

Douglas B. Moylan  
Attorney General



Joseph A. Guthrie  
Deputy  
Solicitors Division

12/31/09

TO: Franklin  
Artero

of the Attorney General

Fr: D Rivera

May 14, 2003

**DEPARTMENT OF LAW  
PROCUREMENT CIRCULAR 03-001**

To: All Government of Guam Agencies

From: Attorney General

**SUBJECT: CHECKLIST FOR ATTORNEY GENERAL REVIEW OF CONTRACTS  
UNDER GUAM PROCUREMENT LAW**

When submitting a contract to our office for review as to form and legality, you must attach a copy of the entire record of the procurement. The record shall be sufficient to detail the significant history of a procurement, and should include, at a minimum, all of the following:

1. Notice of invitation to bid or request for proposals;
2. Bid or proposal package provided to potential bidders or offerors. This shall include the following, as may be applicable: instructions, information concerning bid submission, general terms and conditions, special terms and conditions, scope of work or purchase description, specifications, delivery and performance schedule, evaluation factors, contract terms and conditions, bond and security requirements, etc.;
3. Each bid or offer received. If you prefer to submit the original bid or offer rather than a copy, then please clearly mark the item. Originals will be returned to your agency;
4. Evaluation of bids or offers;
5. Determination of award;



6. Notice of award to successful bidder or offeror;
7. Log of all communications between employees of the government agency and any member of the public or bidders, or potential bidders; and record of any conferences, meetings, negotiations, modifications, amendments, adjustments, approvals, etc.
8. Any and all other written determinations as may be required by law. The determinations shall evidence all the following, but not necessarily be limited to:
  - (a) the rationale for the method of procurement;
  - (b) the selection of contract type;
  - (c) the basis of the contractor selection or rejection; and
  - (d) the basis for the contract price.
9. Contract (signed original). If you are submitting a procurement contract for services, please use our standard form attached to our May 1988 manual on *Contracting for Personal Services*. If you must deviate from the form, then you must explain the deviation in a separate memorandum to us. We will soon be updating the form.

For the sake of efficiency, we have prepared a "*Checklist for Attorney General Review of Contracts*." This *Checklist* must accompany each contract you submit to us for review and should be prepared and signed by the employee in charge of the procurement. If a *Checklist* does not contain the name and number of a contact person, we will not accept it, and will return it to your agency without review. The person preparing and signing the *Checklist* should certify that all procurement laws have been complied with to the best of his or her knowledge, and acknowledge that the procurement may be audited. No transmittal memorandum is required (except as to explain deviations). Please photocopy the *Checklist* for your use. Do not retype it.

Effective immediately, our office will not forward any approved contract to the Governor. Instead, your agency will be called to pick up the approved contract.

Contracts involving federal grant funds and cooperative agreements may have different or additional requirements. If your contract concerns disaster recovery, we strongly suggest that you coordinate all aspects of your procurement with the Guam Recovery Office to ensure that your

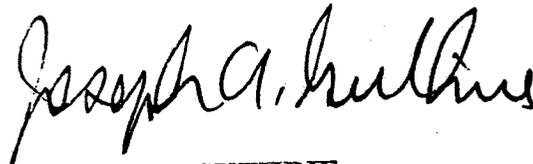


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documentation will be sufficient.

You will be advised by our office if we need further information.

  
**JOSEPH GUTHRIE**

Attachment (1)

AGprocure03-001

## CHECKLIST FOR ATTORNEY GENERAL REVIEW OF CONTRACTS

Please attach this Checklist to each contract you submit to the Attorney General for review. You must check the items below as they are prepared for transmittal. It is important that you refer to Department of Law Procurement Circular 03-001 for further information on use of this Checklist.

- Notice of invitation to bid or request for proposals;
- Bid or proposal package provided to potential bidders or offerors;
- Each bid or offer received. Attached are: \_\_\_\_ originals or \_\_\_\_ copies;
- Evaluation of bids or offers;
- Determination of award;
- Notice of award to successful bidder or offeror;
- Log of all communications between government employees and any member of the public or bidders, or potential bidders; and record of any conferences, meetings, negotiations, modifications, amendments, adjustments, approvals, etc.
- Any and all other written determinations as may be required by law;
- Contract (signed original); and
- Name of contact person: \_\_\_\_\_
- Telephone number of contact person: \_\_\_\_\_

I certify to the best of my knowledge that all applicable procurement laws have been followed, and I acknowledge that this procurement may be audited.

\_\_\_\_\_  
Name & Title: \_\_\_\_\_

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

Alicia G. Limtiaco  
Attorney General



J. Patrick Mason  
Deputy Attorney General  
Civil & Solicitor Division

## Office of the Attorney General

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January 10, 2008

### MEMORANDUM

Ref: GOV 07-0854

To: All Government of Guam Agencies

From: Attorney General

Subject: **Checklist for Attorney General Review of Procurement Contracts**

We have revised the "*Checklist for Attorney General Review of Procurement Contracts*" which was originally issued on May 14, 2003, and are forwarding the revised *Checklist* for your immediate use. All construction and professional services contracts that are signed by the contractor on or after January 14 must be accompanied by the *Checklist* when the contract and record are submitted to our office for review.

The updated *Checklist* is much more comprehensive than the original version, and will assist both us in reviewing your contract and your procurement officers in preparing a complete procurement record. The *Checklist* should be filled out by the responsible procurement officer administering the solicitation. The term "procurement officer" is defined at 5 G.C.A. §5030(p) as "any person duly authorized to enter into and administer contracts and make written determinations with respect thereto" and "also includes an authorized representative acting within the limits of authority." The definition would limit the procurement officer to the director or other head of an agency, or his or her deputy if the director is unavailable, and a few others such as administrative services officers, chiefs of administration, or person in charge of a procurement division.

The procurement law requires at 5 G.C.A. §5249 that the procurement officer prepare and maintain a "complete record" of each procurement. Furthermore, 5 G.C.A. §5250 prohibits any award of a contract until the responsible procurement officer has certified in writing under penalty of perjury that he or she maintains a complete procurement record of the solicitation.

Accordingly, the revised *Checklist* also contains a form of certification to comply with the requirements of §5250. As it will be made under penalty of perjury, the certificate should not be signed unless the procurement officer believes it to be an accurate statement. However, if a contract is not accompanied by a full and complete procurement record, the contract may be legally insufficient and we may be unable to approve it.

**Memorandum**

**To: All Government of Guam Agencies**

**Re: Checklist for Attorney General Review of Procurement Contracts**

**January 10, 2008**

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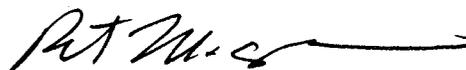
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Please ensure that the person preparing the *Checklist* and signing the certification has the proper authority to do so as defined by §5030(p) and understands the consequences of a false statement.

An organized procurement record will facilitate not only our ease in reviewing the record but your ease in keeping the record. Therefore, we suggest that the procurement record be put into a binder with tabs. Tabs numbered as in the *Checklist* would be ideal.

We also take this opportunity to give notice that the procurement law at 5 G.C.A. §5267 requires that all invitations to bid and requests for proposals identify the person who writes or drafts the specifications, scope of work, or statement of work, whatever it may be called. Also, if the specifications, etc. are amended, the identity of the person amending the language of the specifications must be identified. For all new solicitations after the date you have received this memorandum, please ensure that such identity is prominently noted as required by law.

Thank you for your cooperation.



**J. PATRICK MASON**  
Deputy Attorney General  
Civil & Solicitor Division

**CHECKLIST for ATTORNEY GENERAL REVIEW of CONTRACTS**  
(for use ONLY with construction and professional services contracts)

The Checklist below lists every item that comprises a full and complete procurement record for an invitation to bid (ITB) or request for proposals (RFP). Except where noted, every item is required by law. The Checklist will assist us in our review of the contract's legal sufficiency, and should be prepared by the procurement officer administering the solicitation. The responsible procurement officer should check all items that are forwarded for review and sign the Certification if it is an accurate statement:

Identification of Contract: \_\_\_\_\_

- 1. Published notice of ITB or RFP
- 2. ITB or RFP
- 3. Log of distribution of ITB or RFP
- 4. Amendments to ITB or RFP, if any were issued
- 5. Logs of distribution of amendments to ITB or RFP, but only if amendments were issued
- 6. Minutes or summary of pre-submission conferences, but only if conferences were held
- 7. Logs of attendees of pre-submission conferences, but only if conferences were held
- 8. Written questions from bidders or offerors, but only if any questions were received
- 9. Written answers, but only if any questions were received
- 10. Proof that written answers were provided to all potential bidders or offerors, but only if any questions were received
- 11. Log of bids or proposals received
- 12. Each bid or proposal received
- 13. Evaluation of proposals or analysis of bids (bids are not required by law to be analyzed, but may be)
- 14. Tabulation of evaluations or analysis (tabulations are not required by law but recommended)
- 15. Letters to bidders concerning outcome of bid; for offerors, letters informing them of ranking and letter to best qualified offeror inviting negotiations
- 16. Memorandum of evaluations and negotiations (only required for RFP's)
- 17. Notice of intent to award
- 18. Any and all communications from or to anyone concerning any part of ITB or RFP
- 19. Contract, including all draft versions
- 20. Bid protests, if any, and responses thereto
- 21. Any determination required by law as may fit the circumstances

**CERTIFICATION:** Pursuant to 5 G.C.A. §5250, I hereby certify under penalty of perjury that I am the procurement officer responsible for administering the solicitation of the attached contract, and that I have caused to be prepared and now maintain a full and complete record of the procurement as required by law.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date: \_\_\_\_\_