

**DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES AGENCY
(GSA)
STANDARD OPERATING PROCEDURES
(MARCH 2022)**

Small Purchases:

The Chief Procurement Officer, the Director of the Department of Public Works, or head of an agency utilizing this section to submit a report to the Speaker of *I Liheslaturan Guahan* monthly as to procurement exceeding *Fifteen Thousand Dollars (\$15,000)* for supplies and services or exceeding *Fifty Thousand Dollars (50,000)* for construction.

Small Purchases of \$500 or Less:

A minimum of three (3) telephonic quotations should be obtained. The names of the vendors, the salesperson providing the quote, the date and amount of the item must be recorded and kept in the procurement record. When three (3) telephonic quotations cannot be obtained, documentation stating what efforts were made to obtain the quotations must be recorded and kept in the procurement record.

Reference 5GCA, §5213, 2 GAR, Div. 4 Chapter 3, §3111(e).

Small Purchases between \$500 and \$25,000:

The regulations require no fewer than three (3) positive written quotations from businesses to be solicited. Request for Quotations must be faxed, mailed, or emailed to at least three (3) vendors. Written quotations from vendors, which should include the vendor name, vendor's personnel authorized to submit the quotation, and the date and amount of each quotation, must be recorded and placed in the procurement record, which shall be maintained as a public record. Awards shall be made to the lowest responsible and responsive bidder. Procurement under this section shall not be artificially divided to render a small purchase and avoid using other methods.

Reference 5GCA §5213, 2 GAR, Div. 5 Chapter 3 §3111(b), (c) and (d).

Public Notice of Information for Bid (IFB):

For purchases of \$25,000 or less, IFBs or notices of availability of IFBs shall be mailed or otherwise communicated to a sufficient number of potential bidders or offers to secure competition.

For purchases in excess of \$25,000, IFBs must be publicized at least once (1x) and at least seven (7) days prior to the final submission date of bids or proposals in:

1. A newspaper of general circulation on Guam; or
2. In a newspaper of local circulation in the area pertinent to the procurement; or
3. In industry media; or
4. In a Government Publication designed for giving Public Notices.

Reference 5GCA §5010, §5210 (c), 2 GAR, Div. 4 Chapter 3

INVITATION FOR BIDS (IFB) COMPETITIVE SEALED BIDDING FOR GOODS AND SERVICES

Solicitations \$25,000 for Supplies and Services:

Competitive Sealed Bidding is the preferred method for the procurement of supplies and services, or construction.

Reference 2 GAR, Div. 4, Chapter 3 §3109 (b).

An IFB shall be issued and shall include the following:

1. The purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements that are not included in the purchase description.
2. the most recently issued Wage Determination by the U.S. Department of Labor.
3. Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, address of the office to which bids are to be delivered, maximum time for bid acceptance by the purchasing agency and any other special information.
4. Contract Terms and Conditions, including warranty and bonding, or the security requirements, applicable.
5. When a bid guarantee is required, the IFB shall contain:
 - a) A statement that identifies details which will enable bidders to determine the amount of the bid guarantee, and
 - b) A bid guarantee provision.
6. When it incorporates other documents by reference, the IFB shall specify where such documents can be obtained.
7. The potential bidder's acknowledgement of the receipt of all amendments issued.
8. Statement that bid samples or descriptive literature should not be submitted unless expressly requested and that, regardless of any attempt by a bidder to condition the bid, unsolicited bid samples or descriptive literature which are submitted at the bidder's risk will not be examined or tested and will not be deemed to vary any provision of the IFB.

9. The purchasing agency may hold a pre-bid conference; the IFB shall state that nothing stated in the conference shall change the IFB unless a written amendment is made to the IFB.
10. The IFB shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. IFB may also include the criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The criteria that will affect the bid price considered in evaluation or award shall be objectively measurable, such as discounts, transportation costs, and total or lifecycle costs.

Reference: 5GCA §5211 (b) and (e), §5802, and 2 GAR, Div. 4, Chapter 3, §3109 (c)(2), (c)(3), (c)(4), (c)(4)(D), (c)(5), (c)(6), (g)(4), (n)(1), (n)(3)

Bidding Time:

Period between date of distribution of the IFB and the time and date set for receipt of bids. A minimum of fifteen (15) days shall be provided, unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Procurement Officer.

Reference 2 GAR, Div. 4 Chapter 3 §3109 (d)

Bid Form:

IFB shall provide a form, which shall include space in which the bid price shall be inserted and which the bidder shall sign and submit along with all other necessary submissions.

Reference: 2 GAR, Div. 4, Chapter 3 §3109 (e) (1)

Major Shareholders Disclosures:

As a condition of bidding, any partnership, sole proprietorship, or corporation doing business with GovGuam shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares in such partnership, sole proprietorship, or corporation, at any time during the twelve (12) month period immediately preceding submission of a bid. The affidavit shall contain the number and percentage of shares or assets of such partnership, sole proprietorship, or corporation, held by each such person during the twelve (12) month period.

The affidavit shall contain the name and address of any person who has received or is entitled to receive a commission, gratuity, or other compensation for procuring or assisting in obtaining business related to the bid for the bidder and shall also contain the amounts of any such commission, gratuity, or other compensation. A bidder's failure to submit the

affidavit concerning commissions paid shall result in such bidder to be deemed non-responsive and cause the bid to be rejected upon opening.

Reference: 5 GCA §5233 and 2 GAR, Div. 4, Chapter 3 §3109 (e) (3) (E)

Pre-Bid Conference:

If a pre-bid conference is conducted to explain the procurement requirements, it shall be announced to all prospective bidders known to have received the IFB. The conference shall be held long enough after the IFB has been issued to allow bidders to become familiar with it, but sufficiently before the bid opening to allow consideration of the conference results in preparing their bids. Nothing stated in the pre-bid conference shall change the IFB unless a written amendment is made to the IFB, or the notice of pre-bid conference shall be provided. Minutes of the Pre-Bid Conference shall be provided to all those prospective bidders known to have received the IFB. If transcript is made, it shall be a public record

Reference: 2 GAR, Div. 4, Chapter 3 §3109 (g) (4)

Amendments to IFBs:

IFB amendments shall be identified as such and reference the portion of the IFB it amends. Amendments shall be sent to all prospective bidders known to have received the IFB and require that the bidder acknowledge receipt of all amendments issued. Amendments shall be distributed with a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, such time will be increased to the extent possible in the amendment.

Reference: 2 GAR, Div. 4 Chapter 3 §3109 (j)

Pre-Opening Modification or Withdrawal of Bids:

Bids may be modified or withdrawn by written notice received in the office designated in the IFB prior to the time and date set for bid opening. If a bid is withdrawn, the bid security, if any, shall returned to the bidder. All documents relating to modifications and withdrawals shall be a part of the procurement record.

Reference: 5 GCA §5211 (f) and 2 GAR, Div. 4, Chapter 3 §3109 (j)

Late bids, late withdrawals, and late Modifications:

Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of the bids at the place designated for opening is late. After bid opening, no changes in bid prices, or bid conditions prejudicial to GovGuam or fair competition will be permitted.

No late bid, late modification, or late withdrawal will be considered unless received before contract award and the bid, modification, or withdrawal would have been timely but for the action or inaction of GovGuam personnel directly serving the procurement activity. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be made by a written determination made by the Chief Procurement Officer (CPO), the Director of Public Works or the head of a purchasing agency.

Reference: 5 GCA §5211 (f) and 2 GAR, Div. 4, Chapter 3 §3109 (k)

Receipt of Bids:

Upon its receipt, each bid and modification shall be timestamped, but not opened and shall be stored in a secure place until the time and date set for bid opening.

Reference: 2 GAR, Div. 4, Chapter 3 §3109 (l) (1)

Opening and Recording of Bids:

Bids shall be opened publicly, in the presence of one or more witnesses at the time and place designated in the IFB. The amount of each bid, and such other relevant information together with the name of each bidder, and other information as deemed appropriate by the Procurement Officer shall be read aloud or otherwise be made available and shall be recorded, specifically, the bids shall be tabulated or a bid abstract made. The names and addresses of required witnesses shall also be recorded at the opening.

Reference: 5 GCA §5211 (d) and 2 GAR Div. 4, Chapter 3 §3109 (1) (2)

Bid Acceptance and Bid Evaluation:

Bids shall be unconditionally accepted without alteration or correction, except as authorized by Guam Procurement Law and Regulations. Bids shall be evaluated based on the requirements set forth in the IFB. No criteria may be used in bid evaluation that are not set forth in the IFB. No bid shall be evaluated for any requirement or criterion that is not disclosed in the IFB.

Reference: 5 GCA §5211 (e)

Product Acceptability:

The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another, but only to determine that, a bidder's offer is acceptable as set forth in IFB. Any bidder's offering which does not meet the acceptability requirements shall be rejected as non-responsive.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (n) (3)

Contract Award:

Following the determination of product acceptability, if any is required, bids will be evaluated to determine which bidder offers the lowest overall cost to GovGuam in accordance with the evaluation criteria set forth in the IFB. Only objectively measurable criteria set forth in the IFB shall be applied to determine the lowest bidder.

The contract is to be awarded with reasonable promptness based on a determination of which bidder offers the lowest overall cost to the territory in accordance with measurable evaluation criteria set forth in the IFB applicable to Guam. Contract award is not permitted to a bidder submitting a higher quality than that designated in the IFB if such bidder is not also the lowest bidder. Following award, a record showing the basis for determining the successful bidder shall be made a part of the procurement record.

Reference: 5 GCA §5211 (g) and 2 GAR Div. 4, Chapter 3 §3109 (1), (n) (4), (n) (5), (p)

MULTI-STEP SEALED BIDDING

Condition for Use:

When it is considered impractical to initially prepare a purchase description to support an award based on price, an IFB may be issued requesting the submission of unpriced offers to be followed by an IFB limited to those bidders whose offers have been qualified under the criteria set for the in the first solicitation.

Reference: 5 GCA §5211 (h) and 2 GAR Div. 4, Chapter 3 §3109 (r) (2)

Process:

Multi-Step Sealed Bidding is a two-phase process consisting of a first phase composed of one or more steps in which bidders submit unpriced technical or other selective criteria offers to be evaluated and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their priced bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive and responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of technical or other selective criteria offers.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (r) (1)

Pre-Bid Conference:

Prior to the submission of unpriced technical offers, a pre-bid conference may be conducted by the Procurement Officer. The Procurement Officer may also hold a conference of all potential bidders at any time during the evaluation of the unpriced technical offers. Pre-bid conferences shall be conducted in the same manner as for Competitive Sealed Bidding.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (s)

Procedure for Phase One of Multi-Step Sealed Bidding:

Form: Multi-Step Sealed Bidding shall be initiated by the issuance of an IFB in the same form as in Competitive Sealed Bidding, except that the multi-step IFB shall state:

1. That unpriced technical offers are requested;
2. Whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
3. That it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from bidders whose unpriced technical offers are found acceptable in the first phase;
4. The criteria to be used in the evaluation of the unpriced technical offers;
5. That GovGuam, to the extent the Procurement Officer finds necessary, may conduct oral or written discussions of the unpriced technical offers;
6. That bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data to remain confidential; and
7. That the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the IFB.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (t)

Amendments to the Invitation for Bids:

After receipt of technical offers, amendments to the IFB shall be distributed only to bidders, who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the Procurement Officer, a contemplated amendment will significantly change the nature of the procurement, the IFB shall be cancelled and a new IFB issued.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (t) (2)

Receipt and Handling of Unpriced Technical Offers:

Unpriced technical offers shall not be opened publicly, but shall be opened in front of two (2) or more procurement officials. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (t) (3)

Evaluation of Unpriced Technical Offers:

The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the IFB. The unpriced technical offers shall be categorized as:

1. Acceptable, or
2. Potentially acceptable, that is, reasonably susceptible of change to be acceptable; or
3. Unacceptable

Procurement Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement record.

Procurement Officer may initiate Phase Two of the procedure if, in the Procurement Officer's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the Procurement Officer finds that such is not the case, the Procurement Officer shall issue an amendment to the IFB or engage in technical discussions.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (t) (4)

Discussions of Unpriced Technical Offers:

The Procurement Officer may conduct discussions with any bidder who submits an acceptable or potentially acceptable technical offer. During the course of such discussions, the Procurement Officer shall not disclose any information derived from one (1) unpriced technical offer to any other bidder.

Once discussions are begun, any bidder who has not been notified that its offer has been finally found unacceptable may submit supplemental information amending its technical offer at an time until the closing date established by the Procurement Officer or upon the bidder's own initiative.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (t) (5)

Notice of Unacceptable Unpriced Technical Offer:

When the Procurement Officer determines a bidder's unpriced technical offer to be unacceptable, such offeror shall not be afforded an additional opportunity to supplement its technical offer.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (t) (6)

Mistakes during Multi-Step Sealed Bidding:

Mistakes may be corrected or bids may be withdrawn during Phase One at any time. During Phase Two, mistakes may be corrected or bids withdrawn as in Competitive Sealed Bidding.

Reference: 2 GAR Div. 4, Chapter 3

Procedure for Phase Two of Multi-Step Sealed Bidding:

Upon completion of Phase One, the Procurement Officer shall either: (1) Open priced bids submitted in Phase One (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or (2) If priced bids have not been submitted; technical discussions have been held, or amendments to the IFB have been issued, invite each acceptable bidder to submit a price bid.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (v) (1)

Conduct:

Phase Two shall be conducted as any other competitive sealed bid procurement except:

1. As specifically allowed by Guam Procurement Laws and Regulations governing Multi-Step Bidding;
2. No public notice need be given of this invitation to submit priced bids because such notice was previously given;
3. After award the unpriced technical offer of the successful bidder shall be disclosed in accordance with Guam Procurement Laws and Regulations.
4. Unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection unless the Procurement Officer determines in writing that public inspection of such offers is essential to assure confidence in the integrity of the procurement process.

Reference: 2 GAR Div. 4, Chapter 3 §3109 (v) (2)

PROCUREMENT FROM NON-PROFIT CORPORATIONS

A contract may be awarded for a supply or service without using Competitive Sealed Bidding when the contractor is a non-profit corporation employing sheltered or disabled workers.

Certification:

As a condition of the award of the contract, the contractor must certify that labor on the project will be performed by handicapped persons except supervisory personnel do not have to be handicapped.

Bond not Required:

Non-Profit corporation awarded a contract under this procedure shall not be required to post any of the bonds required by Guam Procurement law and Regulations.

Reference: 5 GCA §5217 and 2 GAR Div. 4, Chapter 3 §3110.1

PROCUREMENT RECORD

Record of Procurement Actions:

Each Procurement Officer shall maintain a complete record of each procurement. The record shall include the following:

1. The date, time, subject matter and names of participants at any meeting including government employees that is in anyway related to a particular procurement:
 - a) The purchasing agency's requisitions showing the goods or services requested in sufficient detail for those goods and services to be identified in the bid specifications and the amount of the pre-encumbered funds (earmarked) funds for which unofficial commitments have already been made, setting aside amounts for future anticipated expenses that might not otherwise be encumbered), the required delivery date and the source of funding.
 - b) Statement of requirement of need
 - c) Bid solicitation record
 - d) Bid response record
2. A log of all communications between government employees and any member of the public, potential bidder, vendor or manufacturer, which is in any way related to the procurement.
 - e) Bid evaluation record
3. Sound recordings of all pre-bid conferences; negotiations arising from IFB and/or RFP and discussions with vendors concerning small purchase procurement;
4. Brochures and submittals of potential vendors, manufacturers or contractors, and all drafts, signed and dated by the draftsman, and other papers or materials used in the development of specifications; and
 - f) Notice of possible award
5. The requesting agency's determination of need.

Reference: 5 GCA §5250; PPO Resolution 2021-002

 - g) Purchase Order or Contract issued
 - h) Acceptance of purchase order or contract by vendor
 - i) Normally, purchases of goods will be by purchase order and of services by contract.

Certification of Record:

No procurement award shall be made unless the responsible procurement officer certifies in writing under penalty of perjury that he/she has maintained the record required by §5249 of this Chapter and that it is complete and available for public inspection.

The certificate is itself a part of the record:

Reference: 5 GCA 5250

Public Record:

The procurement record required by 5 GCA §5249 of this Chapter is a public record and, subject to rules promulgated by the PPO and Public Auditor. Any person may inspect and copy any portion of the record.

Reference: 5 GCA 5251

Rules for Procurement Records:

Rules promulgated pursuant to §5251 of this Chapter shall:

1. Protect the integrity of the bidding process;
2. Protect the confidentiality of trade secrets;
3. Establish reasonable charges for copying papers;
4. Provide for transcription of sound recordings;
5. Require public access to the record at the earliest possible time; and
6. Not require that the record be complete or that the procurement award be made before inspection and copying are permitted.

SOLE SOURCE PROCUREMENT

Public Law (P.L.) 36-70 was signed into law in December 2021 and amended Sole Source Procurement.

If the supply, service, or construction is only available from one (1) vendor, Sole Source Procurement procedure must be used even if the procured item or service is a small purchase. A requirement for a particular proprietary item does not justify a Sole Source Procurement if there is more than one (1) potential bidder or offeror for that item. Any request by a using agency that a procurement be restricted to one (1) potential contractor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.

The Chief Procurement Officer or a designee of either officer above the level of the Procurement Officer must make a written determination that there is only one (1) source for the required supply or service and the written determination may specify the application of such determination and the duration of its effectiveness.

The Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency or the designee of either officer above the level of Procurement Office must prepare a package to market and present to perspective vendors or service providers, which must contain a description, need and market research without terms and conditions.

A sole source contract cannot exceed one (1) year, with four (4) successive annual options to renew. The option to renew may be exercised when the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency or a designee of either office above the level of Procurement Officer determines in writing that there is only one (1) source.

The purchasing agency shall publish a notice in a newspaper of general circulation on Guam, and on its website, within fourteen (14) calendar days of awarding any contract under this Section, in excess of Fifty Thousand Dollars (\$50,000). The notice shall include the names of the purchasing agency and awardee(s), the contract award amount, term, and the nature of the contract.

A record listing all contracts made under Sole Source Procurement shall be maintained for a period of five (5) years. The record shall contain:

1. Each Contractor's Name
2. The Amount and type of each contract

3. A listing of the supplies, services, or construction procured under each contract;
and
4. The identification number of each contract title.

A copy of such record shall be submitted to the Legislature on an annual basis. The record shall be available for public inspection.

Reference: 5 GCA §5214 and 2 GAR, Div. 4, Chapter 3 §3112, PPO Resolution 2021-002

INDEFINITE QUANTITY CONTRACTS

A definite quantity contract is a fixed price contract that provides for delivery of a specified quantity of supplies or services either at specified items or when ordered.

An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times or as ordered, at established unit prices of a fixed-price type. Generally, an approximate quantity is stated in the solicitation and the contract may provide a minimum quantity GovGuam is obligated to order.

Every indefinite quantity contract shall indicate the rationale for using this type of contract and the reasons why another form of contract will not suffice. Indefinite quantity contracts shall be reviewed every six (6) months to determine if there is a continued need for such a contract.

Indefinite quantity contracts shall not be used more than twice (2x) per fiscal year for such supplies and services and should the department or agency continue to require the supplies or services, competitive sealed bidding or small purchase, as applicable, shall be used to continue supply.

Reference: 2 GAR, Div. 4 Chapter 3 §3119 (i)

EMERGENCY PROCUREMENT

Public Law (P.L.) 35-109 was signed into law in October 30, 2020 and amended Emergency Procurement.

The Chief Procurement Officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement records.

An emergency procurement may be authorized by an Executive Order declaring an emergency. No emergency procurement or extension to an emergency procurement purchase order or contract may be made unless supported by a certificate made under penalty of perjury by the CPO, Director of Public Works, or the head of a Purchasing Agency, as the case maybe. Certified copies of the certificate shall be sent, prior to award and as a condition thereof, to the Governor and Speaker of the Legislature.

The certificate shall contain the following:

1. A statement of the facts giving rise to the emergency.
2. The factual basis of the determination that an emergency procurement is necessary; and
3. A statement that emergency procurement is not being used solely for the purpose of avoidance of Guam Procurement Law and Regulations.

Reference: 5 GCA §5215 and 2 GAR, Div. 4, Chapter 3 §3113 and (3)

Governor's Approval:

The Governor must approve, in writing, all authorizations for emergency procurements.

Reference: 2 GAR, Div. 4, Chapter 3 §3113 and (3)

Governor's Declaration of Emergency:

The requirements for a written determination and Certification for the emergency shall be met if the procurements are being made on the basis of the Governor's declaration of an emergency by Executive Order if such Order states that emergency procurement may be utilized for purchases.

Reference: 5 GCA §5215 and 2 GAR, Div. 4, Chapter 3 §3113 and (3)

Procedure:

The procurement agency must solicit at least three (3) formal price quotations, and if time allows, must give notice to all contractors from the qualified bid list who have provided the needed supplies and services to the government within the preceding twelve (12) months, and must award the procurement to the firm with the best offer, as determined by evaluating both cost and delivery time.

Reference: 5 GCA §5215 and 2 GAR, Div. 4, Chapter 3 §3113

Ninety (90) Day Limitation:

No emergency procurement or combination of emergency procurements may be made for an amount of goods or supplies greater than the amount of such goods and supplies which is necessary to meet an emergency for the ninety (90) day period immediately following the procurement. If the necessity extends beyond the ninety (90) day period by the Chief Purchasing Officer the Director of Public Works the head of a purchasing agency or designee determines that additional time is necessary, a further certification shall be made.

Thirty (30) days prior to execution of an extension, a public hearing shall be held by the procuring agency. Notice of Intent to extend shall be published in a newspaper of general circulation at least five (5) days prior to the public hearing.

Notice shall include at least a description of the need for the emergency extension, the vendor, and the date, time, and location of the public hearing. This record shall be made and kept as part of the procurement record as required.

Reference: 5 GCA §5215, §5249 and 2 GAR, Div. 4, Chapter 3 §3113 and (3)

The Chief Procurement Officer, the Director of Public Works, the head of a Purchasing Agency, or a designee of either officer may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement record.

Unless authorized by an Executive Order declaring an emergency, no emergency procurement may be made except supported by a certificate made under penalty of perjury by the CPO, Director of Public Works, or the head of a Purchasing Agency, as the case may be. Certified copies of the certificate shall be sent, prior to award and as a condition thereof, to the Governor and Speaker of the Legislature.

The certificate shall contain the following:

1. A statement of the facts giving rise to the emergency;
2. The factual basis of the determination that an emergency procurement is necessary, the nature of the condition posing imminent threat to public health, welfare and safety or safety of the environment which could not have reasonably been foreseen and a statement that the threat is imminent and procurement is necessary without delay.

Reference: 5 GCA §5215 and 2 GAR, Div. 4, Chapter 3 §3113 and (3)

ATTORNEY GENERAL REVIEW FOR SOLICITATIONS \$500,000 AND HIGHER

The Attorney General (AG), Deputy Attorney General, or such Assistant AG as the AG may designate, shall serve as legal counsel and provide necessary legal services to the Policy Office and the GSA. Whenever the Chief Procurement Officer, the Director of Public Works, the head of any executive branch agency, autonomous agency, instrumentality or public corporation of GovGuam conducts any solicitation or procurement which is estimated to result in an award of Five Hundred Thousand Dollars (\$500,000) or more, the AG or his/her designee(s) shall act as legal advisor during all phases of the solicitation or procurement process.

The AG or his /her designee shall, in addition, when he/she approves contracts, determine not only the correctness of their form, but their legality. In making such a determination of legality, he/she may require any or all agencies involved in the contract to supply him/her with evidence that the required procedures precedent to executing the contract were carried out. He/she or designees may prescribe the forms and format required to be followed by the agencies in aiding him/her in his/her determination of form and legality.

Reference: 5 GCA §5150