

# REQUEST FOR PROPOSALS

RFP Number: 2200-002

## Request for Proposals Guam Environmental Protection Agency Underground Storage Tank Owner/Operator Training

### Hazardous Waste Management Program



February 9, 2012

Guam Environmental Protection Agency  
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Barrigada, Guam 96921  
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SUBMISSION DEADLINE: 4:30 pm, Friday, March 16, 2012

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# **REQUEST FOR PROPOSALS**

## **I. INTRODUCTION**

The Guam Environmental Protection Agency (Guam EPA), in coordination with the Hazardous Waste Management Program (HWMP) Underground Storage Tanks Section, is requesting proposals to provide Guam EPA-approved training to owners and operators of regulated petroleum underground storage tanks (USTs) in Guam. This Request for Proposals (RFP) provides the general background, specifications and requirements for prospective applicants to complete a proposal for services, as well as how the proposals will be evaluated. **The deadline for submittals in response to this RFP is 4:30 P.M. GMT on Friday, March 16, 2012.**

## **II. BACKGROUND**

Releases from USTs – e.g., from spills, overfills, or leaking underground storage tanks and piping – can potentially cause threats to human safety, contamination of groundwater, and adverse health effects. The lack of proper operation and maintenance is one of the major causes of new releases from USTs.

The federal Energy Policy Act of 2005 requires, among other things operator training in order to minimize new releases from UST systems. This training requirement set out three classes of operators requiring training: Class A, Class B, and Class C. In accordance with U.S. Environmental Protection Agency (EPA) requirements, Guam's UST Statute and proposed UST regulations require regulated UST owners and operators (Class A and Class B) to complete a department-approved training program by August 8, 2012. Class C operators are also required to complete training. However, the Guam EPA training requirements allow for Class A and Class B operators to provide the necessary training to Class C operators at their facilities.

In an effort to minimize releases and assist regulated UST owners and operators in complying with regulatory requirements, the HWMP is seeking proposals to provide Guam EPA-approved training.

For more information on the Energy Policy Act of 2005 requirements for training go to:  
[http://www.epa.gov/oust/fedlaws/nrg05\\_01.htm](http://www.epa.gov/oust/fedlaws/nrg05_01.htm).

For more information on the EPA guidance for operator training please go to:  
[http://www.epa.gov/swerust1/fedlaws/otgg\\_final080807.pdf](http://www.epa.gov/swerust1/fedlaws/otgg_final080807.pdf).

For more information on Guam EPA's underground storage tank program, go to:  
<http://epa.guam.gov>

### III. PROJECT FUNDING/AWARDS

Funding for Guam EPA will make this project available, subject to the availability of funds and quality of proposal received. Guam EPA anticipates the award of one (1) contract resulting from this RFP. Guam EPA's Hazardous Waste Management Program (HWMP) has been awarded funding to implement the Operator Training Program by USEPA Region 9 through the Leaking Underground Storage Tank (LUST) Trust Prevention Grant. The contract term will be for one (1) year, with options for a one (1) year extension if necessary in Guam EPA's judgment. The company whose proposal is ranked highest will be invited to negotiate an award contract. If an award contract cannot be successfully negotiated by April 1, 2012, then another company's proposal may be selected for contract negotiations and award. Contractors not selected for the project will be notified when the contract is awarded.

### IV. PROPOSALS

Written proposals, in one original plus three (3) copies, must be received no later than **4:30 p.m., Friday, March 16, 2012**, at the Guam EPA main office at 17-3304 Mariner Avenue, Tiyan. Proposals shall not be submitted via electronic mail or facsimile; all proposals must be in hard copy. The proposals shall contain the following information:

1. Name of offeror and location of offeror's principal place of business, as well as address of the firm's local offices, including the name and telephone/facsimile numbers of the person to be contacted relative to this proposal.
2. A detailed plan or strategy for providing the requested services as contained herein and in the Scope of Work, supplying as much detail as practical.
3. Age of offeror's business and average number of employees over the last three years.
4. A description of the firm's experience and expertise as related to the work required, specifically with regard to underground storage tank systems, operation and monitoring, overall knowledge, and/or any accreditations.
5. A proposed timeline with specific milestones for accomplishing the scope of work.
6. A description of the experience and qualifications of all individuals to perform the requested services. Include the percentage of time each person will be allocated to perform this project. The successful Consultant may not substitute personnel other than those listed without prior approval from Guam EPA.

7. A listing of other contracts under which services similar to the required work in scope, size, cost, or discipline were performed or undertaken within the last five years.
8. Any additional information that the firm feels will aid the Government in accurately determining its qualifications.
9. A statement indicating that those portions of the proposal that contain trade secrets or proprietary data, if any, must remain confidential.
10. Identify any proposed subcontractor(s), provide their statement of qualifications, and the percent (%) participation of the proposed subcontractor(s) in the project.
11. Attachment of Forms. Complete the following forms contained in Attachment C1 (Request for Proposal Forms) of this package. These forms are mandatory. Failure to complete and submit these forms will automatically disqualify your proposal as being non-responsive, and it will not be evaluated.
  - a) **Submission Form for Proposals** (GEPA Procurement 001) **Attach this form to your proposal after your title page;**
  - b) **Proposal Signature Form** (GEPA Procurement 002);
  - c) **Form for Submitting all Licenses** (GEPA Procurement 003);
  - d) **DBE Subcontractor Utilization Form** (EPA Form 6100-4);
  - e) **Affidavit Disclosing Ownership and Commissions** (AG Procurement Form 002);
  - f) **Affidavit re Non-Collusion** (AG Procurement Form 003);
  - g) **Affidavit re No Gratuities or Kickbacks** (AG Procurement Form 004);
  - h) **Affidavit re Ethical Standards** (AG Procurement Form 005);
  - i) **Declaration re Compliance with U.S. D.O.L. Wage Determination** (AG Procurement Form 006); and
  - j) **Affidavit re Contingent Fees** (AG Procurement Form 007).

## V. PACKAGING OF PROPOSAL

1. **Number of Copies.** Please provide the original proposal plus three (3) copies.
2. **Sealed Envelop or Container.** The original proposal and three copies must be placed in an envelope or other container and sealed.
3. **Mailing Proposal.** Please send it to:

Guam Environmental Protection Agency  
Post Office Box 22439, GMF  
Barrigada, Guam 96921

ATTN: Michael S. O'Mallan,  
Hazardous Waste Management Program

4. **Information on Sealed Envelope or Container.** On the face of the sealed envelope or container, the following information shall be clearly marked:

Proposal for Guam Environmental Protection Agency  
Underground Storage Tank Owner/Operator Training  
Submitted by [the offering individual's or firms' name and address]  
[Indicate date of submission]  
Type of Services: [Owner/Operator Training]  
ATTN: Michael S. O'Mallan, Environmental Health Specialist

Proposals shall be binding upon the firm for sixty (60) calendar days after the proposal opening. Modifications to the proposals will not be considered during this initial sixty-day period.

Guam EPA reserves the unqualified right, in its sole and absolute discretion, to reject any and all proposals that it deems, under any and/or all circumstances, will not serve the best interest of the Government of Guam.

## SCOPE OF WORK

### I. PROJECT SCOPE/OBJECTIVES

Public Law 30-36 or the Underground Storage of Regulated Substances Act and the Operator Training Provisions of the Energy Policy Act of 2005, mandated that the Guam Environmental Protection Agency (Guam EPA) develop and administer an owner/operator training program. The intent of these mandates is to ensure any person(s) who owns and or operates an underground storage tank (UST) system,

designate their Class A, Class B, or Class C operators, and be trained and tested for proficiency in that designated class. The target universe is as follows:

<b>Operator Designation</b>	<b>Estimated Individuals</b>
Class A	40
Class B	50
Class C	100

The objective of this RFP is to provide Guam EPA-approved training to owners and operators of hazardous substances USTs in Guam. Currently there are approximately 150 regulated UST facilities in Guam. The figure in Attachment A1 (UST map) provides a relative overview of the distribution of regulated UST facilities in Guam. Contact information for these facilities is maintained by Guam EPA in their tank registration database, and will be made available to the training contractor hired for this project.

The preferred presentation method for the training is a classroom setting. As shown in Attachment A1 (UST map) many of the regulated UST facilities are located in rural, commercial, federal, and some in the remote areas of Guam. It is preferred that the training be presented at a central location specified by Guam EPA such that owners/operators do not have to travel more than 15 miles to attend the training. Regardless of the training venue, Guam EPA must approve the training program. The goal is to make this training available to every owner/operator of regulated hazardous substances USTs in Guam before August 8, 2012, in order for them to comply with the regulatory requirement.

The desired outcome for the training includes:

- 1) UST owners/operators will know and understand the proper operation, maintenance and regulatory requirements for the UST system at their facility;
- 2) A corresponding improvement in a higher rate of significant operational compliance with governing UST laws and rules; and
- 3) To minimize releases from hazardous substances UST systems. The minimum training requirements that must be met are included in Attachment B1 (Minimum Training Requirements for Class A and Class B Operators).

## **II. DELIVERABLES**

The training contractor hired for this project will be expected to:

- A) Have a training program that meets and delivers the desired learning outcomes and minimum training requirements, and is approved by Guam EPA;
- B) Within 30 days of signing the contract, begin coordination with the Guam EPA HWMP;
- C) Make all necessary arrangements for the training including but not limited to advertising, scheduling, notification and registration, facilities and visual/audio equipment for the training;
- D) Provide instruction to Class A and Class B owners and operators on the proper operation and maintenance of UST system equipment, as per Attachment B1 (Minimum Training Requirements for Class A and Class B Operators);
- E) Provide instruction and training materials to Class A and Class B owners and operators on the required training for Class C operators, that those owners/operators can utilize to provide and document training for their Class C operators;
- F) Provide review of Guam UST Statutes and draft UST regulations for hazardous substances USTs regulatory program;
- G) Provide review of Guam UST Statutes and draft UST regulations for hazardous substances UST financial responsibility and coverage;
- H) Provide materials such as informational manuals, maintenance checklists, recordkeeping forms, emergency response procedures checklist and pertinent regulatory documents. Develop materials in coordination with Guam EPA;
- I) Provide a Certificate of Completion to each person who attends and successfully completes the training;
- J) Provide documentation listing the individuals who attended each training session and the individuals who received a Certificate of Completion. This documentation must identify the training date, location, classification(s) for which certification was granted, the UST facility(s) the owner or operator is affiliated with using the Facility ID information provided by Guam EPA;
- K) Provide a compilation of test results, comments and reviews after each training session and modify/improve training based on this information;
- L) Provide two (2) each Class A and Class B test formats to the HWMP for the certification and re-certification of owners/operators; and

- M) As with all developing programs, there may be areas we have not anticipated which will need the Consultant's support. These will be identified over the course of the contract period and discussed with the Consultant. General terms of the tasks and costs will be agreed upon prior to the tasks.

### III. PROPOSAL CONTENT

At a minimum, proposals must include the following in order to be considered for evaluation:

- A) Name and contact information of the company and the project manager. Contact information must include mailing address, phone/fax, and e-mail address;
- B) List the specific people and any subcontractors who will be involved in the training project and provide information on the education, experience, and role of each individual;
- C) Description/examples of relevant experience and projects associated with training, UST operation and maintenance, and UST regulations, including cost data;
- D) Description/examples of company's ability to initiate and complete the project to include capability to provide logistical support for training activities such as publicity, information dissemination, registration, site arrangements, testing, certificate issuance;
- E) Description of the company's methods for outreach and promotion of the training program;
- F) Companies ability/methods of compiling, maintaining, and submitting information pertaining to training registration, attendance, testing and pass rates, certificate issuance, comments, and issues identified as a result of training sessions;
- G) List of references, to include name, address and phone number of reference, and the type of work/project for which the reference is being made;
- H) Sufficient description and documentation of the proposed training program to demonstrate that the desired learning outcomes and minimum training requirements will be met. **(This section will be reviewed by Guam EPA to determine if they will approve the training for regulatory compliance.)** This may include, but is not limited to the proposed training venue(s) that will be utilized to deliver the training (e.g. classroom and/or internet/webinar), a copy of the course outline(s), copies of presentation, handout materials,

tests, evaluation forms, and other pertinent papers or documents that will be used;

- I) Indicate whether the training program(s) are designed to fulfill the requirements for Class A, Class B, or Class C operators, or all three; and
- J) Proposed scheduling of events, to include when training could commence, and project management methods to achieve the goal of providing training to all owners and operators of regulated UST systems in Guam before the regulatory deadline of August 8, 2012.

#### **IV. SCHEDULE OF DELIVERABLES**

DURING THE COURSE OF THE PROJECT WORK, THE CONSULTANT SHALL BE REQUIRED TO SUBMIT HARD-COPY AND EDITABLE ELECTRONIC FORMATS TO GUAM EPA ACCORDING TO THE FOLLOWING SCHEDULE:

A. Submittal of Documents. In general, the Consultant must submit documents, e.g. course manual, question(s) bank, presentation materials, fact sheet, proposals, no later than within thirty (30) days of task assignment, or as otherwise agreed to by Guam EPA and the Consultant. Guam EPA will normally expect the Consultant to generate agreed upon deliverables within fourteen (14) days of task assignment.

B. Amendments or Changes. The Consultant must receive prior approval from Guam EPA on any changes, modifications, or amendments to the Scope of Work, contract conditions, timelines, or deliverables. The Consultant shall submit a written request to Guam EPA detailing the changes, modifications, or amendments and justification for the request prior to taking any action thereon.

#### **V. PERSON RESPONSIBLE FOR DRAFTING SPECIFICATIONS**

A. The person responsible for drafting the specifications for this request for proposal is: Michael S. O'Mallan. The following persons, technical literature or manufacturer's brochures relied upon by the responsible person in drafting the specifications include:

- U.S. EPA Office of Underground Storage Tanks, *Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005*;
- Subtitle I of the Solid Waste Disposal Act;
- Title 10 Guam Code Annotated, Chapter 76 *Underground Storage of Regulated Substances Act*;
- Draft Guam Underground Storage Tank Regulations; and
- Designated UST Operator Regulations, California Code of Regulations, Title 23, Chapter 16.

## **EVALUATION CRITERIA AND SELECTION PROCESS**

### **I. EVALUATION CRITERIA**

The Guam Environmental Protection Agency (Guam EPA) will designate a selection committee appointed by the Guam EPA Administrator to administer and conduct the evaluation and selection process. They shall at all times administer and conduct these proceedings together in the presence of each other.

Criteria for rating the proposals will include the quality of the detailed plan for performance as well as the following: (10 points)

- A) Specialized expertise, capabilities, and technical competence of personnel, equipment and facilities to perform, as demonstrated by the proposed approach and methodology to meet the project scope, objectives and requirements; (30 points)
- B) Resources available to perform the work, including any specialized services, within the specific time limits for the projects; (10 points)
- C) Record of past performance, including price cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration; (25 points)
- D) Proposed project management techniques; and (15 Points)
- E) Ability and proven history in handling special project constraints. (10 points)

Proposals will then be re-sealed and held in safe-keeping by one of the selection committee until time for evaluation.

### **II. SELECTION PROCESS**

Guam EPA will pre-qualify the top three (3) Consultants through the selection process based on Evaluation Criteria, no later than 20 working days following the deadline for submission of the proposals. All other Consultants will be notified of their non-selection for the pre-qualification list.

In accordance with Guam's procurement laws and as soon as practicable, the Administrator or his designee shall conduct contractual negotiations beginning with the highest-rated Consultant. Should negotiations be unsuccessful, Guam EPA will notify the Consultant and cease negotiations. Guam EPA will then proceed to conduct contractual negotiations with the next Consultant with the highest-rated proposal.

## **GENERAL TERMS AND CONDITIONS**

Note: By submitting a proposal in response to this RFP, each offeror agrees to be bound by all the terms and conditions specified below. Guam Environmental Protection Agency (Guam EPA) may negotiate with the successful offeror other or more specific terms and conditions for a final written contract.

1. **AUTHORITY:** This Request for Proposal (RFP) is issued subject to all the provisions of the Guam Procurement Law (5 GCA §§5001, et seq.) and the Guam Procurement Regulations, copies of which are available for inspection at the General Services Agency or online at the Guam Compiler of Laws, [www.justice.gov.gu/compileroflaws/gca.html](http://www.justice.gov.gu/compileroflaws/gca.html). The RFP requires all parties involved in the preparation, evaluation, negotiation, performance, or administration of contracts to act in good faith.
2. **EXPLANATION OF OFFERORS:** No oral explanation in regard to the substantive or material meaning of the specifications will be made before the award of the proposal. Material discrepancies, omissions, or doubts as to the meaning of the specifications should be communicated in writing no later than three (3) days before the submission deadline to Mrs. Connie Afleje, Administrative Services Officer, Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921, for interpretations. Offerors should act promptly and allow sufficient time for a reply to reach them before the submission of their proposals. Interpretation, if required, shall be made in the form of an amendment to the specifications, which will be forwarded to all prospective offerors who have picked up an RFP package, and its receipt by the offeror and all others should be acknowledged on the proposal form. As used herein the term “award” refers to an actual contract signed by all the required parties as required by law.
3. **PROPOSALS:** The offeror is required to read each and every page of the RFP and by the act of submitting a proposal shall be deemed to have accepted all conditions contained therein. By submitting a proposal, the offeror agrees that the proposal shall remain firm and irrevocable for 120 days from the date of opening of proposals. In no case will failure to inspect constitute grounds for a claim or for the withdrawal of a proposal after opening. Proposals shall be filled out in ink or typewritten and signed in black or blue ink. Erasures, strikeouts, or other types of changes which are evident on its face made to a proposal must be explained or noted over the signature of the offeror. Unexplained erasures or alterations, and omissions to the proposal, are cause for rejection by the government. Proposals containing conditions will be rejected.
4. **GENERAL INTENTION:** Unless otherwise specified, it is the declared and the acknowledged intention and meaning of these General Terms and Conditions for the offeror to provide the Government of Guam with the services specified.

5. **MISTAKES IN PROPOSALS:** The government reserves the right to waive any minor informalities in proposals received, or to have them corrected by the offeror, but only in accordance with applicable regulations.
6. **REJECTION OF PROPOSALS OR CANCELLATION OF SOLICITATION:** The government shall have the prerogative to reject proposals in whole or in part if a determination is made that such is in the public interest, or to cancel this RFP at any time, either for all services or for one or more services only.
7. **TAXES:** Offerors are reminded that they are subject to Guam Income Taxes as well as all other applicable taxes on Guam transactions. Specific information on taxes may be obtained from the Director of Revenue and Taxation.
8. **LICENSING:** Offerors are cautioned that the government will not consider for award any proposal submitted by an offeror who has not complied with the Guam Licensing Law as may be applicable. Specific information on licenses may be obtained from the Director of Revenue and Taxation. Proposals from offerors who are not licensed on Guam will be considered, but the government has a statutory policy of preference for procurement from local businesses with an exception under certain circumstances.
9. **COVENANT AGAINST CONTINGENT FEES:** The offeror warrants that it has not employed any person to solicit or secure any contract resulting from this RFP, upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the government the right to terminate the contract, or in its discretion to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by the offeror upon contracts or sales secured or made through bonafide established commercial or selling agencies maintained by the offeror for the purpose of securing business.
10. **JUSTIFICATION OF DELAY:** Any offeror who is awarded a contract, guarantees that the services will be completed within the agreed upon completion date, if any. If, however, the offeror cannot comply with the completion requirement, it is the offeror's responsibility to advise the government in writing explaining the cause and reasons for the delay, and the date certain by which services will be completed.
11. **EQUAL EMPLOYMENT OPPORTUNITY:** By law, the offeror may not discriminate against its employees or applicants for employment because of race, religion, color, national origin, sex (including pregnancy), age, disability, or genetic information. The offeror shall take affirmative action to ensure that applicants are employed, and that employees are treated equally without regard to their race, religion, color, national origin, sex (including pregnancy), age, disability, or genetic information.

12. **ASSIGNMENT**: The contract may not be assigned without the prior approval of the government.
13. **COMPLIANCE WITH ADA**: If requested, the offeror must meet all ADA regulations and requirements.
14. **PAYMENT**: Payment shall be made using the method mutually agreed upon by the government and the successful offeror, subject to Guam law.
15. **CONTRACT TERM AND RENEWAL**: The contract term will be for one (1) year, with an option for a one (1) extension if necessary in Guam EPA's judgment. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of certified funds therefor. In the event that funds are not available for any succeeding fiscal period, the remainder of the contract shall be cancelled and the contractor shall be reimbursed the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies delivered or services performed under the contract.

In this matter the Guam EPA Administrator has determined that the furnishing of long term services are required to meet territorial needs if the contract cannot be completed within one year; and that a multi-term contract will serve the best interests of the territory by promoting economies in territorial procurement.

The unit price for each service provided shall be the same throughout the contract. The unit price shall be given for each service, and that unit price shall be the same throughout the contract. Offeror must submit price for entire contract term.

The multi-term contract, if necessary in Guam EPA's judgment, will be cancelled only if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the first. However, this does not affect either the territory's rights or the contractor's rights under any termination clause in the contract.

The Guam EPA Administrator will notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for any succeeding fiscal period.

16. **INDEPENDENT CONTRACTOR STATUS**: The offeror understands that if an award is made, the offerors relationship with the government is as an independent Consultant or contractor, and not as an employee of the government. As such, no employee benefits such as insurance coverage, workman's compensation benefits, participation in the government retirement system or accumulation of vacation or sick leave shall accrue to the offeror. Income taxes will not be withheld from payments made to the awarded offeror.

Offeror shall be responsible for complying with all tax laws and requirements applicable to them.

17. **SCOPE OF AGREEMENT:** The resulting contract shall supersede any and all other prior agreements, either oral or in writing, between the parties with respect to the retainment of the chosen offeror, and contains all the covenants and agreements between such parties with respect to the retainment in any manner whatsoever. Each party to the resulting contract shall acknowledge that no agreements otherwise have been made by any party, or anyone acting on behalf of any party, which are not embodied within the contract, and that no other agreement, statement, or promise not contained in the contract will be valid or binding.
18. **RESPONSIBILITY OF AWARDED OFFEROR:** The awarded offeror shall be responsible for the technical accuracy of all work and materials furnished under the contract. The awarded offeror shall, without additional cost to the Government of Guam, correct or revise all errors or deficiencies in its work. The awarded offeror shall agree to devote their best efforts to the duties and responsibilities under the contract in accordance with the laws, rules, regulations and policies of the government. The government's review, approval, acceptance of, and payment of fees for, services required under the contract shall not be construed to operate as a waiver of any rights under the contract or of any cause of action arising out of the awarded offeror's failure to perform the services required. The awarded offeror shall be and remain liable to the Government of Guam for all costs of any kind which may be incurred as a result of the awarded offeror's negligent performance of any of the services required to be performed under this contract.
19. **GENERAL COMPLIANCE WITH LAWS:** The awarded offeror shall be required to comply with all federal and local laws applicable to the work.
20. **OWNERSHIP OF DOCUMENTS:** All briefs, memoranda and other incidental work or materials prepared by the awarded offeror shall be and remain the property of the Guam Environmental Protection Agency (Guam EPA) including all publication rights and copyright interests, and may be used by the Guam EPA or the government of Guam, at any time, for any purpose, without any additional cost to the government.
21. **CHANGES:** The Guam EPA may at any time, by written order, make any change in the services to be performed hereunder. If such change causes an increase or decrease in the costs of doing the work, or in the time required for this performance, an equitable adjustment shall be made and the contract shall be modified in writing accordingly.
22. **SEVERABLE PROVISIONS:** If any provision of the contract shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be

deemed stricken from the contract and the contract shall be enforced according to its valid and subsisting terms and provisions.

23. **GOVERNING LAW AND VENUE:** The validity of the contract and of any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the laws of Guam. The venue of any arbitration, mediation or action brought as a result of this contract shall be on Guam.
24. **EFFECTIVE DATE OF AGREEMENT:** The contract shall take effect upon the signatures of all the required parties.
25. **GOVERNMENT LIABILITY:** The Guam EPA and the Government of Guam assume no liability for any claims, accidents, or injuries that may occur to the awarded offeror, its agents, dependents, subcontractors, employees, or employees of its subcontractors. The Government of Guam shall not be liable to the awarded offeror for any work performed by the awarded offeror prior to the approval of the contract by the government. The awarded offeror shall expressly waive any and all claims for services performed in expectation of the contract prior to its effective date.
26. **RECEIPT AND OPENING OF PROPOSALS:** Envelopes containing proposals shall be sealed and marked on the face of the envelope in accordance with the instructions in Section V of this RFP. Neither emailed nor facsimile proposals will be considered. Modification by email of proposals already submitted shall not be considered. Proposals shall be hand-carried and received at the place of opening on or before the opening date and time. Proposals received through the mail will not be accepted if such mail is received at the government's address after the deadline of submission date and time. Proposals will not be opened publicly.
27. **WITHDRAWAL OF PROPOSALS:** Proposals may be withdrawn upon written request received from the offeror prior to the time fixed for opening. Negligence on the part of the offeror in preparing the proposal confers no right for the withdrawal of the proposal after it has been opened.
28. **LATE PROPOSALS:** Late proposals will not be accepted.
29. **CONFIDENTIAL OR PROPRIETARY INFORMATION:** After award, each proposal received becomes a part of the public record of procurement. If an offeror is submitting trade secrets or proprietary information which it wishes to keep confidential, then a written request for non-disclosure must be included with the proposal and those portions in the proposal which are proprietary must be clearly marked or designated. The government will examine the request, then the government will inform the offeror in writing which portions will be disclosed and why. The offeror may then withdraw the proposal or submit a protest according to law. If the proposal is not withdrawn and no protest is received,

then the government may disclose those portions of the proposal for which a non-disclosure request was not granted.

30. **ETHICAL STANDARDS:** The offeror represents that it has not knowingly influenced, and promises that it will not knowingly influence, a government employee to breach any of the ethical standards set forth in Guam's procurement code or regulations pertaining to ethics in public contracting.
31. **NO COLLUSION:** The offeror understands and agrees that submission of a price proposal is a certification by offeror that price was independently arrived at without collusion.
32. **PROHIBITION AGAINST GRATUITIES AND KICKBACKS:** The offeror represents that it has not violated, is not violating, and promises that it will not violate, the prohibition against gratuities and kickbacks set forth in the Guam procurement law. The prohibition is as follows: It is a breach of ethical standards for any person to offer, give or agree to give any government employee or former government employee, or for any government employee or former government employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. Further, it shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement of the award of a subcontract or order.
33. **PROHIBITION AGAINST CONTINGENT FEES AND RETENTION OF PERSONS TO SECURE CONTRACT:** The offeror understands and agrees that submission of a price proposal is a certification by offeror that the offering company has not retained any person or agency to solicit or secure a territorial contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
34. **APPLICABILITY OF GUAM PROCUREMENT LAW:** If any part of this RFP is contrary to Guam Procurement Law or contains ambiguous terms, then such portion of the RFP shall be interpreted or resolved in favor of or according to the provisions of the Guam Procurement Law.

35. **APPLICABILITY OF WAGE AND BENEFIT DETERMINATION REQUIREMENTS:**

The offeror understands and agrees that submission of a price proposal is a certification by offeror that the offering company understands that in the direct delivery of services contracted by the government of Guam, offeror is required to and will pay such employees in accordance with the Wage Determination for Guam issued and promulgated by the U.S. Department of Labor.

The Wage Determination most recently issued by the U.S. Department of Labor at the time a contract is awarded to a contractor by the government of Guam shall be used to determine wages. Should any contract contain a renewal clause, then at the time of renewal adjustments, there shall be made stipulations contained in that contract for applying the Wage Determination promulgated by the U.S. Department of Labor on a date most recent to the renewal date.

The contract must also contain provisions mandating health and similar benefits for employees, such benefits having a minimum value as detailed in the Wage Determination issued by the U.S. Department of Labor, and shall contain provisions guaranteeing a minimum of ten (10) paid holidays per annum per employee.

36. **RESTRICTION ON EMPLOYMENT OF SEX OFFENDERS**

The offeror warrants that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or convicted of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated regardless of the jurisdiction in which the conviction was obtained, shall provide services on behalf of the offeror relative to this project. If any person employed by the offeror and providing services under this Project is convicted subsequent to the parties entering into a Contract, then the offeror warrants that it will notify Guam EPA of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services for this Project. If the offeror is found to be in violation of any of the provisions of this paragraph, then Guam EPA shall give notice to the offeror to take corrective action. The offeror shall take corrective action within twenty-four hours of notice from Guam EPA, and the offeror shall notify Guam EPA when action has been taken. If the offeror fails to take corrective steps within twenty-four hours of notice from Guam EPA, then Guam EPA in its sole discretion may suspend the Contract with the offeror temporarily or terminate the contract in its entirety.

37. **DISADVANTAGE BUSINESS ENTERPRISE (DBE)**

The offeror agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprise in procurement under this agreement as set forth in 40 CFR Part 33. In addition, the offeror agrees to make good faith efforts whenever subcontracting under this agreement as set forth in 40 CFR Section 33.301. Records documenting compliance with the six good faith efforts shall be retained.

The Fair Share Policy will be adhered to which ensures that 8% of all procurement activities are afforded to Minority Business Enterprise/Woman Business Enterprise (MBE/WBE). Affirmative steps will be required for utilizing MBEs and WBEs.

The offeror agrees to complete and submit to the Guam Environmental Protection Agency, a DBE Subcontracting Utilization Form (Attachment C1 - EPA Form 6100-4), within 15 days after the end of the Federal fiscal year; i.e., by October 15 of each calendar year. Negative reports are required. Only procurement with certified MBE/WBEs are counted towards an offeror's MBE/WBE accomplishments. A final MBE/WBE report must be submitted within 15 days after the end of the project period.

The offeror agrees to comply with the additional contract administration requirements as set forth in 40 CFR Section 33.302. The EPA DBE rule and forms may be obtained from the EPA Office of Small Business Program's Home on the internet at [www.epa.gov/osbp](http://www.epa.gov/osbp).

# **ATTACHMENT A1**

## **UNDERGROUND STORAGE TANK (UST) MAP**