

GOVERNMENT OF GUAM  
Office of the Governor  
Agana, Guam

EXECUTIVE ORDER NO. 65-12

PROCUREMENT AND SUPPLY REGULATION NO. 1

WHEREAS, Public Law 68, Fourth Guam Legislature, Second Regular Session, as amended by Public Laws 8-12 and 8-71, Eighth Guam Legislature, First Regular Session, established the Central Warehousing and Procurement Law for the purpose of efficient, centralized procurement and warehousing of supplies for the Executive Branch, Government of Guam, in accordance with such terms, conditions and procedures as shall be prescribed by the Governor by executive order, including such exceptions as may be deemed in the interest of the government;

WHEREAS, the Governor of Guam under Section 6(b) of the Organic Act of Guam has the power to issue executive regulations not in conflict with any applicable law;

NOW, THEREFORE, by virtue of the foregoing, the following Procurement and Supply Regulation No. 1 is hereby adopted and promulgated:

PROCUREMENT AND SUPPLY REGULATION NO. 1

Section 1. PURPOSE. The purpose of this regulation is to provide subject to and in conformity with existing law, standard procurement procedures for all departments and agencies of the Executive Branch of the Government of Guam.

Section 2. DEFINITIONS. Terms used in this regulation have the following meanings ascribed to them:

.01. SUPPLIES. The term "supplies" means any or all articles or things, except real estate, which shall be furnished to, or used by any department or agency of the Government of Guam, including but not limited to all materials, equipment, furnishings, printing of stationery, forms and journals, reproduction of publications and binding thereof, foodstuffs, repair and maintenance items and fuel;

.02. SERVICES. The term "services" means any or all rental, repair or maintenance of equipment, machinery or other personal property and such other services as may be designated by the Governor from time to time. It does not include contracts for construction, rental of housing, packing, crating, and shipment of household goods of contract employees, employment or travel abroad by commercial carriers;

.03. PROCUREMENT. The term "procurement" means any authorized acquisition including purchase, rental, lease or trade by the Directors of Finance and Education, the Administrator of Guam Memorial Hospital or their authorized delegate(s) within the purview of this regulation and not in conflict with existing law;

.04. PURCHASING AGENT. The term "Purchasing Agent" or "Agent" means the Directors of Finance and Education, the Administrator of Guam Memorial Hospital and/or the Chief of Procurement and Supply Division, Department of Finance;

.05. BUYER. The term "Buyer" means the employee(s) authorized by the Directors of Finance and Education, the Administrator of Guam Memorial Hospital and/or the Chief of Procurement and Supply, to procure supplies and services for the government by purchase, rental, lease or trade;

.06. GOVERNMENT OF GUAM. The term "Government of Guam" or "government" means the Executive Branch. Pursuant to Section 6600.21, Government Code of Guam, the Legislative and Judicial Branches of the Government of Guam may utilize the services of the Division of Procurement and Supply on a voluntary basis, in accord with procedures established in this regulation.

.07. AGENCY. The term "Agency" means any department, agency, instrumentality, board, commission, officer or official of the Executive Branch of the Government of Guam, authorized to requisition and use supplies and services.

Section 3. POWERS AND DUTIES. The Purchasing Agents shall be authorized and have the duty to perform the following functions:

.01. PURCHASE AND CONTRACT. To purchase or contract for all supplies and services for the government, subject to the provisions set forth in this regulation and existing laws of Guam;

.02. DELIVERY AND ACCEPTANCE. To prescribe the manner, place and date of delivery and acceptance of all supplies and materials procured for the government;

.03. INSPECTION. To prescribe the manner of inspecting supplies and materials upon delivery by the supplier and of making chemical and/or physical tests of samples submitted with bids to determine compliance with ordering specifications;

.04. BID BOND. To determine whether a surety bid bond or cash deposit is to be submitted with any bid, and if required, to prescribe the amount thereof and enforce forfeiture of such bond or deposit if the successful bidder fails to enter into a contract within the prescribed time; and

.05. PERFORMANCE BOND. To determine whether a surety performance bond shall be required before a contract is entered into, and if required, to prescribe the amount thereof and enforce forfeiture of such bond upon failure to perform the contract in a satisfactory manner.

.06. Liquidated damage charges will apply on the item basis to defaulters for such breach of contract in the amounts as prescribed by the agents.

Section 4. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR OF FINANCE.

It shall be the duty and responsibility of the Director of Finance to:

.01. DETERMINATION OF RESPONSIBILITY OF SUPPLIERS:

a. Prescribe the forms and procedures for securing from suppliers necessary information to determine the responsibility of such suppliers in accordance with the standard listed in Section 7; and

b. To keep current and confidential such required information. Such information will be made available to the other Purchasing Agents only on an individual "need-to-know" basis.

.02. DISQUALIFICATION OF SUPPLIERS:

a. To declare suppliers who default in performance or by supplying poor quality of goods to be irresponsible and to disqualify them from any bidding or negotiation for a stated period of time not to exceed a maximum of one year.

b. To disqualify from doing business with the Government suppliers who have failed to comply with licensing requirements. License must embrace business classification or category being bid upon.

c. To prepare monthly for distribution to all buyers a list of disqualified suppliers and the time period of disqualification.

.03. CENTRAL WAREHOUSING:

a. To have direct charge and control of all warehousing for storage and distribution of supplies, excluding those storage facilities containing authorized special procurement

items for:

- College of Guam
- Commercial Port
- Public Utility Agency
- Department of Medical Services
- Department of Education

b. The authority to prescribe uniform management policies, inventory forms and procedures and general warehouse records for all storage facilities including those excluded in .03 a.

.04. REQUISITIONING. To prescribe the procedures and forms to be used by all agencies for submitting requisitions for supplies and services;

.05. PURCHASING. To prescribe the forms to be used by all agencies for processing of all procurement transactions.

.06. EXCEPTIONS. To authorize and delegate, in writing, procurement by an agency under conditions prescribed in Section 9; and

.07. OTHER. To provide for such other matters, forms and procedures as may be required to effect this regulation.

Section 5. PURCHASING AND CONTRACTING POLICY AND PROCEDURES.

The procurement of supplies and services for the Government of Guam will be

the Buyer, with the concurrence of the Agent, may dispense with such solicitations and negotiate directly with a vendor where they deem it is more advantageous to the government;

c. More than \$500, but less than \$2,500. Where the cost is less than \$2,500 procurement may be made by solicitation of not less than three informal written quotations on the open market of which a written record shall be kept, except that the Buyer with the concurrence of the Agent may dispense with such quotations and negotiate directly with a vendor where they deem it is more advantageous to the government.

.03. COMPETITION. It shall be the duty of each Agent and each Buyer to encourage and obtain full and open competition and to discourage uniform pricing and bids among local vendors.

Section 6. EXCEPTIONS TO REQUIREMENT FOR SEALED BIDS. Where the total cost is \$2,500 or more, exception to the requirement for a sealed bid is authorized only where at least one of the following conditions exists and the Purchasing Agent certifies this exception in writing:

.01. An emergency situation affecting the general public exists which will not allow the normal delay attendant to the sealed bid procedure;

.02. The procurement is for medicines or other medical supplies;

.03. The procurement is for supplies to be purchased for authorized resale such as workbooks for the schools and College bookstore items;

.04. The procurement is for supplies or services for which it is impractical or impossible to secure competition such as gasoline, road and boiler oil, asphalt cement, technical equipment made by one manufacturer only, etc.

.05. The head of the using agency has determined that the supplies or services are for experimental, development, or research work, or for the manufacture or furnishing of property for experimentation, development, research or tests;

.06. The procurement is for supplies which consist of technical equipment or component parts thereof which the committee on Standardization has established as standard to provide standardization of equipment and interchangeability of parts and procurement without sealed bids is necessary;

.07. The procurement is for supplies or services for which sealed bids have been obtained, but have been rejected;

.08. The procurement is for supplies or services to be acquired from or through a Federal agency; or

.09. The procurement is for supplies which are offered through bargain sales, bankruptcy or receivership sales, or other dispositions of property at lower than prevailing market prices.

Section 7. SEALED BID PROCEDURE.

.01. PUBLICATION OF NOTICE. Where procurement is made by sealed bids, a public notice requesting sealed bids shall be published at least once in a newspaper of general circulation in Guam and at least five days before the final date for submission of bids. Such notice shall include a general description of supplies or services to be procured, and shall state where bid forms and specifications

are available and the time and place for the opening of bids. Such notice shall also be posted on a bulletin board, to which the public has access, in the Office of Procurement and Supply. The Agent may also solicit bids by sending invitations by mail or messenger to prospective suppliers.

.02. SUBMISSION. Bids shall be submitted sealed to the Agent, and shall be identified as bids on the envelope in such manner as the Agent may prescribe.

.03. OPENING. Bids shall be opened in public at the time and place stated in the public notice.

.04. RECORD. Each bid, with the name of the bidder, shall be entered on a record and the record with the successful bid indicated shall, after the award, be open to public inspection.

.05. AWARD. Bids shall be awarded to the lowest responsible bidder.

.06. REJECTION. The Agent shall have the authority to reject all bids, in whole or in part, or for any one or more items, if he determines it is in the public interest.

.07. TIE BIDS. If bids are for the same unit price or total amount, in whole or in part, the Agent shall have authority to award the bid to one of the tie bidders by drawing lots in public, or to reject all such bids.

Section 8. SEALED BID PROCEDURE: STANDARDS FOR DETERMINATION OF LOWEST RESPONSIBLE BIDDER. In determining the lowest responsible bidder, the Agent shall be guided by the following:

.01. The ability, capacity and skill of the bidder to perform;



- .02. Whether the bidder can perform promptly, or within the time specified, without delay or interference;
- .03. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- .04. The quality of performance of the bidder with regard to awards previously made to him;
- .05. The previous and existing compliance by the bidder with laws and regulations relating to procurement;
- .06. The sufficiency of the financial resources and ability of the bidder to perform;
- .07. The quality, availability and adaptability of the supplies or services to the particular use required;
- .08. The ability of the bidder to provide future maintenance and service for the use of the subject of the award; and
- .09. The number and scope of conditions attached to the bid.

Section 9. EXCEPTIONS TO REQUIREMENT FOR PROCUREMENT THROUGH PROCUREMENT AND SUPPLY DIVISION. An agency may be authorized by the Director of Finance, in writing, to procure supplies and services directly, using the sealed bid and open market procedures under Section 4, .01 and .02 and in accord with conditions prescribed by the Agent, with regard to the following:

- .01. PETTY CASH PROCUREMENT. Through a petty cash fund established in the agency.
- .02. SPECIFIC SUPPLIES OR SERVICES. When it is deemed in the best interest of the Government, for specific supplies or services, either on a one-time or continuing basis.
- .03. EMERGENCIES. Where immediate procurement is necessary for the protection of the public health, welfare or safety.

Section 10. ENCUMBRANCE OF FUNDS. Except in emergencies as provided in Section 9.03, no procurement shall be made until the Controller, Department of Finance, shall have certified that the unencumbered balance in the appropriation or fund concerned, in excess of all unpaid obligations is sufficient to defray the cost thereof.

Section 11. PROCUREMENT FROM DISQUALIFIED SUPPLIERS. Except in emergencies as provided in Section 9.03, no procurement shall be made from suppliers disqualified pursuant to Section 4.02.

Section 12. COMMITTEE ON STANDARDIZATION.

.01. There is hereby established a Committee on Standardization, to be composed of the following:

- (a) Director of Finance, who shall be the Chairman;
- (b) Director of Public Works;
- (c) Director of Education;
- (d) Hospital Administrator;
- (e) Chief Officer, Public Utility Agency of Guam.

A duly authorized representative of any member may act for him at any meeting of the Committee.

.02. The Committee shall classify the requirements of the Government as to supplies and prescribe as standards the minimum numbers of qualities, sizes, and varieties thereof. Standards, and detailed specifications for standards, shall be prepared in the form of a Procurement and Supply Standards and Specifications Manual, which shall be issued on an installment basis as prepared. Standards and specifications, including any rescission or revision thereof, shall be effective only upon written approval of the Governor.

.03. In the preparation, adoption, rescision or revision of any such standards or specifications, the Committee shall seek the advice, assistance and cooperation of the various agencies concerned in order to ascertain their requirements. All standards and specifications shall, insofar as possible, reasonably satisfy the requirements of the majority of the agencies concerned. All standards and specifications must be definite and certain, and must permit competition except standards as to technical equipment for specialized situations or to provide standardization of technical equipment and interchangeability of parts. After becoming effective, standards and specifications shall be applied to all future procurement except as otherwise authorized in this regulation.

Section 13. SURPLUS STOCK.

All departments and agencies shall submit to the Director of Finance at such times and in such form as he shall prescribe reports showing stocks of all supplies, materials and equipment which are no longer used or which have become obsolete, worn out or scrapped. The Director of Finance may transfer such stock to another agency which has need for and can use it. The Director of Finance may sell all such supplies, materials and equipment which have become unsuitable for public use or exchange for or trade in the same on new supplies, materials and equipment. Any such sale, exchange or trade-in shall be used on competitive bids secured in accordance with the provisions of this Executive Order.

Section 14. PROHIBITIONS.

.01. No procurement of supplies or services coming under this regulation shall be made except in accord herewith, and in accord,

carried on in a manner that will best serve the public interest. It will be the policy to expend the public funds so as to obtain supplies and equipment at the lowest price consistent with quality and service.

Purchases will be channeled to Guam suppliers and to American sources where such action will meet the overall objective of serving the public interest. American materials will be given preference in the procurement of supplies for use of the Government of Guam. Items of foreign origin may be procured only if the bid or offered price of like items of domestic origin exceeds the sum of the bid or offered price of such foreign items plus ten percent (10%). The following procedures will govern all procurement of supplies and services:

.01. SEALED BID PROCEDURE. Procurement by sealed bid is authorized for any purchase at the discretion of the Purchasing Agents and the Buyer assigned the requisition and is mandatory where the cost exceeds \$2,500, except as otherwise provided under Section 6;

.02. OPEN MARKET PROCEDURE. Procurement on the open market is authorized where the cost is less than \$2,500, subject to the following:

a. Less than \$100. Where the total cost is less than \$100, procurement will be made by the Buyer through petty cash (less than \$10.00) or OCR (Over-the-Counter-Receipt to vendors issued "open" monthly purchase orders) for all purchases to said vendors totaling less than \$100; and by purchase orders to all non-OCR vendors for any amount under \$100;

b. Less than \$500. Where the total cost is less than \$500, procurement may be made by solicitation of informal written or oral quotations on the open market, except that

where authorized herein, with conditions and requirements prescribed by the Agents. Except as may be authorized by the Agents under Section 9, heads or other personnel of using agencies are not authorized to procure such supplies or services, or to enter contracts or agreements therefor, or accept delivery or tender thereof, on behalf of the Government of Guam or any agency thereof. Where there has been any unauthorized procurement, the Government of Guam reserves the right, without liability to the Government of Guam, to rescind the procurement and to reject any delivery or tender of such supplies or services, and to return at the expense of the supplier any such supplies which have been accepted without proper authority.

.02. Neither the Agents, their delegates, or any personnel of the Division of Procurement and Supply, or any member of the Committee on Standardization, shall be financially interested, directly or indirectly, in any procurement for supplies or services for any agency of the Government of Guam. Neither the Agents, their delegates, or any personnel of the Division of Procurement and Supply, or any member of the Committee on Standardization, shall accept or receive, directly or indirectly from any supplier either before or after any procurement, whether by sealed bid or open market procedures, any compensation, gift, commission, reward, rebate, or other benefit, either in money or anything of value, or any promise, obligation, or contract for any future such benefit or employment. The Government reserves the right to rescind any procurement for any violation of this subsection.

.03. The Agents shall report to the Governor any violation of this section immediately after the violation becomes known to them, setting forth the names and positions of all persons involved and the pertinent facts of the violation.

Section 15. REPEAL. This regulation supersedes any prior memoranda, Executive Orders, or other directives in conflict herewith.

Dated at Agana, Guam, this 22nd day of November, 1965.



MANUEL F. L. GUERRERO  
Governor of Guam

COUNTERSIGNED:



DENVER DICKERSON  
Secretary of Guam