 5 GCA §5801. The Service Provider shall be responsible for flowing down this obligation to its subcontractors.
- B. The Wage Determination most recently issued by the U.S. Department of Labor at the time this Agreement is awarded to the Service Provider shall be used to determine wages and benefits which shall be paid to employees pursuant to this clause. 5 GCA §5801
- C. Should any contract contain a renewal clause, then at the time of renewal adjustments there shall be stipulations contained in contract for applying the Wage Determination, so that the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date shall apply. 5 GCA §5801
- D. In addition to the Wage Determination detailed above, health and similar benefits for employees having a minimum value as detailed in the Wage Determination issued and promulgated by the U.S. Department of Labor shall apply. The Service Provider shall pay minimum of ten (10) paid holidays per annum per employee. 5 GCA §5802
- E. Any violation of the Service Provider or its subcontractors obligations of this section shall be investigated by the Guam Department of Labor and may include a monetary penalty assessment by the Guam Department of Labor of no less than One Hundred (\$100) per day, and no more than One Thousand Dollars (\$1,000) per day, until such time as a violation has been corrected, as well as the payment of all back wages and benefits due. 5 GCA §5803
- F. In addition to any and all other breach of contract actions the DYA may have under this procurement, in the event there is a violation in the process set forth in subsection (e) above, the Service Provider may be placed on probationary status by the Chief Procurement Officer of the General Services Agency, or its successor, for a period of one (1) year. During the probationary status, a Service Provider shall not be awarded any contract by any instrumentality of the Government of Guam. A Service Provider who has been placed on probationary status, or has been assessed a monetary penalty pursuant to 5 GCA Article 13 Title 5 may appeal such penalty or probationary status to the Superior Court of Guam. 5 GCA §5804
- G. The Service Provider along with all proposed Offerors and submitter under this procurement were required to submit a Declaration of Compliance with Wage Determination laws as part of this procurement with a copy of the most recent Wage

Determination for Guam and the Northern Marianas Islands issued and promulgated by the U.S. Department of Labor. 5 GCA §5805

- H. The applicable USDOL Wage Determination Rate Revision (as defined by subsections (b) and (c)) is to this Agreement. The Service Provider agrees to provide upon written request by the DYA written certification of its compliance with its obligation as part of each invoice, along with the names of any employees, their positions, and detailed wage and benefits paid in keeping with this section. Additionally upon request by the DYA, the Service Provider shall submit source documents as to those individuals providing direct services in part or whole under this Agreement and its payments to them of such wages and benefits.

**SECTION XXVIII. BINDING SIGNATORY:**

This Agreement, and any modification hereto, is not binding until signed by the Governor of Guam.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates indicated by their respective names.

**SERVICE PROVIDER:**

**FOR THE GOVERNMENT:**

\_\_\_\_\_

\_\_\_\_\_

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

Adonis J. Mendiola, Director  
Department of Youth Affairs

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

**CERTIFIED FUNDS AVAILABLE:**

**APPROVED:**

\_\_\_\_\_  
Jeannette C. Toves  
Certifying Officer  
Date: \_\_\_\_\_

\_\_\_\_\_  
Jose S. Calvo  
Director, BBMR  
Date: \_\_\_\_\_

Account No.: \_\_\_\_\_  
Amount: \$ \_\_\_\_\_  
Vendor No.: \_\_\_\_\_  
Document No.: \_\_\_\_\_

**APPROVED AS TO LEGALITY & FORM:**

**APPROVED:**

\_\_\_\_\_  
Elizabeth Barrett-Anderson  
Attorney General of Guam  
Date: \_\_\_\_\_

\_\_\_\_\_  
Honorable Eddie Baza Calvo  
Governor of Guam  
Date: \_\_\_\_\_