



# GUAM POWER AUTHORITY

ATURIDÁT ILEKTRESEDÁT GUÅHAN  
P.O.BOX 2977 • HAGÁTÑA, GUAM U.S.A. 96932-2977

July 22, 2020

AMENDMENT NO.: III

TO

INVITATION FOR BID NO.: GPA-062-20

FOR

PAD MOUNTED TRANSFORMERS

Prospective Bidders are hereby notified of the following response to an inquiry received from Bidder No. 2 dated July 18, 2020:

Bidder No.: 2 dated 07/18/2020:

**QUESTION:**

1. Payment terms, Payment terms is net thirty (30) days after receipt of ORIGINAL invoice for goods received and/or services rendered. If we got this award of contract. Could you provide advance payment or Bank Guaranty of total invoice value.

**ANSWER:**

No. The Guam Power Authority is a government entity and advance payments are prohibited. Kindly refer to the following:

- 2 GAR – Administration Div. 4 – Procurement Regulation §1103. (See attached)
- 5 GCA Government Operations CH. 5 Guam Procurement Law §5007. (See attached)

for JOHN M. BENAVENTE, P.E.  
General Manager

delivery or performance bids. Delivery time may be considered as a factor in making an award to a-responsible bidder only if his average delivery time as contained in the bid is delivery, or if performance does not exceed one hundred five percent (105%) of the lower priced bidder.

**SOURCE:** Added to comply with 5 GCA §5010. (1/1/1999)

**§1103. Advance Payments Prohibited.** No procurement shall be made which shall require advance payment unless authorized by law.

**§1104. Local Procurement Preference.** All procurement of supplies, and procurement of services shall be made from among businesses licensed to do business on Guam and that maintain an office or other facility on Guam, whenever a business that is willing to be a contractor is:

(a) a licensed bona fide manufacturing business that adds at least twenty-five percent (25%) of the value of an item, not to include administrative overhead, using workers who are U.S. citizens or lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their former citizenship in the Trust Territory of the Pacific Islands; or

(b) a business that regularly carries an inventory for regular immediate sale of at least fifty percent (50%) of the supply items to be procured; or

(c) a business that has a bona fide retail or wholesale business location that regularly carries an inventory on Guam of a value of at least one half of the value of the bid or one hundred fifty thousand dollars (\$150,000) whichever is less, of supplies and items of a similar nature to those being sought; or

(d) a service business actually in business doing a substantial portion of its business on Guam, and hiring at least ninety-five percent (95%) U.S. citizens, lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

Procurement of supplies and services from off-Guam may be made if no business for such supplies or services may

**5 GCA GOVERNMENT OPERATIONS  
CH. 5 GUAM PROCUREMENT LAW**

contract, except that this Chapter shall not apply to either grants or contracts between the Territory and another government. Nothing in this Chapter or in regulations promulgated hereunder shall prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

**SOURCE:** GC § 6950.3. MPC § 1-104 modified.

**COMMENT:** The MPC assumes the existence of counties, municipalities having a separate government, and other local governments. This Section has been modified to refer to Guam's structure, unified government, at the time of enactment.

Note that this Chapter does not affect existing contracts. Also, it does not affect agreements with private parties, such as when a person gives something to the government with conditions as to its use. Also, agreements with other governments, such as the Federal Government in areas of, say, Intergovernmental Personnel Exchanges, are not affected by this Chapter. The reason is, of course, that the other government may very well place conditions upon the agreement which are not compatible with this Act, but which must be followed. Thus, federal regulations must be followed in federal agreements notwithstanding any local laws.

**§ 5005. Severability.**

[Omitted.]

**SOURCE:** MPC § 1-105.

**COMMENT:** Former Government Code 19 contains a severability clause applicable to the entire Government Code. This clause, and similar ones were transferred to 1 GCA § 721, where it now applies to all of the Guam Codes, not just the Government Code.

**§ 5006. Construction Against Implicit Repealer.**

Since this Chapter is a general law, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction of the subsequent legislation can be reasonably avoided.

**SOURCE:** GC § 6950.5. MPC § 1-106.

**§ 5007. Policy Against Advance Payments.**

With the exception of off-island orders of the Department of Education, no procurement shall be made under this Chapter which shall require advance payment.