

# DEPARTMENT OF YOUTH AFFAIRS

**Government of Guam**

## **REQUEST FOR PROPOSALS**

**Number: DYA RFP-16-002**

**For**

### **NURSING SERVICES**

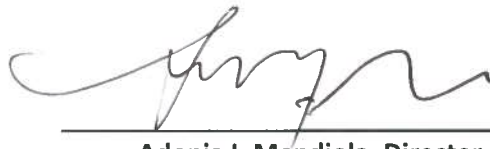
**100% Government of Guam Local Funds**

**Issued: September 29, 2016**

**Deadline for Submission: October 14, 2016, 4:00 p.m. (Guam Standard Time)**

**Place of Submission: Director's Office  
Department of Youth Affairs  
169 San Isidro Street  
Mangilao, Guam 96913**

**Contact for the Procurement: Jeannette Toves, Administrative Services Officer  
Telephone – (671) 735-5009/10  
Facsimile – (671) 734-7536**



---

**Adonis J. Mendiola, Director Date**

**TABLE OF CONTENTS**

I. Timeline ..... 3

II. General Overview ..... 4

III. Instructions ..... 4

IV. Scope of Services ..... 8

V. Special General Provisions ..... 9

VI. Miscellaneous General Terms and Conditions for Inclusion in Contract ..... 14

VII. Mandatory Forms ..... 19

VIII. Appendices ..... 21

Appendix A: Mandatory Forms

Appendix B: Department of Youth Affairs Civil Rights Compliance Policy

Appendix C: Sample Form of Contract

**ARTICLE I. TIMELINE**

<b>Advertisement</b>	<b>September 29, 2016</b>
<b>Deadline for submission</b>	<b>October 14, 2016</b>
<b>Questions Deadline</b>	<b>October 5, 2016</b>
<b>Response Deadline for Questions</b>	<b>October 10, 2016</b>
<b>Opening, evaluation &amp; Ranking</b>	<b>October 17, 2016</b>
<b>Notice of Ranking and Award</b>	<b>October 19, 2016</b>
<b>Negotiations</b>	<b>October 20, 2016</b>
<b>Contract signing</b>	<b>October 31, 2016</b>

## ARTICLE II. GENERAL OVERVIEW

On March 12, 2010, Public Law 30-101 was signed into law to reprogram and appropriate funds for Nursing Services and Medication, these funds are authorized to be carried over by Public Law 30-196 until fully expended for its original purpose.

Currently, it is the intent of the Government of Guam to continue nursing services for the clientele under the auspices of the Department of Youth Affairs on a more permanent basis, unfortunately, DYA's operating budget, will not allow the department to hire a full-time nurse, therefore, the department will continue to outsource the nursing services through a request for proposal, until DYA is able to get full funding support from the local government to recruit a permanent full-time staff nurse.

### SECTION 1.01 INTRODUCTION:

The Government of Guam, Department of Youth Affairs (DYA) is soliciting Request for Proposals (RFP) Number: DYA RFP-16-002 from qualified individuals whose principal focus will be to provide comprehensive nursing services to clients of the Department of Youth Affairs.

### SECTION 2.01 TERM OF SERVICES REQUIRED:

**INITIAL TERM:** The initial term of the contract shall commence upon the date the Governor approves the contract through September 30, 2017.

**RENEWAL TERM:** The contract may be extended for two (2) additional one year periods at the sole option of the Government.

**MONTHLY EXTENSION PERIODS:** At the option of the government, and as agreed to by the vendor, the contract may be extended after the final Renewal Term on a month-to-month basis (each being a "Monthly Extension Period"), to begin immediately after the expiration of the final Renewal Term, provided that in no event may the parties agree to more than six (6) Monthly Extension Periods. The Monthly Extension Periods may be agreed to by the parties only if the DYA is unable to continue the services uninterrupted under a new contract after a new solicitation and procurement undertaken by the DYA.

**MULTIPLE TERM CONTRACT, MULTIPLE CERTIFICATION OF FUNDS:** The term of the contract and any extensions are subject to the availability, appropriation, and allocation of funds. Should the Government in its sole discretion decide to exercise any option to renew the contract, subject to the availability of funds, then the Government shall issue a letter to declare the option to renew as notice to the selected service provider and funds for the renewal period may be processed in accordance with any procedure or format adopted by the Bureau of Budget and Management Research. The contract term may also be extended to include any liquidation period, at no additional cost.

Funds may be certified in different increments during any fiscal year on this procurement. In the event funds are not appropriated or otherwise made available to support continuation of services in a subsequent fiscal period, the contract shall be cancelled and the contractor shall be

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 2.02 TYPE OF CONTRACT**

The Guam Procurement Law prohibits advance payment. The type of contract will be a "Firm Fixed Price", Multi-year contract whereby the parties shall agree upon a basis for payment of services performed.

## **ARTICLE III. INSTRUCTIONS:**

### **SECTION 3.01 DEADLINE FOR SUBMISSION OF PROPOSALS:**

**Deadline for Submission of All Proposals: Friday, October 14, 2016, 4:00 p.m. (Guam Standard Time). Proposals submitted after this time and date will not be considered.**

### **SECTION 3.02 REGISTRATION OF INTERESTED PARTIES**

Those picking up a hard copy of the Request for Proposals package at the DYA will be asked to sign a registry log. Those submitting RFP packages will also be asked to sign a registry log. Only registered persons will receive official communications from DYA regarding the Request for Proposals, and only proposals from registered persons will be accepted. Persons receiving copies of this RFP through downloads from the internet in keeping with 5 GCA Section 5220, P.L. 31-228 effective, June 15, 2012 will not receive amendments to the RFP or other communications related to the procurement, unless they complete and submit the DYA registration contact information. Receipt and acknowledgement of all RFP amendments is required of all Offerors submitting proposals.

### **SECTION 3.03 RFP FORMAT**

#### **(1)Written Proposals**

All proposals must be typewritten. DYA will not accept handwritten proposals. And in keeping with the requirements of this RFP, DYA will review all proposals to determine its validity and responsiveness prior to entering the evaluation stage.

#### **(2)Signatures**

Signatures shall be in black or blue ink. Blue is preferred.

#### **(3)Erasures and Strikeouts**

Erasures, strikeouts or other types of changes that are evident on the face made to a proposal must be explained or noted over the signature of the Offeror.

### **SECTION 3.04 MINIMUM INFORMATION REQUIRED IN THE PROPOSAL:**

1. The name of the Offeror, location of the Offeror's principal place of business, telephone and facsimile numbers, and if different, the place of the performance of the proposed contract.
2. Submission of Offeror's police and court clearances (Less than 30 days old) and if needed, updated clearances prior to the commencement of services.
3. Offeror's Tax Identification Number (TIN), Employer Identification Number (EIN), and GovGuam Vendor ID Number.
4. Offeror's Business License
5. Offeror must have current valid professional license to perform the services requested, and must provide a copy to the DYA.
6. Statement of Understanding and Willingness. A statement expressing the Offeror's understanding of the work to be accomplished as specified in the Scope of Services (Article IV), and a statement of the Offeror's commitment or willingness to perform the services.
7. Age of offeror's business and average number of employees over the past five (5) years.
8. Offeror's abilities, qualifications, and experience.
9. A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a period of time, as specified in the Request for Proposals.
10. A plan giving as much detail as is practical explaining how the services will be performed.
11. Dedicated Time. How much time the Offeror is able to dedicate or will devote to the services requested relative to other business commitments.
12. Other Resources. The Offeror's other resources such as equipment to be used in the performance of the services.
13. Other Relevant Information. Any other relevant information which will be useful in evaluating the Offeror's plan for performance may be included.

### **SECTION 3.05 CONTENTS OF PROPOSAL**

The Offeror's response to the items mentioned in this article III shall be considered the Offeror's proposal. Proposals shall be prepared simply and economically, providing straightforward, concise description of the Offeror's ability to fulfill the requirements of the proposal. In order to ensure a uniform review process and to obtain the maximum degree of comparability, DYA prefers that the contents of the proposal be organized and submitted in the following manner, format, and order indicated in Section 3.04 of this article, Minimum Information Required in the Proposal. The mandatory forms (Appendix A) should follow.

### **SECTION 3.06 INCLUSION OF PROPOSAL CONTENTS IN CONTRACT**

DYA reserves the right to include any part or parts of the Offeror's proposal in the final contract if the Offeror is awarded a contract.

**SECTION 3.07 QUESTIONS AND ANSWERS:**

Questions concerning this Request for Proposals may be asked in writing and written responses will be given in the following manner.

Only potential Offerors who have obtained a Request for Proposals packet may submit written questions to DYA. DYA must receive the questions no later than **Wednesday, October 5, 2016 at 1:00 pm.** (Guam Standard Time). DYA will respond only to questions received before this deadline. Oral statements made by DYA or its agents are not binding. **On or before Monday, October 10, 2016,** DYA expects to provide its responses to the written questions. Responses to questions will be sent via facsimile.

If any question requires an interpretation of the Request for Proposals, or is relevant to all Offerors, then DYA shall prepare a response in the form of an amendment to the Request for Proposals packet, and shall forward the amendment to all prospective Offerors who have picked up a packet. Receipt of any amendment must be acknowledged in the cover letter of submittal of Offerors' proposal.

Questions should be submitted to the Administrative Services Officer, at one of the following addresses:

1. Via Delivery to:  
Department of Youth Affairs  
169 San Isidro Street  
Mangilao, Guam 96913  
Attention: Administrative Services Officer
  
2. Via U.S. Postal:  
Department of Youth Affairs  
P.O. Box 23672  
GMF Barrigada, GU 96921  
Attention: Administrative Services Officer
  
3. Via facsimile to the Department of Youth Affairs at (671) 734-7536  
Attention: Administrative Services Officer

**SECTION 3.08 SERVICES PROPOSALS**

Each Offeror must submit one (1) original and three (3) copies of the Services Proposal and must be sealed in an envelope or other sealable container.

**SECTION 3.09 COST/ PRICING RATE SCHEDULE:**

Each Offeror must submit a price proposal for the services, *enclose the budget proposal in a separate sealed envelope marked "Price Proposal." Only one sealed envelope with the Offeror's price should be submitted.*

**SECTION 3.10 INFORMATION ON SEALED ENVELOPE OR CONTAINER**

On the face of the sealed envelope or container, the following information shall be clearly marked:

**NOT TO BE OPENED EXCEPT BY  
THE DIRECTOR, DEPARTMENT OF YOUTH AFFAIRS OR DESIGNEE  
Proposal for **DYA RFP-16-002**  
Submitted by (the Offeror's name, address, and telephone number)**

**SECTION 3.11 DELIVERY**

Proposal packages shall be submitted to the following name and address. DYA shall not be responsible for any delivery costs or postage due. Proposals will NOT be accepted via facsimile or e-mail as these two mediums do not allow proposals to be sealed or submitted in an original form with multiple copies:

**Department of Youth Affairs  
169 San Isidro Street  
Mangilao, Guam 96913**

**ARTICLE IV. SCOPE OF SERVICES**

The **DEPARTMENT OF YOUTH AFFAIRS** is requesting for proposals from **QUALIFIED OFFERORS** whose principal focus will be to provide comprehensive nursing services to clients of the Department of Youth Affairs. The type of services required includes the following:

**SECTION 4.01 TYPE OF SERVICES REQUIRED:**

1. To provide comprehensive nursing services in our basic designated nurse's station consisting of a desk, computer, an exam table and first-aid supplies. Contractor to provide basic routine diagnostic equipment needed to perform services, i.e. stethoscope, a sphygmomanometer for reading blood pressure
2. Provide intake and monitoring screening activities to assess patient health problems and needs
3. Provide and Administer nursing care to ill, injured, convalescent, or disabled patients for non-emergency medical attention, for example: minor scrapes, administration of first aid and CPR, physical examinations
4. Monitor client's behavioral health and provide prompt appropriate referrals



5. Educate, counsel, and assist individuals to include parents in assuming responsibility for their own health to the best of their ability, knowledge and circumstance to provide training regarding hygiene, wellness, pregnancy and disease prevention
6. Develop and implement nursing care plans for infection prevention and control, procedure in the event of a death (death review to include administrative and clinical mortality), PREA (Prison Rape Elimination Act) Federal Sexual Abuse Regulations/How to respond to sexual abuse, and develop an emergency response plan-what to do in the event of a respiratory or cardiac arrest
7. Maintain medical records
8. Administer, supervise and monitor the pharmaceuticals and medication delivery to include weekends and holidays
9. Perform case management to record and monitor current meds, special health requirements, dental problems, mental health problems, past or present treatment or hospitalization for mental disturbance or suicide risk, STDs, communicable diseases, other health problems, height and weight
10. Provide training to staff to assist with early detection or intervention, i.e. how to detect and control scabies
11. Comply with Health Insurance Portability and Accountability Act of 1996 (HIPPA), and client confidentiality
12. Administer and record immunizations
13. Offeror must be able to work scheduled days as defined by DYA, normally between the hours of 8:00 a.m. to 6:00 p.m. unless other arrangements are made
14. Offeror must be able to provide "on-call" service days as required by DYA

#### **SECTION 4.02 MONITORING AND REPORTING REQUIREMENTS:**

The Offeror will comply with all DYA requirements in providing services to DYA clients. Services will be monitored by DYA. The monitor may examine files, fiscal records and other records if needed.

All records of youth served must be collected and maintained in a manner to ensure the protection of the juveniles' rights to privacy and confidentiality.

A monthly consolidated report shall contain information describing all clients seen; client initials; date of birth; reason being seen; meds dispensed; shots administered; training provided to staff, clients, and/or parents; and shall include any other information to be collected as requested.

#### **SECTION 4.03 POST AWARD REQUIREMENTS**

Upon selection, offeror must submit the following documents prior to commencement of services:

- (a) CONFIDENTIALITY/LIABILITY AGREEMENT
- (b) POLICE AND COURT CLEARANCES (MUST BE LESS THAN 30 DAYS OLD)

## **ARTICLE V. SPECIAL GENERAL PROVISIONS**

### **SECTION 5.01 RIGHT TO REJECT OFFERS AND CANCEL THE PROCUREMENT:**

DYA shall have the right to reject all offers, and/ or individual offers in whole or in part and/ or cancel this RFP, if it is determined to be in the best interest of DYA as provided for in the procurement laws. Reasons for rejection of individual proposals include, but are not limited to, reasons such as: (a) the Offeror is non-responsible as determined under 2 GAR Div. 4 §3116; (b) the proposal ultimately fails to meet the announced requirements of the Government in some material respect notwithstanding opportunity for altering or clarifying the proposal; or (c) the proposed price is clearly unreasonable.

In the event of cancellation or rejection of all proposals, proposals that have been unsealed shall remain the property of DYA and not returned to the respective Offerors. A proposal that has not been unsealed (such as late proposals) will be returned to the Offeror upon request of the Offeror.

### **SECTION 5.02 DETERMINATION TO USE COMPETITIVE SELECTION PROCEDURE:**

The following written determination is required by law prior to the announcement for the need of the services described in the Request for Proposals:

By issuing this Request for Proposals, the DYA has determined (a) that the services to be acquired are a type of service specified in 2 GAR Div. 4 §3114(a) for competitive selection of services; (b) a reasonable inquiry has been conducted on the availability of such personnel to perform the services and that the territory does not have the personnel or resources to perform the services required under the proposed contract(s); (c) that the DYA will utilize services of the proposed Contractor to provide comprehensive nursing services to clients of the DYA. DYA has developed, and fully intends to implement, a written plan for utilizing such services as will be included in the contractual statement of work.

### **SECTION 5.03 ALL PARTIES TO ACT IN GOOD FAITH:**

The Guam Procurement Law and the Guam Procurement Regulations require that all parties involved in the preparation of proposals; the preparation of the Request for Proposals; the evaluation and negotiation of proposals; and the performance or administration of contracts to act in good faith.

### **SECTION 5.04 GOVERNMENT AND OFFEROR:**

The Guam Procurement Law authorized government agencies to act as a "Government" for the purpose of procuring professional services such as those described in Article IV, without going through the government's General Services Agency. DYA as a government agency is issuing this Request for Proposals as **DYA RFP-16-002**, and acts as a Government.

Any party who submits a proposal is known as an "Offeror." An Offeror awarded a contract may be described herein as "applicant", "organization", "contractor", or "service provider".

**SECTION 5.05 LIABILITY FOR COSTS TO PREPARE PROPOSAL:**

DYA is not liable for any costs incurred by any Offeror in connection with the preparation of its proposal. By submitting a proposal, the Offeror expressly waives any right it may have against the government for any expenses incurred in connection with the preparation of its proposal.

**SECTION 5.06 APPLICABILITY OF GUAM PROCUREMENT LAW:**

If any Request for Proposals is contrary to the Guam Procurement Law or contains ambiguous terms, then such portion of the Request for Proposals shall be interpreted or resolved in favor of or according to the provisions of the Guam Procurement Law.

**SECTION 5.07 REQUESTS FOR NON-DISCLOSURE**

After award of a contract, the proposal of the Offeror awarded the contract becomes a part of the record of procurement process and is public information. Therefore, if an Offeror is submitting trade secrets or proprietary information that the Offeror wishes to keep confidential, then the Offeror must identify those portions that it considers proprietary and request in writing for non-disclosure. The request for non-disclosure must be included in a cover letter, and those portions in the proposal that are proprietary must be clearly marked or designated, or identified in the cover letter. DYA will entertain the request and issue a ruling in accordance with Article V, Section 5.16

**SECTION 5.08 NO CONFLICT OF INTEREST**

The Offeror must also include a statement affirming that it presently has no conflicts of interest with regard to the services for which a proposal is being submitted.

**SECTION 5.09 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

The Offeror must certify that the rate it proposes (which is to be placed in a separate sealed envelope) was independently arrived at without collusion with any other Offeror or person.

**SECTION 5.10 ACKNOWLEDGEMENT OF RECEIPT OF AMENDMENTS**

If the Government issues any amendments to the Request for Proposals, the Offeror must acknowledge receipt of each individual amendment in its cover letter.

**SECTION 5.11 NOTICE OF REQUEST FOR PROPOSALS:**

The procurement regulations provide that notice of a Request for Proposals for professional services is adequate if published in a newspaper of general circulation at least 10 days before the proposals are due. Hence, notice of this Request for Proposals will be advertised in the Guam Post published in Tamuning, Guam.

**SECTION 5.12 RECEIPT AND REGISTRATION OF PROPOSALS:**

Proposals and modifications to proposals will be time-stamped upon receipt and held in a secure place until the established due date. Proposals will not be opened publicly, nor disclosed to unauthorized persons, but will be opened in the presence of two employees designated by the DYA Director to act as administrators for this Request for Proposals. DYA will keep a Register of Proposals identifying the Request for Proposals, the names of the Offerors, and the number of modifications received, if any, by each Offeror. The Register is not open for public inspection until after award of a contract. Proposals of Offerors not awarded do not become public records.

**SECTION 5.13 OPENING OF PROPOSALS:**

After the deadline for submission of proposals and as soon as practicable, DYA's two administrators shall unseal each proposal in the order received and conduct a preliminary review of each proposal to see whether the proposal contains the mandatory forms required by law as a condition to making an offer. The lack of any one of the forms is cause for a finding of non-responsiveness and automatic rejection of the proposal without evaluation of the detailed plan. Proposals will then be evaluated. Any Offeror submitting a non-responsive proposal will receive a written Notice of Non-Responsiveness.

**SECTION 5.14 EVALUATION PROCESS:**

An Evaluation Committee shall evaluate the proposals. Prior to the evaluation meeting, the Evaluation Committee members will not know the identities of the Offerors and will not have access to the proposals. The evaluations will be conducted on a designated date and at a designated time. The proposals will be evaluated in the order received. The Evaluation Committee Chairperson will monitor the full evaluation meeting to ensure fairness and non-collusion. Before the evaluations begin, the Administrative Services Officer will explain the criteria and process to the Evaluation Committee, as may be necessary. Unless requested to by the administrator or Evaluation Committee, any attempt by an Offeror to contract any individual assigned to evaluate may result in disqualification of the Offeror.

**SECTION 5.15 DISCUSSIONS DURING EVALUATION:**

During the evaluation meeting, or any continuation thereof, the Evaluation Committee may conduct discussions with any Offeror, in writing or telephonically. Discussions shall not disclose any information derived from proposals submitted by other Offerors. The issues clarified during discussions should be put into writing by the Offeror and submitted to DYA within three business days of conclusion of discussions, and may be submitted electronically or via facsimile. DYA will provide further instructions as may be necessary.

**SECTION 5.16 RULING ON REQUESTS FOR NON-DISCLOSURE OF INFORMATION:**

During discussions or evaluations, the Evaluation Committee will examine any request for non-disclosure to determine its validity. If the Evaluation Committee does not grant the request, then DYA must inform the Offeror in writing those portions which will be open for disclosure should the Offeror be awarded the contract and why. If the Offeror does not agree or is dissatisfied with the ruling for any reason, then the Offeror may withdraw the proposal or submit a protest according to the procedures set out in the Guam Procurement Law. If the proposal is not withdrawn and no protest is received, then if an award is made to such Offeror, DYA may disclose those portions of the proposal for which a non-disclosure request was not granted.

**SECTION 5.17 MODIFICATION OR WITHDRAWAL OF PROPOSALS:**

Any proposal may be modified or withdrawn upon written request by the Offeror prior to the conclusion of discussions with such Offeror.

If the Evaluation Committee finds that no discussion with an Offeror is necessary, then such Offeror's time for modifying or withdrawing its proposal shall be terminated upon the Committee moving on to evaluate the next proposal.

**SECTION 5.18 RANKING OF OFFERORS AND DETERMINATION OF BEST QUALIFIED OFFEROR:**

Upon conclusion of the evaluations, the administrators will tabulate the points assigned by the Evaluation Committee and rank the Offerors from the highest number of points received to the lowest number. Soon after ranking is completed, DYA will send each Offeror written notice of its ranking without identifying the other Offerors or their ranking, along with further instructions.

**SECTION 5.19 STANDARD FOR DETERMINATION OF THE MOST QUALIFIED OFFEROR:**

Responsive proposals shall be evaluated according to the following standards:

ITEM	STANDARD	TOTAL POINTS POSSIBLE
1	Quality of a detailed plan for performing the required services.	50
2	Ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services	30
3	Record of past performance of similar work	15
4	Personnel and Equipment to perform the services currently	5

	available at the time of contracting	
TOTAL POSSIBLE SCORE		100

**SECTION 5.20 SELECTION OF BEST QUALIFIED OFFEROR:**

The proposal receiving the most points based on the evaluation process, and upon approval of the DYA Director, is the best qualified Offeror.

**SECTION 5.21 NEGOTIATIONS OF BEST QUALIFIED OFFEROR:**

Negotiations for prices and other items of a contract will begin with the highest ranked Offeror for each of the services described with the opening of the sealed envelope containing the Offeror’s price. The DYA Director or his designee/designees may conduct the negotiations. If an agreement can be reached as to a fair and reasonable price, and as to any other contract terms which require negotiation, then DYA shall send the best qualified Offeror a Notice of Intent to Award in electronic form or by facsimile and a contract will be prepared for the signatures by the parties.

**SECTION 5.22 FAILURE TO NEGOTIATE CONTRACT WITH BEST QUALIFIED OFFEROR:**

DYA will negotiate with the Best Qualified Offeror. In the event DYA fails to secure the contract and fair and reasonable pricing with the best qualified Offeror, DYA shall notify such Offeror of the termination of negotiations in writing within one (1) week of such failure, either in electronic form or by facsimile. DYA may enter into negotiations with the next best qualified Offeror.

**SECTION 5.23 FUNDING:**

Funding for this agreement is subject to the availability of funds.

**ARTICLE VI. GENERAL TERMS AND CONDITIONS FOR INCLUSION IN CONTRACT**

The contract to be entered into between DYA and the awarded Offeror herein will include the following terms and conditions in some form if required by law. If any of the following terms and conditions is not required by law, then such term or condition may be negotiated. If any of the following terms and conditions is not applicable to the services required herein, then the term or condition may be excluded from the contract.

**SECTION 6.01 GENERAL AUTHORITY FOR PROCUREMENT:**

A federal grant will fund the services being acquired. The granting authority requires that local procurement procedures be used. All agencies of the government of Guam are required to follow the Guam Procurement Law when spending public funds to purchase “supplies” or “services” as these terms are described in the Guam Procurement Law. The Guam Procurement Law is codified at Title 5, Chapter 5, GCA, and the Guam Procurement Regulations are codified at Title 2, Division 4

of the Guam Administrative Rules and Regulations (“GAR”). The foregoing statutes and regulations are available from the web site of Guam’s Compiler of Laws found at: [www.guamcourts.org/compilerofLaws](http://www.guamcourts.org/compilerofLaws).

DYA is issuing this Request for Proposals subject to the competitive selection procedures for professional services and all other applicable provisions of the Guam Procurement Law and the Guam Procurement Regulations.

**SECTION 6.02 PAYMENT:**

Payment shall be made using a method mutually agreed upon by the Government and the successful Offeror, subject to Guam law. The Prompt Pay Act shall apply to late payments.

**SECTION 6.03 GUAM INCOME TAXES:**

If any work is to be performed on Guam, then the Offeror may be subject to Guam Income Taxes as well as all other applicable taxes on Guam transactions. Specific information on Guam taxes may be obtained from the Director of Revenue and Taxation, government of Guam, P.O. Box 23607, GMF Guam 96921.

**SECTION 6.04 EQUAL EMPLOYMENT OPPORTUNITY:**

The Offeror may not discriminate against its employees or applicants for employment because of race, creed, color or national origin. The Offeror shall take affirmative action to ensure that applicants are employed, and that employees are treated, equally without regard to their race, creed, color or national origin.

**SECTION 6.05 ASSIGNMENT:**

The contract or any sums due to the contractor may not be assigned without the prior approval of DYA.

**SECTION 6.06 COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA):**

If applicable, the Offeror must meet all requirements of the American with Disabilities Act.

**SECTION 6.07 SCOPE OF AGREEMENT:**

The resulting contract shall supersede any and all other prior agreements, either oral or in writing, between the parties with respect to the retainer of the chosen Offeror, and contains all the covenants and agreements between such parties with respect to the retainer in any manner whatsoever. Each party to the resulting contract shall acknowledge that no agreements otherwise have been made by any party, or any acting on behalf of any party, which are not embodied within the contract, and that no other agreement, statement or promise not contained in the contract will be valid or binding.

**SECTION 6.08 RESPONSIBILITY FOR ACCURACY OF WORK:**

The awarded Offeror shall be responsible for the professional and technical accuracy of all work and materials furnished under the contract. The awarded Offeror shall, without additional cost to the government of Guam, correct or revise all errors or deficiencies of its work. The awarded Offeror shall agree to devote his or its best efforts to the duties and responsibilities under the contract in accordance with the laws, rules, regulations and policies of the government of Guam. The government's review, approval and acceptance of, and payment of fees for, services required under the contract shall not be construed to operate as a waiver of any rights under the contract or of any cause of action arising out of the awarded Offeror's failure to perform the services required, and the awarded Offeror shall be and remain liable to the government of Guam for all costs of any kind which may be incurred as a result of the awarded Offeror's negligent performance of any of the services required to be performed under the contract.

**SECTION 6.09 SUBCONTRACTING OF AGREEMENT:**

Because of the nature of the work, the awarded Offeror may not subcontract any part of the services required under the contract without prior written consent of DYA, or as outlined in this Request for Proposals or resulting contract.

**SECTION 6.10 GENERAL COMPLIANCE WITH LAWS:**

The awarded Offeror shall be required to comply with all federal and local laws applicable to the work.

**SECTION 6.11 OWNERSHIP OF DOCUMENTS:**

All documents, memoranda and other incidental work or materials prepared by the awarded Offeror shall be and remain the property of DYA including all publication rights and copyright interests, and may be used by DYA without any additional costs to the government.

**SECTION 6.12 CHANGES:**

a) The Government may, at any time, by written order, make changes to the general scope of this contract in the services to be performed. Contractor shall not make any changes to the general scope without the written approval of the Government.

(b) If such changes cause an increase or decrease in Contractor's cost of, or time required for, performance of any services under this Agreement, the Agreement shall be modified in writing accordingly. Any claim for adjustment under this section must be made in writing to the Government within thirty (30) days from the date of receipt by Contractor of the notification of change; provided, however, the Government, if it determines the facts justify such action, may receive and consider and adjust any such claim asserted at any time prior to the date of final settlement of the Agreement. Nothing provided in this section shall excuse Contractor from diligently proceeding with the work so charged.



(c) If Contractor believes that a change in the scope of services is necessary and desirable to the furtherance of the interest of the project under this Agreement, Contractor shall make a request, in writing, for the Government to issue a Change Order. Such requests for Change Order shall include the proposed change in scope of services, as well as the proposed change in compensation and/or schedule associated with granting such a Change Order. The Government shall, in response to such requests for

**SECTION 6.13 SEVERABLE PROVISIONS:**

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

**SECTION 6.14 NO GOVERNMENT LIABILITY:**

DYA and the government of Guam assume no liability for any claims, accidents, or injuries that may occur to the awarded Offeror, its agents, dependents, subcontractors, employees, or employees of its subcontractors. The government of Guam shall not be liable to the awarded Offeror for any work performed by the awarded Offeror prior to the approval of the contract by the government and issuance of a Notice to Proceed. The awarded Offeror shall expressly waive any and all claims for services performed in expectation of the contract prior to the issuance of a Notice to Proceed.

**SECTION 6.15 LICENSING:**

Offeror's are reminded that the Government Procurement Law's local preference provision gives preference to licensed and operating Guam businesses. Specific information on licenses may be obtained from the Director of Revenue and Taxation. However, a Guam business license is not required of a business if its services will be performed for the government outside of Guam.

**SECTION 6.16 CONTRACT SUBJECT TO AVAILABILITY OF FUNDS:**

If for any reason whatsoever the government has insufficient funds to cover the costs of the contract, then the contract shall terminate according to the procedure described in the contract.

**SECTION 6.17 INSURANCE:**

The awarded Offeror shall procure and maintain at its own expense all necessary comprehensive insurance for its business including, but not limited to, worker's compensation and general liability insurance.

**SECTION 6.18 GOVERNMENT'S RIGHT TO AUDIT:**

Contractors with government shall maintain books and records relative to the costs and scope of services of the contract for three years from the date of final payment. The government is authorized to inspect such books and records at reasonable times and places.

**SECTION 6.19 TERMINATION:**

Upon written notice, either party to the contract may terminate it in whole or in part at any time either for convenience or default. Contractor will be paid the reasonable value of services to the date of termination.

**SECTION 6.20 RESTRICTION ON EMPLOYMENT OF SEX OFFENDERS (5 GCA § 5253):**

The contractor warrants that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or convicted of an offense, the type of which is defined under Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, regardless of jurisdiction in which the conviction was obtained, shall provide services on behalf of the contractor relative to this Request for Proposals. If any person employed by the contractor and who provided services under the resulting contract is convicted subsequent to the parties entering into a contract, then the contractor warrants that it will immediately notify the government of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services under the contract. If the government is found to be in violation of any of the provisions of this paragraph, then the government shall give notice to the contractor to take corrective action. The contractor shall take corrective action within twenty-four hours of notice from the government, and the contractor shall notify the government when action has been taken. If the contractor fails to take corrective steps within twenty-four hours of notice from the government, then the government in its sole discretion may suspend the contract temporarily.

**SECTION 6.21 DISPUTES:**

The Guam Procurement Law provides for a mandatory procedure to be used to resolve controversies relative to the contract. As provided thereby, the government and the contractor shall agree to attempt to resolve all controversies which arise under, or by virtue of, the resulting contract, through mutual agreement.

If the controversy is not resolved by mutual agreement, then the contractor shall request the government in writing to issue a final decision within 60 days after receipt of the written request. If the government does not issue a written decision within 60 days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as though the government had issued a decision adverse to the contractor. The government shall immediately furnish a copy of the decision to the contractor, by certified mail with a return receipt requested, or by any other method that provides evidence of receipt. The government's decision shall be final and conclusive, unless fraudulent or unless the contractor appeals the decision.

For appeals relative to money owed by or to the government under the contract, the contractor shall appeal the decision in accordance to the Government Claims Act. See following subsection on "Claims against the Government".

For all other claims by or against the government under the contract, the Office of the Public Accountability has jurisdiction over the appeal from the decision of the government. Appeals to the

Office of the Public Auditor must be made within 60 days of the government's decision or from the date the decision should have been made.

**SECTION 6.22 CLAIMS AGAINST THE GOVERNMENT:**

The Guam Claims Act (5 GCA§6101, *et seq.*) applies only with respect to claims of money owed by or to the government under the contract resulting from the Request for Proposals. The contract will provide that the awarded Offeror shall consent to the jurisdiction of and the forum of the courts of Guam with respect to any claims subject to the Guam Claims Act. The awarded Offeror shall waive any and all rights it may otherwise have to contest the same or to proceed in a different jurisdiction of forum. For a copy of the Guam Claims Act, visit the web site of Guam's Compiler of Laws.

**SECTION 6.23 DRUG FREE/ SMOKE FREE WORKPLACE:**

The contractor shall assure compliance with federal and local drug/smoke free workplace Act of 1988, the Governor's Circular No. 89-26 [Governor's Policy Statement Establishing a Drug-Free workplace] and the Clean Indoor Air Act of 1992.

**ARTICLE VII. MANDATORY FORMS:**

1. Offeror's Profile. The Offeror must provide background information on the business as to its official name, location, contract information, type of business, date of incorporation, and the number of years the Offeror has been in business.
2. Affidavit Disclosing Ownership and Commissions. As a condition of bidding and doing business with the government, an Offeror must disclose in the form of an affidavit the names of all persons owning more than ten (10%) of the outstanding interest of the Offeror's business during the twelve-month period immediately preceding the date the proposal is submitted, including the percentage owned by each such person or entity. The same affidavit must also disclose the identity of anyone who has received or is entitled to receive a commission, gratuity, and percentage, brokerage of other compensation of contingent arrangement for procuring a contract with the Government or for assisting the Offeror in obtaining business related to this Request for Proposals, and the value or amounts. Please note that commissions, gratuities, percentages, contingency fees, or other compensation for the purposes stated herein are prohibited by Guam law, except that this prohibition does not apply to fees payable by the Offeror upon contracts or sales secured or made through *bona fide* established commercial or selling agencies maintained by the Offeror for the purpose of securing business.
3. Affidavit re Non-Collusion. The Offeror must represent that its offer is genuine and not a sham and that the Offeror is not in collusion with others, and that the Offeror has not colluded, conspired, connived or agreed, directly or indirectly with any other person of Offeror to put in a sham proposal, or to fix the cost of the contract, or to secure any advantage against the government or any person interested in the contract.

4. Affidavit re No Gratuities and Kickbacks. The Offeror must represent that it 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 Law. The prohibition is as follows: It is a breach of ethical standards for any person to offer, give, or agree to give any government employee or former government employee, or for any government employee or former government employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement of a purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, auditing, or in any other advisory capacity in any proceeding or application, requires for ruling, determination, claim or controversy, or other particulate matter, pertaining to any program requirement of a contract of subcontract, or to any solicitation or proposal thereof. Further, it shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement of the award of a subcontract or order.
5. Affidavit re Ethical Standards. The Offeror must represent that it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set out in Guam's procurement code or regulation pertaining to ethics in public contracting.
6. Declaration re Compliance with U.S. Department of Labor (DOL) Wage Determination. The Offeror must represent that it pays its employees, and provides health and similar benefits, in accordance with the most recent Wage Determination for Guam and the Northern Mariana Islands issued and promulgated by the U.S. DOL for such labor as is employed in the direct delivery of contact deliverables to the government of Guam.
7. Affidavit re Contingent fees. The Offeror must represent, pursuant to title 2 GAR, Division 4, §11108(f) and §11108(h), that it has not retained any person or agency on a percentage, commission, or other contingent arrangements to secure a contract with the Government of Guam upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

8. Compliance with Federal Laws and Regulations

See Compliance with Federal Laws and Regulations in Mandatory Forms (Appendix A), DYA Civil Rights Compliance Policy (Appendix B), and Sample Form of Contract (Appendix C).

**ARTICLE VIII. APPENDICES:**

See Appendix A for mandatory forms mentioned in Article VII. These forms do not have to be retyped. They may be detached from this Request for Proposals Packet and used as is.

See Appendix B for DYA Civil Rights Compliance Policy

See Appendix C for Sample Form of Contract