

REQUEST FOR PROPOSAL

for

INDEPENDENT FINANCIAL AUDITOR

No. GHC-2010-01

Deadline for Submission:

Monday, June 14, 2010 no later than
3:00 p.m.
Chamorro Standard Time (Guam Time)

Place of Submission:

Guam Housing Corporation
590 South Marine Corps Drive, Ste.514
ITC Building, Tamuning, 96931

PUBLIC ANNOUNCEMENT

This Advertisement is paid with by:
Guam Housing Corporation

REQUEST FOR PROPOSAL No. GHC-2010- 01

Independent Auditing Services

The Guam Housing Corporation (GHC), a non-major component unit of the Government of Guam is soliciting proposals from a U.S. Certified Public Accounting Firm for an audit (to include the Single Audit Act Provision) of its financial operations for *FY 2010 through FY 2012*, subject to the availability of funds and certification from fiscal year to fiscal year. Required audit reports include a report on the financial statements and reports on internal control and compliance. The required audit services will include an audit of GHC's financial statements in accordance with generally accepted auditing standards and *Government Auditing Standards*; and, if applicable based on the amount of federal awards expended, a compliance audit over federal award programs in accordance with generally accepted auditing standards, *Government Auditing Standards*, and OMB Circular A-133.

Request for Proposal (RFP) packages may be obtained at GHC's Main Office, in Tamuning, Guam anytime from Monday through Friday, excluding holidays between 8:00 a.m. and 5:00 p.m. The RFP may also be downloaded at the Office of Public Accountability's website at www.guamopa.org or www.guamhousing.org **Deadline for submission of all proposals is 3:00 p.m. Chamorro Standard Time (Guam Time), Monday, June 14, 2010.** All proposals must be submitted to the attention of: Jeremy J. Rojas, President of GHC.

The Evaluation Committee, with the written approval of the Public Auditor, reserves the right to reject any or all proposals, solicit new proposals, waive minor informalities or irregularities or award the Independent Auditor in whole or in part.

All questions regarding the proposal should be made in writing and directed to the Cassandra C. Santos, Assistant Supply Management Administrator via facsimile at 649-4144. Except to the above persons named, direct or indirect contact with GHC Management or Staff, Board members, or any person participating in the selection process is prohibited.

/s/ _____
JEREMY J. ROJAS
PRESIDENT

TABLE OF CONTENTS

I. INTRODUCTION.....	4
II. SUBMISSION AND EVALUATION OF PROPOSAL	7
III. SCOPE OF SERVICES FOR ANNUAL INDEPENDENT AUDIT	13
IV. GENERAL TERMS AND CONDITIONS.....	18
V. AFFIDAVITS	
1. NON-COLLUSION AFFIDAVIT	24
2. MAJOR SHAREHOLDER DISCLOSURE AFFIDAVIT	25
3. NON-GRATUITY AFFIDAVIT	26
4. ETHICAL STANDARDS AFFIDAVIT.....	27
5. GOOD STANDING AFFIDAVIT	28

I. INTRODUCTION

BACKGROUND:

The Guam Housing Corporation (GHC) was established and became operative in 1965 through Title 12, Chapter 4 of the Guam Code Annotated, with a mandate to provide mortgage loans to qualified first time homebuyers. Generally stated, our clients/customers are those who cannot utilize conventional lending vehicles. Thus GHC can offer its customers programs and services in a non-competitive environment with private sector banks and mortgage companies. Additionally, the agency owns and manages an estimated 150 units of rental housing in Dededo and Yigo.

Our Core lending programs available to clients include:

1. Direct Loan Program- This is a residential mortgage loan program established to assist families and individuals who are first-time homeowners and are unable to obtain conventional financing from other institutions for the purchase or construction of their personal residence. Individuals must obtain one denial letter in order to be eligible for this program. Interest rate is determined by the Board of Directors.
2. Six-Percent Loan Program- This loan program is a residential mortgage loan program authorized by Public Law 20-210 establishing the interest rate at six percent (6.0%). The Program is also for first-time homeowners and unable to obtain conventional financing from other financial institutions for the purchase or construction of their personal residence.
3. Community Affordable Housing Action Trust (CAHAT) – This loan program is an interest-free down payment program and is secured with a second mortgage. The program is established to assist first-time homeowners who lack the down payment resources to purchase or construct their personal residence. This law was created by Public Law 21-99.

The GHC loan portfolio consists of 460 loans totaling \$26,495,121.

First mortgages account for 358 loans at \$26,619,387 with a weight average of 6.61%. The Revolving Loan Fund program accounts for 160 of these first mortgages with a current principle balance of \$11,496,872. The balance of the portfolio is a mix of second mortgages, third mortgages, and/or other special program loans.

The corporation's single creditor is Federal Home Loan Bank of Seattle (FHLB), which is owed approximately \$4.8M on a note maturing in August 2014. Pledged collateral on FHLB-funded loans totals 10,133,453.

Recently, GHC has assumed control of the operation of Guam Rental Corporation. The rental corporation has been a wholly-owned subsidiary of GHC prior to its dissolution in late 2003. This rental division manages 115 single family homes and 24 apartment units

For further information related to audits of GHC, please refer to GHC's issued financial statements and relevant reports published on the OPA's website at www.guamopa.org. For other information, please visit GHC's website at www.guamhousing.org

END OF INTRODUCTION

RFP TIMETABLE:

RFP package for interested parties available at the GHC Main Office or may be downloaded at www.guamopa.org or www.guamhousing.org	May 17, 2010
Deadline for requests to hold pre-proposal conference	May 24, 2010
Pre-proposal conference (if requested by one or more interested parties by the above deadline)	May 27, 2010 GHC Conference Room
Deadline for Receipt of Written Questions	June 1, 2010
Deadline for GHC Response to Written Questions	June 4, 2010
Deadline for receipt of un-priced technical proposals and sealed cost proposals at the GHC Office	June 14, 2010 3:00 PM Chamorro Standard Time (Guam Time)

SERVICES REQUIRED:

GHC requires the services of qualified individuals or firms with general knowledge, skill and experience in auditing books and accounts. Solicitation for this RFP covers independent auditing services for fiscal years ending 2010, 2011, and 2012.

II. SUBMISSION AND EVALUATION OF PROPOSAL

1. DESCRIPTION OF WORK INVOLVED

The Scope of Services required is described in Part “III” of this Request for Proposal.

2. TYPE OF CONTRACT

To be formulated after negotiations have concluded.

3. SUBMITTAL DATE

The required proposal (1 Original and 5 copies) must be submitted no later than **3:00 p.m.** Chamorro Standard Time (Guam Time), by **Monday, June 14, 2010**. Any proposals submitted after the deadline will not be accepted.

4. PRE-PROPOSAL CONFERENCES

Pre-proposal conferences, as appropriate, may be conducted in accordance with 2 G.A.R. § 3109(h) (Pre-Bid Conferences). Such a conference may be held anytime prior to the date established for submission of proposals.

5. FORM OF SUBMITTAL

Any proposals submitted after the above deadline will not be accepted. Submitted proposals must remain valid for at least ninety (90) days. **In response to this RFP, both a sealed technical and a sealed price/fee proposal, containing the offerors' cost and pricing data, must be submitted concurrently.** Each proposal must be in writing with 1 Original and 5 copies. The technical proposal must be submitted in a separate sealed envelope from the price proposal. The sealed envelope shall be marked plainly:

**Guam Housing Corporation
Attention: Jeremy J. Rojas, President
Request for Proposal No. GHC-2010-01
Audit Services for
Fiscal Years 2010, 2011, and 2012
Technical Proposal**

In a second separate sealed envelope, the offeror shall also submit a schedule of proposed hourly rates for the type or types of audit services and a total all-inclusive maximum price for each of the fiscal years to be audited. The sealed envelope shall be marked plainly:

**Guam Housing Corporation
Attention: Jeremy J. Rojas, President
Request for Proposal No. GHC-2010- 01
Audit Services Fee
Fiscal Years 2010, 2011, and 2012
Price Proposal**

The sealed envelopes containing the offeror's technical and price proposal shall also indicate the offeror's name, address, and contact information, as well as the date of proposal submission.

6. REPORT DUE DATES

The audits must be completed with preliminary financial statements and auditor reports submitted for review by GHC and the Office of Public Accountability (OPA) no later than January 15th of each year. Final reports shall be issued no later than February 28th of each fiscal year.

Note: The report date of the opinion should be no more than 60 days before the actual issuance of the report. For example, if the final report is to be issued March 1, the report shall not be dated earlier than January 1.

7. TRADE SECRETS AND PROPRIETARY DATA

Offerors may designate those portions of their proposal that contain trade secrets or proprietary data to be confidential. Designated portions must be explicitly marked "CONFIDENTIAL".

8. CONTENTS OF THE PROPOSAL

Proposals must be in writing and shall contain the following: At a minimum, the proposal shall contain:

- a. The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract, a mailing address, telephone number(s), facsimile number, email address, date of the proposal, and the title and number of the RFP. A designated contact person, his or her title, address, telephone, facsimile number and email address should also be included;
- b. The age of the offeror's business and the average number of employees over the past year; and the size of the firm's governmental audit staff that would be assigned to perform the scope of services;
- c. Copy of business license, whether from Guam or any other United States location. A Guam business license is not required in order to submit a proposal, but is a pre-condition for award and entering into contract with GHC and OPA. In the event that an offeror is not licensed to do business on Guam and is selected for the award, the offeror must obtain all necessary Guam licenses within thirty (30) days of the selection notification. Specific information on Guam licenses may be obtained from the Department of Revenue and Taxation;
- d. Copy of the most recent external Quality Control Peer Review report performed on the CPA firm, together with Management Letter Comments and any other communication relative to the Peer Review Report;

- e. Copy of the firm's Permit to Practice and a copy of the Permit to Practice as a Certified Public Accountant for the auditor authorized to sign the audit report, from Guam or any other United States jurisdiction. The Permits to Practice issued by the Guam Board of Accountancy is not required in order to submit a proposal, but is a pre-condition for award and entering into contract with GHC and OPA. In the event that an offeror does not have the Permits to Practice on Guam and is selected for the award, the offeror shall obtain all necessary Permits within thirty (30) days of the selection notification.
- f. A list of current contracts with Government of Guam entities and federally funded entities. If none, indicate none;
- g. The personnel, equipment, and facilities to perform the services currently available or demonstrated to be available at the time of contracting;
- h. The qualifications and experience of key persons who would be assigned to perform the required services;
- i. Continuing professional education for those individuals to be assigned to the audit for the last three calendar years, i.e., partner-in-charge, auditor-in-charge, and other auditors;
- j. A listing of other contracts under which services similar in scope, size, and discipline for the required services were performed or undertaken in the past five years;
- k. Plan for performing the required services, including a description of the firm's plan, capacity, and ability to timely submit the annual financial audits no later than February 28th, following the fiscal year end; earlier release is encouraged;
- l. A statement indicating the Firm's/Individual(s)'s understanding of the project's potential problems and/or any special concern(s) the vendor may have.
- m. A statement that the offeror has established and implemented an Affirmative Action Plan;
- n. Affirmation that the offeror is independent of the government of Guam as defined in the generally accepted auditing standards and Government Auditing Standards;
- o. The individual(s) or firm shall provide information on the result of any federal or state desk reviews of its audit during the past five (5) years. In addition, the firms shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past

five (5) years with the Guam Board of Accountancy or the Guam Society of CPAs; if no federal or state desk review or disciplinary action was conducted or taken, affirmation that there is none is required;

- p. Affidavits attached to this RFP notarized in the state or territory of the offeror's principal place of establishment;
- q. List of references identifying most recent clients and not to exceed five customers with contact name, title, complete address, phone number, email addresses, and facsimile number. Contact listed should be capable of providing an appropriate testimonial for the work performed, if requested by GHC and/or OPA.

9. DISCUSSIONS

The evaluation committee may conduct discussions with any offeror to (1) determine in greater detail such offeror's qualifications and (2) explore with the offeror the scope and nature of the required services, its proposed method of performance, and the relative utility of alternative methods of approach. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be opened to public inspection except as otherwise provided in the contract.

10. EVALUATION

The following factors and their relative importance will be used in evaluating the Proposals:

30 points Maximum

- a. The capacity and ability of the offeror to issue the final financial audits for FY 2010, 2011, and 2012 within the specified time of no later than February 28th, following the fiscal year end;

30 points Maximum

- b. The plan for performing the required services, including understanding of the project's potential problems and/or any special concerns;

20 points Maximum

- c. Qualification of offeror as evidenced by its submission and discussion with offeror in accordance with items 8 and 9. More specifically, the offeror's ability to perform the services as reflected by technical training and education, general experience, character, integrity, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;

10 points Maximum

- d. The personnel, equipment, and facilities to perform the services currently available or demonstrated to be available at the time of contracting; and

10 points Maximum

- e. The record and quality of past performance of similar work, including clientele/references input regarding the level of customer satisfaction with similar audit relationships.

100 points (Total Maximum)

11. SELECTION OF BEST-QUALIFIED OFFEROR AND PROPOSAL

The Evaluation Committee shall consist of:

- Two members from GHC selected by the President.
 - Two members from the OPA.
 - One member of the Guam Society of Certified Public Accountants, or other Accountants' Association, selected by the Public Auditor in consultation with the GHC.
- a. 1 G.C.A § 1908 provides that the Public Auditor shall select the auditing firm and shall have oversight over the audits. Accordingly, GHC has acknowledged that OPA shall have the authority to oversee, direct and supervise the audit(s) contracted in this proposal/agreement. OPA shall have access to all working papers of the Auditor. The Auditor shall advise OPA of all communications made to GHC. The Auditor shall provide drafts of all reports, including but not limited to financial statements, audit findings, internal control compliance reports and management letters to GHC concurrently to OPA. The Auditor's final reports shall not be issued to external parties without the consent of the GHC and OPA.

The Auditor shall provide the final reports to GHC and OPA, in the form and content to be determined by OPA (.pdf format), for publication of these reports on the World Wide Web at www.guamopa.org and www.guamhousing.org

- b. Proposals shall be evaluated only on the basis of the evaluation factors stated in this Request for Proposals. After the Evaluation Committee completes the validation of qualifications for each offeror, the evaluation of each proposal, and discussions made pursuant to 2 G.A.R., Div. 4, Chap. 3, §3114(i), if any, have been completed, the Evaluation Committee shall make a recommendation to the Public Auditor as to the ranking of all offerors. The Public Auditor may accept or reject the Evaluation Committee's recommendation. If the recommendation is rejected, the Public Auditor may require the Evaluation Committee to conduct a second evaluation or take any action necessary to ensure the proposals are evaluated in accordance with the evaluation factors set forth in the Request for Proposals, or any action permitted by Guam Procurement Laws and Regulations. If the Public Auditor accepts the Evaluation Committee's ranking of the offerors, the Public Auditor, pursuant to 1 G.C.A. §1908 and §1921, shall select, in the order of their respective qualification ranking, no fewer than three (3) acceptable

offerors or such lesser number if less than three (3) acceptable proposals were received, deemed to be the best qualified to provide the required services.

The head of the purchasing agency or his or her designee, shall open the sealed priced proposal of and begin negotiations with the best qualified offeror listed in the qualification ranking of the offerors approved by the Public Auditor. If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, and, pursuant to 1 G.C.A. §1908 and §1921, the Public Auditor approved the final contract, the contract shall be awarded to that offeror.

If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the procurement file and the head of the purchasing agency conducting the procurement or a designee of such officer shall advise such offeror of the termination of negotiations which shall be confirmed by written notice within three (3) days.

Upon failure to negotiate a contract with the best qualified offeror, the head of the purchasing agency or the designee of such officer may enter into negotiations with the next most qualified offeror listed in the qualification ranking of offerors approved by the Public Auditor. If compensation contract requirements, and contract documents can be agreed upon, then the contract shall be awarded to that offeror. If negotiations again fail, negotiations shall be terminated as set forth above and commence with the next qualified offeror listed in the qualification ranking of offerors approved by the Public Auditor.

Should the head of the purchasing agency or a designee of such officer be unable to negotiate a contract with any of the offerors initially selected as the best qualified offerors, offers may be re-solicited or additional offerors may be selected, as set forth above, based on original acceptable submissions in the order of their respective qualification ranking and negotiations may continue as set forth above until an agreement is reached and the contract is awarded.

All offerors will be notified in writing of the outcome of the evaluation. After the selection of the best qualified offeror and a successful negotiation regarding compensation, contract requirements, and contract documents is reached, the sealed envelopes containing Part II (Fee) from offerors not awarded the contract will be returned.

END OF SUBMISSION AND EVALUATION OF PROPOSAL

III. SCOPE OF SERVICES FOR ANNUAL INDEPENDENT AUDIT

SERVICES REQUIRED

Guam Housing Corporation (GHC) requires the services of a regionally recognized U.S. Certified Public Accounting Firm/Individual with general knowledge, skill, and experience in auditing financial statements and federal awards compliance of state and local governments.

1. DESCRIPTION OF WORK INVOLVED

- a. Assist management with the preparation of the annual financial statements for GHC, as a separate reporting unit, in accordance with accounting principles generally accepted in the United States of America, from trial balances provided by management from its books and records. (*Note: The auditor must ensure that the scope of these services is not to such an extent that would impair the auditor's independence.*)
- b. Perform financial statement audit of the GHC, in accordance with auditing standards generally accepted in the United States of America, and *Government Auditing Standards* issued by the United States Comptroller General. In conjunction with the financial statement audit, the following reports or communications should be provided by the Auditor:

Item 1: Auditor's report on the financial statements, and any supplementary information, expressing either an unqualified, qualified, adverse, or disclaimed opinion on the basic financial statements, a disclaimer of opinion on required supplementary information, and an in-relation-to (SAS-29) opinion on other supplementary information, to the extent applicable.

Item 2: Auditor's report on internal control over financial reporting and on compliance and other matters based on an audit of the financial statements pursuant to *Government Auditing Standards*, including the reporting of identified significant deficiencies and material weaknesses in internal control over financial reporting, and any identified instances of noncompliance material to the financial statements and any other matters, including abuse, required to be reported by *Government Auditing Standards*. (*Note: It is understood that the extent of the auditor's procedures over internal control over financial reporting and compliance and other matters will not be designed to express an opinion or any other level of assurance on such controls and compliance.*)

Item 3: A letter to management including any other findings and recommendations not included in the auditor's report in Item 2

above, that the auditor feels are worthy of communication to management.

- c. If federal awards expended by GHC during any financial statement audit period meet or exceed the audit threshold of the Single Audit Act of 1996, as amended, the auditor will also perform a compliance audit over federal award programs in accordance with the Single Audit Act and U.S. Office of Management and Budget (OMB) Circular No. A-133, *Audits of States, Local Government, and Non-Profit Organizations* (A-133), In conjunction with the A-133 compliance audit, the following reports or communications should be provided by the auditor:

Item 1: Auditor's (SAS-29) in-relation-to report on the schedule of expenditures of federal awards [*Note: This report may be included as part of the auditor's report on the financial statements and supplementary information discussed in (b-Item 1) above.*]

Item 2: Auditor's report on compliance with requirements applicable to each major program and on internal control over compliance prepared in accordance with OMB Circular A-133. Such report will provide an unqualified, qualified, adverse, or disclaimed opinion on each major program's compliance with applicable requirements; and a report on internal control over compliance. (*Note: It is understood that the extent of the auditor's procedures over internal control over compliance will not be designed to express an opinion or any other level of assurance on such controls.*)

Item 3: A schedule of findings and questioned costs, including a summary of auditor's results, financial statement audit findings required to be reported by *Government Auditing Standards*, federal award audit findings and questioned costs required to be reported by OMB Circular A-133, and management's responses and corrective action plan in regards to the findings.

- d. Ensure that the financial statements and auditor's reports meet any specific requirements contained in bond indentures, American Recovery and Reinvestment Act award agreements, or other contractual requirements relative to financial statement presentation and the audits.
- e. Submit the draft financial statements and accompanying auditor's reports to GHC management and the Office of Public Accountability no later than January 15th of each year, and issue the final reports no later than February 28th of each year.

- f. Provide copies of the final financial statements and accompanying auditor's reports as follows:

- 25 bound copies - Office of Public Accountability
- 25 bound copies – Guam Housing Corporation

One electronic copy (e.g., .pdf format) will also be required to be submitted to both the GHC and OPA. The Public Auditor will publish these reports on the World Wide Web at www.guamopa.org and the GHC will also publish these reports on the www.guamhousing.org website.

- g. Communicate to those charged with governance the other audit-related matters required to be communicated pursuant to generally accepted auditing standards (AU Section 380, *The Auditor's Communication with Those Charged with Governance*) and any other areas of concern that may be determined throughout the term of the engagement.
- h. Provide the following additional information or documents to the Office of Public Accountability:
- i. Within 60 days after the close of the calendar year, submit a report on the Continuing Professional Education credits of each auditor involved in the audit during the period under contract;
 - ii. As soon as available, provide any peer review reports, including any review comments, that occur during the period under contract; and
 - iii. Provide copies of management representation letter and responses to inquiries from GHC legal counsel.

2. SPECIFIC MATTERS TO BE COMMUNICATED

- a. Determine the appropriate person(s) in the entity's governance structure with whom to communicate particular matters, like Audit committees or similar subgroup of those charged with governance.
- b. Establish a mutual understanding of the scope and timing of the audit, and of the respective responsibilities of the auditor, those charge with the governance, and management in relation to the financial statement audit.
- c. Provide those charged with governance with timely observations arising from the audit that are relevant to their responsibilities in overseeing the financial reporting process.

- d. Share other information that will assist those charged with governance in fulfilling their respective responsibilities. (Note: Communication by the auditor does not relieve management of the responsibility to communicate matters of governance interest to those charged with governance.)
- e. Communicate known fraud affecting a Federal award or local appropriation, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questions costs for Federal awards. The paragraph does not require the auditor confirm that the fraud was reported outside of the auditor's reports under the direct reporting requirement of GAGAS.
- f. Communicate to those charged with governance events or conditions that can cause one to conclude that there is substantial doubt about the entity's ability to continue as a going concern as well as management's plans for addressing such events or conditions.
- g. Opinions of report shall incorporate the following: "This report is matter of public record and its distribution is not limited."

3. OTHER SERVICES REQUIRED:

- a. Report of Compliance and Control Deficiencies.
- b. Recommendation to improved or Correct Control Deficiencies
- c. The following audit procedures will be performed:
 - 1. Loans to Employees
Obtain the original mortgage documents and perform the following:
 - a. Review the loan documents and determine that granting of loans and refinancing are in accordance with the Corporation's lending policies.
 - b. Review most current aging report.
 - c. Read the Title insurance policy and verify the collection created a first lien against the property.
 - d. Determine that the Corporation utilized escrow accounts in handling property taxes. The taxes paid should be compared to the amount billed to determine that taxes were paid within the last twelve months.

2. FHLB Loan Portfolio

Obtain a non statistical sample from the total number of loans (loan listing) and perform the procedures indicated below. The sample should represent 20%, or as required by FHLB of the number of loans in the entire population of collateral. This final audit report should be submitted to FHLB no later than 90 days from fiscal year ending.

- a. Obtain the mortgage loan documents and perform certain procedures for each of the selected loans as follows:
- b. Obtain the unpaid principal loan balances from GHC's loan trial balance as of fiscal years ending 2010, 2011, and 2012, and compare amount to the listing provided by GHC.
- c. Review GHC's records to determine that the collateral is wholly-owned by GHC no participating interest is held by any other party.
- d. Obtain the most current available aging report from the GHC's loan system and review the report to determine the pledged loans were not more than 90 days delinquent.
- e. Read the tile insurance policy and verify the collateral created a first lien against the property.
- f. Determine that GHC utilized escrow accounts in handling property taxes. The taxes paid should be compared to the amount billed to determine that taxes were paid within the last twelve months.
- g. Examine the loan trail balance as of the date of the loan listing to determine that the Collateral id identified on the GHC's books and records as being pledged to the bank.

END OF SCOPE OF SERVICES FOR ANNUAL INDEPENDENT FINANCIAL AUDIT

IV. GENERAL TERMS AND CONDITIONS

1. AUTHORITY

This Request for Proposal (RFP) solicitation is issued subject to all the provisions of the Guam Procurement Act and the Guam Procurement Regulations. The RFP requires all parties involved in the preparation, negotiation, performance, or administration of contracts to act in good faith.

2. GENERAL INTENTION

Unless otherwise specified, it is the declared and acknowledged intention and meaning of these General Terms and Conditions for the offeror to provide GHC with specified services.

3. PROPOSALS

The offeror is required to read each and every page of GHC's Request for Proposal and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening. Proposals shall be filled out (typewritten) and signed in ink. Erasures or other changes in a proposal must be explained or noted over the signature of the offeror. Proposals containing any conditions, omissions, unexplained erasures or alternations or items not called for in the Proposal, or irregularities of any kind may be rejected by the Government as being incomplete.

4. EXPLANATION TO OFFERORS

No oral explanation in regard to the meaning of the specification will be made and no oral instructions will be given before the award of the proposal. Discrepancies, omissions, or doubts as to the meaning of the specifications should be communicated in writing to the named contact individual of the requesting agency/department for interpretation. Offerors should act promptly and allow sufficient time for a reply to reach them before submission of their proposals. Interpretation, if required, shall be made in the form of an amendment to the RFP, which will be forward to all prospective offerors, and its receipt by the offeror should be acknowledged on the proposal form.

5. RECEIPT AND OPENING OF PROPOSALS

Telegraphic proposals will not be considered, nor will modification by telegraph of proposals already submitted be considered. Proposals shall be hand carried and received at the place of opening on or before the opening date and time. Proposals received through the mail will not be accepted if such mail is received at the address showing after the submission date and time. Proposals will not be opened publicly.

6. WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn on written request received from offeror(s) prior to the time fixed for opening. Negligence on the part of the offeror in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.

7. LIABILITY FOR COST OF THE PROPOSAL

GHC is not liable for any costs incurred by the offeror in connection with this RFP. By submitting a proposal, the offeror specifically waives the right against GHC for any expenses incurred in proposal preparation. Submitted proposals become the property of GHC. Offeror requests for the return of specific proprietary material may be honored.

8. RIGHT TO AMEND OR CANCEL

With the approval of the Public Auditor, GHC reserves the right to amend, supplement, or cancel the RFP, in whole or in part at any time.

The RFP may be amended or modified prior to opening of the proposals but not subsequent to opening of the proposals. Any amendment issued pursuant to this RFP must be acknowledged as being received by the potential offerors. Amendments shall be distributed within a reasonable time to allow prospective firms to consider the issue in preparing their proposals. If the time and date set for receipt of proposals will not

permit such preparation, such time shall be increased to the extent possible in the amendment or, if necessary, by telegram or telephone and confirmed in the amendment.

9. **RIGHT TO REISSUE**

GHC may, with the approval of the Public Auditor, re-solicit for proposals when it is deemed to be in the best interest of GHC.

10. **FAILURE TO NEGOTIATE CONTRACT WITH OFFERORS INITIALLY SELECTED AS BEST QUALIFIED**

Should GHC be unable to negotiate a contract with the offeror initially selected as the best qualified, negotiations may continue with the next qualified offeror in accordance with the procedures and process herein specified, subject to the approval of the Public Auditor.

11. **METHOD OF AWARD & LICENSING**

The Evaluation Committee, with the approval of the OPA, reserves the right to waive any minor informality or irregularity in proposals received. GHC, with the approval of the OPA, shall have the prerogative to award, amend, or reject proposals in whole or in part. It is the policy of GHC to award proposals only to offerors duly authorized and licensed to conduct business in Guam. Offerors licensed in the United States or outside of Guam, must obtain the necessary Guam licenses and Permits within 30 days of selection notification. Specific information on licenses and permits may be obtained from the Director of Revenue and Taxation and the Guam Board of Accountancy, respectively.

12. **RIGHT TO REJECT PROPOSAL**

GHC and OPA may make such investigations as deemed necessary to determine the ability of the offeror to perform the work, and the offeror shall furnish to GHC all such information and data for this purpose as GHC may request. The Evaluation Committee, with the approval of the Public Auditor, reserves the right to reject the offeror if the evidence submitted by, or investigation of such offeror fails to satisfy the Evaluation Committee that such offeror is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein. Conditional proposals will not be accepted. This right of reject and/or cancel is also pursuant to 2 G.A.R., Div. 4, Chap. 3, §3115(d)(2) (A).

13. **PAYMENT OF SERVICES**

Payment for any contract entered into as a result of this RFP will be made no more frequently than monthly upon receipt of the offeror's billing statement on a net 30-day basis. Offerors are notified that they are subject to the Guam Business Privilege Tax and the Guam Income Tax, as well as all other taxes or government fees that may be applicable. Specific information on taxes may be obtained from the Guam Department of Revenue and Taxation.

The Procurement Administrator must notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period.

If funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first, the multi-term contract will be cancelled. This does not affect either the territory's rights or the contractor's rights under any termination clause in the contract. In the event of cancellation under 2 G.A.R. § 3121(e)(1)(C), the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

14. **CONVENANT AGAINST CONTINGENT FEES**

The offeror warrants that no person was retained for a commission, percentage, brokerage, or contingent fee to solicit or secure any resultant contract upon agreement. Breach of this warranty shall give GHC the right to terminate the contractor, or at its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by contractors upon contracts or sales secured or made through *bona fide* established commercial or selling agencies maintained by the contractor for the purpose of securing business.

15. **CONTROL**

The GHC President or her designee and the Public Auditor will meet periodically with the Offeror/Auditor's representative for the purpose of reviewing progress and providing necessary guidance to the offeror in solving problems.

16. JUSTIFICATION OF DELAY

The offeror who is awarded the proposal guarantees that the service will be completed within the agreed upon completion date. If, however, the offeror cannot comply with the completion requirement, it is the offeror's responsibility to advise GHC in writing explaining the cause and reasons of the delay. GHC, with the approval of the Public Auditor, may make a reasonable extension of time, but no later than May 31st.

17. EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01 of the Executive Order 10935 dated March 7, 1965 requires the offeror not to discriminate against any employee or applicant for employment because of race, creed, color or national origin. The offeror will take affirmative action to ensure that employees are treated equally during employment without regard to their race, creed, color or national origin.

18. ASSIGNMENT

Assignment will not be accepted without prior written approval from GHC and the Public Auditor. Request for approval of assignment must be made with submission of proposal. No assignment will be accepted if request is not made in writing with the proposal.

19. DETERMINATION OF RESPONSIBILITY OF OFFEROR

The Evaluation Committee shall use the following criteria in determining responsibility of the offeror, and reserves the right to secure additional information from offerors necessary to determine whether or not they are responsible in each of the following:

- The ability, capacity, and skill of the offeror to perform;
- Whether the offeror can perform promptly and/or within the specified time periods;
- The character, integrity, reputation, judgment experience, and efficiency of the offeror;
- The quality of performance of the offeror with regard to awards previously made to the offeror;
- The offeror's past and present record of compliance with procurement laws and regulations;
- The sufficiency of the offeror's financial resources and ability to perform;
- The offeror's compliance with the specifications and requirement of this Request For Proposal; and
- If requested, the offeror must meet all Americans with Disabilities Act regulations and requirements.

20. CONTACT FOR CONTRACT ADMINISTRATION

If your firm receives a contract as a result of this Proposal designate a person whom we may contact for prompt administration, showing:

Name: _____	Title: _____
Address: _____	Tel. No.: _____
_____	Fax No.: _____
_____	Email Address: _____

21. CONTRACT PROVISIONS

GHC reserves the right to include any part or parts of the offeror's proposal in the final contract with the offeror. Offeror will be subject to conditions and terms imposed by GHC.

By submitting a proposal, the offeror specifically understands and agrees that it has a duty to explain and clarify any and all conditions imposed on or included in its responses and questions in this RFP. The offeror further understands that it has an affirmative duty to inquire about and clarify any section of the RFP that the offeror does not understand or that the offeror believes may be susceptible to more than one interpretation.

22. SPECIAL PERMITS AND LICENSES

The offeror shall, at his own expense, procure all permits, certificates, and license and shall give all notices and necessary reports required by law for the General Scope of the work. Failure to maintain required licenses or permits shall be grounds for immediate termination of contract.

23. AUDITOR WORKING PAPERS

1. **Retention.** The auditor shall retain working papers and reports for a minimum of five years after the date of issuance of the auditor's report(s) to GHC, unless the auditor is notified in writing by the cognizant agency of audit, oversight agency of audit, pass-through entity, or OPA to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, OPA, or GHC is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.
2. **Access.** Audit working papers shall be made available upon request to the cognizant agency for audit or its designee, a Federal agency providing direct or indirect funding, GAO, or OPA at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

24. LAWS TO BE OBSERVED

1. The offeror should be familiar with federal and local laws, codes, ordinances, and regulations, which, in any manner, affect those engaged or employed in the work, or the material or equipment, used in or upon the site, or in any way affect the conduct of the work. No misunderstanding or ignorance on the part of the offeror will in any way serve to modify the provision of the contract.
2. Restriction Against Contractors Employing Convicted Sex Offenders from Working at Government of Guam Venues. (§5253 of Title 5 Guam Code Annotated)
 - a. No person convicted of a sex offense under the provisions of Chapter 25 of Title 9 Guam Code Annotated, or an offense as defined in Article 2 of Chapter 28, Title 9 GCA in Guam, or an offense in any jurisdiction which includes, at a minimum, all of the elements of said offenses, or who is listed on the Sex Offender Registry, and who is employed by a business contracted to perform services for an agency or instrumentality of the government of Guam, shall work for his employer on the property of the government of Guam other than a public highway.
 - b. All contracts for services to agencies listed herein shall include the following provisions: (1) warranties that no person providing services on behalf of the contractor has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and (2) that if any person providing services on behalf of the contractor is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.
 - c. Duties of the General Services Agency or Procurement Administrators. All contracts, bids, or

Requests for Proposals shall state all the conditions in §5253(b).

- d. Any contractor found in violation of §5253(b), after notice from the contracting authority of such violation, shall, within twenty-four (24) hours, take corrective action and shall report such action to the contracting authority. Failure to take corrective action within the stipulated period may result in the temporary suspension of the contract at the discretion of the contracting authority.”

25. STATUS OF CONTRACTOR/CONSULTANT (OFFEROR)

The offeror and its officers, agents, servants and employees are independent contractors performing professional services for GHC.

26. INSURANCE

Offeror shall procure and maintain at his or her own expense all necessary comprehensive insurance for his/her employees including but not limited to Worker’s Compensation and general liability insurance.

27. CONFIDENTIAL OR PROPRIETARY INFORMATION

Offerors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential. After the award, the proposal of the offeror who is awarded the contract becomes part of the public procurement record. Proposals containing trade secrets or other proprietary information to be held in confidence must include a written request for non-disclosure. The request should clearly indicate the proprietary portions. GHC and Public Auditor will examine the request, determine its validity, and either grant or deny it. If denied, GHC will notify the requesting offeror in writing as to what and why portions will be disclosed. The offeror may then withdraw the proposal or submit a protest according to law. If the proposal is not withdrawn and no protest is received, then GHC or Public Auditor may disclose those portions of the proposal for which a non-disclosure request was not granted.

28. ETHICAL STANDARDS

The offerors shall duly represents that he, she, they or it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in the Guam procurement laws and regulations pertaining to ethics in public contracting.

29. PROHIBITION AGAINST GRATUITIES AND KICKBACKS

The offeror duly represents that he or she has not violated, is not violating, and will not violate the prohibition against gratuities and kickbacks set forth in the Guam procurement law 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 or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. 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.

30. APPLICABILITY OF GUAM AND FEDERAL PROCUREMENT LAW

If any part of this RFP is contrary to any applicable federal procurement regulations, contrary to the Guam Procurement Law, or contains ambiguous terms, then such portion of the RFP shall be interpreted or resolved in favor of or according to the provisions of the applicable federal regulations and Guam procurement Law.

END OF GENERAL TERMS AND CONDITIONS

NON-COLLUSION AFFIDAVIT

24

EXHIBIT II

MAJOR SHAREHOLDER DISCLOSURE AFFIDAVIT

RFP No. GHC-2010-01

Name of Offeror (Firm or Individual): _____

STATE OF _____)
)
) SS.
CITY OF _____)

1. I, the undersigned, being first duly sworn, depose and say that I am an authorized representative of the undersigned and that

[*please check one*]:

- [] The respondent is an individual or sole proprietor and owns the entire interest in the offeror's company.
- [] The respondent is a corporation, partnership, joint venture, or association, and the persons, companies, partners, or joint ventures that have held more than 10% of the shares or interest in the offeror's business during the past twelve months are as follows [*if none, please so state*]:

<u>Name</u>	<u>Address</u>	<u>% of Shares of Interest Held</u>
-------------	----------------	-------------------------------------

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

<u>Name</u>	<u>Address</u>	<u>Compensation</u>
-------------	----------------	---------------------

Signature of individual if offeror is a sole Proprietorship; Partner,
if the offeror is a Partnership; Officer, if the offeror is a
Corporation.

SUBSCRIBED AND SWORN to before me this ___day of _____, 2010.

Notary Public
My Commission Expires:_____

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE
CONTAINING THE TECHNICAL PROPOSAL.**

NON-GRATUITY AFFIDAVIT

RFP No. GHC-2010- 01

Name of Offeror (Firm or Individual): _____

Contact No.: _____

STATE OF _____)
)
) SS.
CITY OF _____)

The undersigned hereby certifies that he/she is the _____ of (name of Individual, Partnership, or Corporation) that in connection with the aforesaid proposal, he/she or its officers, representatives, agents, subcontractors or employees has (have) not given or made any agreement to give to any government of Guam employee, his/her relatives or agents, any gift of money or any other gift; or gratuity in any form whatsoever as contained in Public Law 16-124, Section 6980.6 as amended; has (have) not loaned any money or anything of value to any government of Guam employee, his/her relatives or agents; has (have) not rented or purchased any equipment, or any form thereof, or supplies of any nature whatsoever from any government of Guam employee, his/her relatives or agents.

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2010.

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE
CONTAINING THE TECHNICAL PROPOSAL.**

EXHIBIT IV

ETHICAL STANDARDS AFFIDAVIT

RFP No. **GHC-2010-01**

Name of Offeror (Firm or Individual): _____

STATE OF _____)

)

SS.

CITY OF _____)

_____, being first duly sworn, deposes and says: That he/she is _____(a partner or Officer of firm of, etc.) of the party making the foregoing proposal _____(identify by Proposal Title and brief description) and that I have not knowingly influenced and promises that I will not knowingly influence a government employee to breach any of the ethical standards set forth in 5 GCA Chapter 5 Article 11 (Ethics in Public Contracting) of the Guam Procurement Act and in Chapter 11 of the Guam Procurement Regulations.

Signature of individual if offeror is a sole Proprietorship; Partner,
if the offeror is a Partnership; Officer, if the offeror is a
Corporation.

SUBSCRIBED AND SWORN to before me this __day of _____, 2010.

Notary Public
My Commission Expires:_____

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE
CONTAINING THE TECHNICAL PROPOSAL.**

EXHIBIT V

GOOD STANDING AFFIDAVIT

RFP No. GHC-2010-01

A F F I D A V I T

(Offeror)

STATE OF _____)

)

SS.

CITY OF _____)

_____, being first duly sworn, deposes and says: That he/she is _____ (a partner or Officer of firm of, etc.) of the party making the foregoing proposal _____ (identify by Proposal Title and brief description) and represents and warrants that it is duly registered and in good standing under the laws of Guam (Department of Revenue and Taxation, Guam Contractors Board and the Department of Labor (Wage & Hour).

Signature of individual if offeror is a sole Proprietorship; Partner,
if the offeror is a Partnership; Officer, if the offeror is a
Corporation.

SUBSCRIBED AND SWORN to before me this __ day of _____, 2010.

Notary Public
My Commission Expires: _____

**THIS AFFIDAVIT MUST BE COMPLETED AND RETURNED IN THE ENVELOPE
CONTAINING THE TECHNICAL PROPOSAL.**