May 7, 2012

PROCUREMENT CIRCULAR NO. 2012-01 Ref: AG 12-0434

TO: All Government of Guam Agencies
FROM: Attorney General of Guam
SUBJECT: AG Procurement Form 001, Certification of Completed Procurement Record

**Announcement**

Attached is a copy of AG Procurement Form 001 re-titled "Certification of Completed Procurement Record" with a revision date of May 7, 2012. The Certification is required by 5 GCA § 5250. Form 001 and all other AG Procurement Forms are available at www.guamattorneygeneral.com/procurement.html.

**Effective Date**

The revised form is effective as of the date of this memorandum. Please discontinue using Form 001 dated January 10, 2008, and immediately begin using Form 001 dated May 7, 2012.

**Who Should Use Form 001**

If a government agency has made an acquisition using either the request for proposal (RFP) method or the invitation for bid (IFB) method (or the IFB hybrid multi-step procedure), and the solicitation has resulted in a contract which the agency is required to submit to the Attorney General for approval, then the agency must use Form 001 and follow its instructions. For those agencies that are not required to submit their contracts to the Attorney General, we only suggest that Form 001 be used, and its instructions followed, as a matter of "best practice." If the procurement conducted is an emergency, sole source, or small purchase, then the checklist shown on Form 001 does not apply.¹

**Explanation of Revisions and Guidelines for Use**

The revision of the title (from "Checklist for Attorney General Review of Contracts" to "Certification of Completed Procurement Record") was done predominantly to clarify that Form 001 is a certification of the existence of a complete procurement record for the acquisition identified on the form, and to avoid confusion with the purposes of other procurement forms issued by the Attorney General's Office.

¹ However, please note that the certification required by 5 GCA § 5250 is mandatory for all procurement, regardless of method or procedure used and whether or not a formal contract results. A written certification similar to the one that appears on Form 001 should be prepared if a small purchase, sole source or emergency procurement was conducted.
The procurement officer, who is always the director or other head of an agency, is responsible for causing to be prepared, and for maintaining, a complete record of the procurement. The certification language found at the bottom of Form 001 should be signed by the procurement officer. The law at 5 GCA § 5250 requires a written certification, made under penalty of perjury, that a record is full and complete, and that the record contains every item required by law. Because it is made under penalty of perjury, the statement should not be signed unless the procurement officer has ascertained that a full and complete record has actually been kept, and unless the procurement officer understands the statement to be true and accurate.

The revisions to Form 001 also clarify that the checklist is being made available to assist the procurement officer and his or her procurement administrators in the process of compiling a full and complete record of the procurement. The checklist should be used as a guide to the creation and compilation of a complete and accurate procurement record whenever an agency submits a contract to the Attorney General’s Office. The 21 items appearing on the checklist are listed in relatively the same order that they would occur chronologically. Generally, all 21 items should be checked, except where otherwise noted.

Finally, the instructions at the top of Form 001 were revised to reflect that the procurement record should be kept organized in the same order found as the 21 items appearing on the checklist, in a three-ring binder with visible tabs to separate the 21 items. If an agency is required to submit its contracts to the Attorney General for approval, then the agency must prepare its record as instructed or the agency’s contract will not be reviewed. By complying with these instructions, an agency will create a better record that not only works for the agency, but works for anyone else who is required or wishes to review the record.

Contact for Questions

If you have any questions regarding this circular or revised Form 001, please contact the Civil Division of this Office at 475-3324, extension 3660, or send an email to a "procurement assistant attorney general" at paag@guamattorneygeneral.com.

LEONARDO M. RAPADAS
Attorney General

cc: Governor’s Chief of Staff
    Governor’s Legal Counsel
    Chief Procurement Officer, General Services Agency
    Director, Department of Public Works

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2 The 21 items have not changed from the previous form, and remain exactly the same. Only the wording was slightly revised. Mainly, the abbreviation "IFB" is now used in lieu of "ITB" in the former version.
CERTIFICATION of COMPLETED PROCUREMENT RECORD

Instructions: After ascertaining the statement's accuracy and truthfulness, the agency's procurement officer (director or head of agency) must sign the Certification below to indicate that the agency has kept a complete procurement record of all documents required by law. The checklist below is provided to ensure that the record is complete, and must be filled out by the procurement officer or administrator. The checklist is comprised of every item that is required by law for an invitation for bid (IFB) or a request for proposal (RFP), and therefore every item, except as noted below, must be checked for the resulting contract to be considered legally sufficient. Please assemble the procurement record in the order stated below and place it in a three-ring binder, with visible tabs for each of the items below appearing in numerical order.

IFB/RFP No: __________________________ Contractor: __________________________

☐ 1. Published notice in newspaper of general circulation
☐ 2. Procurement package (IFB or RFP) issued to bidders or offerors
☐ 3. Log of distribution of procurement package
☐ 4. Amendments to IFB or RFP, if any were issued
☐ 5. Logs of distribution of amendments to IFB 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 registry of 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 acquisition referenced above, 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: __________________________

AG Procurement Form 001
Revised May 7, 2012