

REQUEST FOR PROPOSALS

CONFLICT COUNSEL SERVICES

PROJECT NO. GETHC-RFP-002-24

Guam Ethics Commission

**134 W. Soledad Avenue
BOH Building Suite 406
Hagåtña, Guam 96910
Tel: 671-969-5625
Fax: 671-969-5626**

GUAM ETHICS COMMISSION REQUEST FOR PROPOSAL NO. GETHC-RFP-002-24 CONFLICT COUNSEL SERVICES	
RFP Issue Date: May 2, 2024	
Proposal Due Date and Time: May 16, 2024 9:00 AM ChST	
ISSUING AGENCY INFORMATION	
Guam Ethics Commission 134 W. Soledad Ave. BOH Building Suite 406 Hagåtña, Guam 96910 Phone: (671) 969-5625	
Point of Contact Mr. Jesse Quenga Email: info@ethics.guam.gov Phone: (671) 969-5625 Fax: (671) 969-5626	
INSTRUCTIONS TO OFFERORS	
Return Proposal to: Guam Ethics Commission 134 W. Soledad Ave. BOH Building Suite 406	Mark Face of Envelope/ Package: CONFLICT COUNSEL SERVICES RFP Number: GETHC-RFP-002-24 RFP Due Date: May 16, 2024, 9AM ChST
OFFERORS MUST COMPLETE THE FOLLOWING	
Offeror Name/Point of Contact/Address:	Authorized Offeror Signatory: (Please print name and sign in ink)
Offeror Title:	Offeror Email Address:
Offeror Telephone Number:	Offeror Fax Number:
OFFERORS MUST RETURN THIS COVER SHEET WITH THEIR PROPOSALS	

REQUEST FOR PROPOSAL PROJECT NO. GETHC-RFP-002-24 CONFLICT COUNSEL SERVICES BASIC INFORMATION

I. BACKGROUND OVERVIEW

The Guam Ethics Commission (GEThC) is soliciting proposals from a qualified firm to provide professional conflict counsel services for and on behalf of GEThC.

GEThC was created under Title 5 GCA § 15000 et seq. to promote the highest standards of ethical conduct by nominated, appointed, elected officers, and other persons in every branch of government including the legislature, the judiciary, the government's public corporations, departments, bureaus, line agencies, autonomous and semi-autonomous agencies, instrumentalities, entities or sub-entities, the Mayor's Council, and Mayors' Offices. GEThC is an independent and autonomous agency governed by a commission board which consists of seven (7) members appointed by the Governor and confirmed by the Guam Legislature.

This procurement for conflict counsel services is primarily meant to advise on legal matters to which GEThC is a party or in which GEThC is legally interested and may represent GEThC in connection with legal matters before the Guam Legislature, boards, agencies of Guam and before courts of competent jurisdiction when the GEThC's prosecutorial and legal counsel has a conflict of interest. Conflict counsel will be expected to provide advice for the purposes of the Commission's organization when the GEThC's prosecutorial and legal counsel has a conflict of interest.

II. QUALIFICATIONS OF PROPOSER

GEThC requires the professional services of a qualified firm to provide professional conflict counsel services for GEThC. At a minimum, the firm shall have the following qualifications:

1. Presently licensed to practice law on Guam with a minimum of ten years of experience in Guam by the firm's most senior attorney.
2. Have particular experience in:
 - a. Government of Guam entity representation;
 - b. Interpreting federal and Guam laws, statutes and regulations;
 - c. Organizational functions related to public boards.

Also considered will be the firm's experience in litigation, administrative hearings, and administrative law.

III. DESCRIPTION OF THE WORK

Description of Work Involved: The Guam Ethics Commission (GEthC) is soliciting proposals from qualified firms for counsel. Conflict counsel will be expected to provide advice for the purposes of the Commission's organization when the GEthC's prosecutorial and legal counsel has a conflict of interest. Other expected duties may include but are not limited to preparing regulations for administrative operations, preparing administrative action rules under the Open Government Law, drafting guidelines for the public's accessibility to records under the Sunshine Act, advising on Guam procurement laws and regulations, and advising on the Title 4 Guam Code Annotated Chapter 15, "Standard of Conduct for Elected Officers, Appointed Officers, and Public Employees of the Government of Guam" and other relevant statutes.

The Scope of Services may also include but is not limited to:

- a. Act as counsel to the GEthC when its legal counsel has a conflict of interest or is not readily available and perform the following:
 - Act as counsel to the GEthC in litigation as required in which GEthC is a party before the courts of Guam; and
 - Undertake legal research requested and approved in advance by GEthC; and
 - Prepare legal opinions, resolutions, and reports requested and approved in advance; and
 - Advise GEthC from time to time as to needed revisions of the laws of Guam and of the Rules and Regulations of GEthC; and
 - Represent GEthC in connection with legal matters before the Guam Legislature, non-line agencies, entities and instrumentalities of the Government of Guam, and the agencies, entities and instrumentalities of the United States; and
 - Represent GEthC in litigation concerning the affairs of GEthC; and
 - Review and/or prepare contracts, leases, MOUs, MOAs, bid invitations and/or Request for Proposal solicitations, and other documents for work as requested by GEthC; and
 - Advise GEthC in all legal matters, as requested; and
 - Other Tasks: Perform such other related tasks not specified above as is customarily provided by legal counsel, requested and approved in advance.
- b. Act as counsel to the GEthC when its prosecutorial counsel has a conflict of interest or is not readily available and perform the following:
 - Routinely review cases filed with the GEthC and prepare a recommendation to the Commission either to dismiss or allow the case to proceed to a formal hearing; and
 - Undertake legal research to support a conviction on all matters to be heard at a formal hearing of the Commission; and
 - Conduct investigations to support cases being prosecuted before the Commission; and
 - Prepare and issue subpoenas as authorized by the Commission; and
 - Provide updates to the Executive Director on the status of cases pending before

- the Commission; and
- Prosecute all ethics cases before the Commission
- Other Tasks: Perform such other related tasks not specified above as is customarily provided by legal counsel, requested, and approved in advance.

All of the above services shall be provided within stringent time frames required to maintain efficient and effective operations for the GETHC.

IV. TIME AND DURATION OF THE WORK INVOLVED

It is anticipated that the firm will commence work from the Agreement execution date. The term of the agreement shall be for a period of one (1) year. This Agreement may be renewed annually, at the sole discretion of the GEThC, for an additional one-year period but not to exceed the total contract term of five (5) years, by written notice. GEThC is not obligated to renew the Agreement and does not have to give reason if GEThC elects not to renew. All materials resulting from this contract shall be the sole ownership of the GEThC.

V. SUBJECT TO THE AVAILABILITY OF FUNDS

The agreement may be cancelled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first. If the agreement is cancelled for lack of funds, GEThC will notify the firm on a timely basis that funds are not available for the continuation of the agreement for each succeeding fiscal period.

This does not affect either the territory's rights or the contractor's rights under any termination clause in the contract as set forth in 2 GAR, Div. 4 §§3121(e)(I)(C) and (D).

In the event of cancellation, the firm shall be reimbursed the unamortized, reasonably incurred, nonrecurring costs pursuant to 2 GAR, Div. 4, §3121(e) (I) (G).

VI. TYPE OF CONTRACT

A Professional Services Agreement will be consummated between the firm and GEThC. A sample agreement is attached herein as Attachment B, for reference.

VII. SUBMISSION DEADLINE

All proposals under this RFP solicitation must be written, time-stamped and received at the GEThC Office located 134 West Soledad Avenue, BOH Building Suite 406, Hagåtña, Guam, to include an Original and One (1) copies, per the time specified in the RFP Timetable of Significant Dates. No proposals shall be received after such date and time.

a. RFP Timetable of Significant Dates

The following RFP timetable should be used as a working guide for planning purposes. GETHC reserves the right to adjust this timetable as required during the course of the RFP process.

RFP Event	Date
RFP Issue Date	May 2, 2024
Deadline for Written Questions from Offerors	3 PM May 9, 2024
Addendum Issued (if needed)	
RFP Response/Submission Due Date	9 AM May 16, 2024

Note: All dates and times are noted as being in Guam.

The RFP amendments, if any, will be sent to only those vendors having received the RFP through GETHC but all amendments will be placed on the government public notices website: <http://www.notices.guam.gov> or <http://www.guamethics.com>

Amendments to RFP

GETHC reserves the right to revise or amend the specifications prior to the date set for opening proposals. Such revisions and amendments, if any, will be announced by an amendment or amendments to this Request for Proposals and shall be identified as such. Each amendment will contain an Acknowledgment Receipt Form. Offerors must sign the Acknowledgment Receipt Form and return the signed copy via email or fax to GETHC. Signed Acknowledgment Receipt Forms for every amendment must also be included in the proposal submission.

The amendment shall refer to portions of the Request for Proposal it amends. Amendments shall be distributed within a reasonable time to allow prospective firms to consider the issue in preparing their proposals.

VIII. CANCELLATION OR REVISION OF PROPOSAL

This RFP may be cancelled, or any and all proposals may be rejected in whole or in part as may be pursuant to 2 GAR Div. 4 § 3115 (d) (1) (B) and (d) (2) (A), when it is in the best interests of the Territory of Guam. Additionally, in accordance with 2 GAR, Div. 4, § 9105, if prior to award it is determined that a solicitation or proposed award of a contract is in violation of the law, then the

solicitation or proposed award shall be cancelled or revised to comply with the law. The reasons therefore shall be made part of the contract file.

IX. REJECTION OF PROPOSALS

Any offer submitted in response to this RFP may be rejected in whole or in part when it is in the best interests of the Territory of Guam, in accordance with 2 GAR, Div.4 § 3115(c). Reasons for rejecting proposals include but are not limited to: (1) the business that submitted the proposals is non-responsive as determined under 2 GAR, Div. 4 §3116; (2) the proposal ultimately fails to meet the announced requirements of the Office in some material respect; or (3) the proposal price is clearly unreasonable. Upon request, unsuccessful offerors shall be advised of the reasons for rejection.

When proposals are rejected, or a solicitation cancelled after proposals are received, the proposals which have been opened shall be retained in the procurement file, or if unopened, returned to the offerors upon request, or otherwise disposed of pursuant to 2 GAR, Div. 4 § 3115(g).

X. MULTIPLE OR ALTERNATE PROPOSALS

Multiple or alternate proposals will be rejected. If an offeror clearly indicates a base offer, it shall be considered for award as though it were the only proposal submitted by the offeror as set forth in 2 GAR, Div. 4 § 3102(d).

XI. TRADE SECRETS AND PROPRIETARY DATA

Offerors may designate those portions of their proposal that contain trade secrets or proprietary data, which are to remain confidential. GEthC will examine any such request to designate portions of proposals as trade secrets or proprietary data as confidential and determine the validity of such request prior to entering into negotiations with prospective offeror.

If the parties do not agree as to the disclosure of trade secrets or data in the proposal, the offeror may withdraw the proposal, or protest the decision under 5 GCA, Article 9. Otherwise, the proposal will be disclosed.

XII. CONTENTS OF THE PROPOSAL

The proposal, **at the minimum**, must contain:

a. **Transmittal Letter:**

- A transmittal letter, prepared on the Offeror's business stationary, is to accompany the original and required copies of the Submission.
- The purpose of this letter is to transmit the Proposal and should be brief.
- The letter must be signed by an individual who is authorized to bind the Offeror to all statements contained in the submission.
- The transmittal letter must make reference to the RFP number and Professional Services that Offeror is responding to.

b. **Statement of Qualifications and Experience of Offeror:**

- i. The proposal should demonstrate the ability of the Offeror to perform and provide the services enumerated in the Scope of Services/Work attached herein as Attachment No. 1. The Statement of Qualifications must be current, accurate, and complete; thus, shall include the following:
 1. Name of Offerors firm and year organized (includes address, telephone number, emails, websites etc.
 2. Provide a list of Principals in the firm, include a biographical sketch of each. Identify their abilities, qualifications, experience, education, years of legal experience, years of local economic development legal experience and any areas of specialty within the field of maritime law.
 3. Provide the name of principal in the firm who will have responsibility for the GETHC's dealing with the firm.
 4. Attach a list of attorneys who will provide service to the GETHC. Include a description of these attorney's education, years of legal experience, and information on any areas of specialty within the field of administrative law.
 5. Provide a list of current governmental clients, a contact person for each, and a telephone number for the contact person.
 6. If your firm has represented the Government of Guam during the last five (5) years that it no longer serves as an attorney, please provide the following information:
 - Name of Government Agency or Department.
 - Name of Contact Person.
 - Reason you no longer represent that Government Agency or Department.
 7. Provide information regarding the number of government or federal court cases actually tried to verdict or judgement during the past five (5) years. This data should be provided for the firm, and for each attorney in the firm that will provide a significant level of

service to the GETHC. Information should include the percentage of cases "won".

8. Provide the information requested in number 7 above for eminent domain cases in which the firm represented the condemning agency.
9. Please list any clients that you currently represent that could cause a conflict of interest with your responsibilities with the GETHC. Describe how you are willing to resolve these or any conflict of interest.
10. If your firm has filed any litigation in the last five (5) years in which a Government of Guam agency/ department was a defendant, please describe the case(s).
11. A statement the Offeror has established and implemented an Affirmative Action Plan.
12. A letter affirming the existence of a Drug Free Workplace Program and Policy at the firm.
13. A statement of agreement with the GETHC's General Terms and Conditions and the Special General Provisions, which are made part of this RFP documents.
14. Certification of Admission to the Guam BAR Association and Certificate of Good Standings as an Attorney.
15. All items submitted in response to the RFP become the property of the GETHC and none will be returned.

XIII. SELECTION OF BEST QUALIFIED PROPOSER AND PROPOSAL

a. Evaluation and Ranking:

After receipt of all proposals, the established Evaluation Committee will conduct an independent evaluation of all proposals received under this solicitation. Each proposal shall be evaluated according to the criteria as reflected herein and shall be ranked accordingly. The ranking of the proposals will be based on the averaging of the rankings awarded to the proposals by each Evaluation Committee member.

b. Selection:

The selection of the best qualified, responsive proposer will be based on the ranking of the proposers. GETHC reserves the right to short-list qualified Proposers.

Offerors may be required to be interviewed or hold discussions with the Evaluation Committee to clarify certain items from the submitted proposal. These discussions, if any, will be in accordance with the Guam Procurement Laws.

In the event of a tie between two or more evaluation scores, Offerors shall be invited to appear before the evaluation committee for further interviews for the purpose of breaking this tie.

The highest ranked proposer will be selected to enter into negotiations with GEthC. If an agreement can be reached as to a reasonable rate, a contract will then be prepared for signatures by both parties.

If GEthC is unable to negotiate a contract with the highest ranked Proposer, the Procurement Officer or designee may enter into negotiations with the next highest ranked proposer based on the established short list.

c. Standard for Determination of Best Qualified Proposer:

GEthC shall use the following standards in determining the best qualified proposer:

1. The ability, capacity, and skill of the proposer to perform;
2. Whether the proposer can perform promptly and/or within the specified time;
3. The character, integrity, reputation, judgment experience, and efficiency of the proposer;
4. The quality of performance of the proposer with regards to awards previously made to him/her;
5. The previous and existing compliance by the proposer with laws and regulations relative to procurement;
6. The sufficiency of the financial resources and ability of the proposer to perform; and
7. Whether the proposer met the specifications of the Request for Proposal (RFP).

XIV. EVALUATION CRITERIA

The following factors and their relative importance that will be used in the evaluation of the proposals are:

1. The plan for performing the required services and demonstrate competence and ability to advise and represent the Guam Ethics Commission and its executive officer on all legal matters pertaining to the Commission pursuant to 4 GCA Chapter 15 (maximum 30 points); and
2. The firm's reputation for personal, professional integrity and competence, as documented by provided and discovered references; records of and status with any U.S. state bar associations, the American Bar Association, and/or the Guam Bar Association; mainstream and trade publication media coverage; and, other sources; (maximum 10 points); and
3. Able to independently provide counsel to the Guam Ethics Commission without reservation or potential conflict of interest (maximum 30 points); and
4. Be a member of good standing with the Courts of Guam (maximum 10 points); and
5. Compliance to specific requirements (maximum of 10 points); and
 - i Evidence that the firm has established and implemented an Affirmative Action Plan (5 points); and
 - ii Evidence of establishment and implementation of a Drug Free Workplace Program (5 points).
6. Overall quality of the proposal and its contents. (maximum 10 points)

XV. FEE PROPOSALS

Proposers shall not submit any cost or pricing data with their proposal. Fee proposals will be solicited by GEthC upon selection of the highest ranked proposal and be submitted at a time and in a format as determined by GEthC.

XVI. RESTRICTIONS AGAINST SEX OFFENDERS

If a contract is awarded, then the offeror must warrant that no person in its employment who has been convicted of a sex offense under the provisions of 9 GCA Chapter 25 or of an offense defined in 9 GCA Chapter 28 Article 2, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offense Registry, shall provide services on behalf of the offeror while on Government property, with the exception of public highways.

If any employee of an offeror is providing services on Government property and is convicted subsequent to an award of a contract, then the offeror warrants that it will notify the Government of the conviction within twenty-four hours of the conviction and will immediately remove such convicted person from providing services on Government property.

If the offeror is found to be in violation of any of the provisions of this section, then the Government will give notice to the offeror to take corrective action. The offeror shall take corrective action within twenty-four hours of such notice, and the offeror shall notify the Government when action has been taken. If the offeror fails to take corrective steps within twenty-four hours of notice, then the Government in its sole discretion may suspend temporarily the contract until corrective action has been taken.

XVII. SUBMISSION OF DISCLOSURE FORMS

The Guam Procurement Law requires each offeror to make a number of disclosures. Some of the disclosures are required for an offeror to qualify to submit a bid or a proposal. An explanation of each disclosure follows. For the ease of making these required disclosures, the Government is providing sample disclosure forms. There are six (6) disclosure forms labeled Forms A-1 through A-6, and they are found in Attachment A. They must be completed and included with the offeror's proposal. Failure to complete and submit the forms may disqualify the offeror's proposal as being non-responsive.

a. Affidavit Disclosing Ownership and Commissions (Form A-1).

As a condition of doing business with the Government, an offeror must disclose in the form of an affidavit the names of all persons owning more than ten percent of the outstanding interest of the offeror's business during the twelve-month period immediately preceding the date the proposals are due, including the percentage owned by each such person or entity. The affidavit must be made between the date of issuance of this RFP and the date that proposals are due, so long as the ownership listing mentioned in the affidavit is for the 365-day period preceding the date the offeror submits the proposal.

The same affidavit must also disclose the identity of anyone who has received or is entitled to receive a commission, gratuity, percentage, brokerage or other compensation or contingent arrangement for procuring a contract with the Government or for assisting the offeror in obtaining business related to this RFP, and the value or amounts. Please note that commissions, gratuities, percentages, contingency fees, or other compensation for the purposes stated herein are prohibited by Guam law, except that this prohibition does not apply to fees payable by the offeror upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business.

b. Affidavit re Non-Collusion (Form A-2).

The offeror must represent that the offer is genuine and not a sham and that the offeror is not in collusion with others, that the offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any other person to put in a sham proposal, to fix the cost of the contract, to secure any advantage against the Government or any person interested in the contract.

c. Affidavit re No Gratuities or Kickbacks (Form A-3).

The offeror must represent 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 thereof.

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 contract or order.

d. Affidavit re Ethical Standards (Form A-4).

The offeror must represent 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 out in Guam's procurement code or regulations pertaining to ethics in public contracting.

e. Declaration for Compliance with US DOL Wage Determination (Form A-5).

Offerors are required to declare in non-affidavit form that they are in compliance with 5 GCA § 5801 and § 5802 regarding wage determination, and the current applicable US DOL Wage Determination must be attached to the declaration.

f. Affidavit re Contingent Fees (Form A-6).

The offeror must represent as a part of its proposal that such offeror has not retained any person or agency to solicit or secure a Government of Guam contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee or arrangement, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

XVIII. TAXES

The successful Offeror shall be liable for all applicable taxes and duties. GEthC shall have no tax liability under this contract arising from this RFP. Specific information on taxes may be obtained from the Director of Revenue and Taxation.

*****END OF BASIC INFORMATION*****

PROFESSIONAL CONFLICT COUNSEL SERVICES AGREEMENT PURSUANT TO GETHC-
RFP-002-24

This AGREEMENT is made between _____ (the "Firm"), whose address is _____, and the GUAM ETHICS COMMISSION (the "GEThC"), whose mailing address is 134 West Soledad Avenue, BOH Building Suite 406, Hagåtña, Guam 96910.

RECITALS

WHEREAS, pursuant to Title 5, Guam Code Annotated, Section 5216, GEThC issued a Request for Proposal to obtain conflict counsel services (Request for Proposal No. GEThC-RFP-002-24) (the "RFP") giving adequate notice of the need for such services; and

WHEREAS, the Firm submitted a statement of qualifications and an interest in providing such services in response to the RFP; and

WHEREAS, the Firm was determined in writing by the head of the purchasing agency or a designee of such officer to be best qualified to serve as GEThC- legal counsel based on the evaluation factors set forth in the RFP, and fair and reasonable fees were agreed to between the parties.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION ONE
SCOPE OF SERVICES

The Firm agrees, in the capacity as counsel to GEThC, which is the sole client, to fully and competently perform the following scope of services as may be requested by GEThC on a matter-by-matter basis from time to time and agreed to be performed by the Firm:

Legal counsel will be expected to provide advice for the purposes of the Commission's organization. Other expected duties may include but are not limited to preparing regulations for administrative operations, preparing administrative action rules under the Open Government Law, drafting guidelines for the public's accessibility to records under the Sunshine Act, advising on Guam procurement laws and regulations, and advising on Title 4 Guam Code Annotated Chapter 15.

The Firm also agrees to:

- a. Act as counsel to the GEThC in litigation as required in which GEThC is a party before the courts of Guam and the United States; and
 - i. Undertake legal research requested and approved in advance; and
 - ii. Prepare legal opinions, resolutions, and reports requested and approved in advance; and
 - iii. Advise GEThC from time to time as to needed revisions of the laws of Guam and of the Rules and Regulations of GEThC; and
 - iv. Represent GEThC in connection with legal matters before the Guam Legislature, non-line agencies, entities and instrumentalities of the Government of Guam, and the agencies, entities and instrumentalities of the United States; and

- v. Represent GETHC in litigation concerning the affairs of GETHC; and
 - vi. Review and/or prepare contracts, leases, MOUs, MOAs, bid invitations and/or Request for Proposal solicitations, and other documents for work as requested by GETHC; and
 - vii. Advise GETHC in all legal matters, as requested; and
 - viii. Other Tasks: Perform such other related tasks not specified above as is customarily provided by legal counsel, requested, and approved in advance.
- a. Act as counsel to the GETHC when its prosecutorial counsel has a conflict of interest or is not readily available and perform the following:
- i. Routinely review cases filed with the GETHC and prepare a recommendation to the Commission either to dismiss or allow the case to proceed to a formal hearing; and
 - ii. Undertake legal research to support a conviction on all matters to be heard at a formal hearing of the Commission; and
 - iii. Conduct investigations to support cases being prosecuted before the Commission; and
 - iv. Prepare and issue subpoenas as authorized by the Commission; and
 - v. Provide updates to the Executive Director on the status of cases pending before the Commission
 - vi. Prosecute all ethics cases before the Commission
 - vii. Other Tasks: Perform such other related tasks not specified above as is customarily provided by legal counsel, requested, and approved in advance.

SECTION TWO AGREEMENT TERM

The term of this Agreement shall commence on the date of execution by the GETHC, and continue for one (1) year with four (4) options to extend for a period of one (1) year each, not to exceed a total contract period of five (5) years. Any reference to year in this Agreement shall mean a twelve (12) month period. The Firm's agreement to the commencement date set forth herein shall not be deemed a waiver by the Firm of any claim for payment for services rendered to GETHC prior to the commencement date. This Agreement may be terminated by either party upon thirty (30) days' written notice.

SECTION THREE ASSIGNMENTS; ISSUANCE OF ADDENDUM TO AGREEMENT

As set forth in Section One of this Agreement, the Firm agrees to perform the scope of services as may be requested by GETHC on a matter-by-matter basis from time to time and agreed to by the Firm. The Firm shall not undertake work on any matter without a written authorization from GETHC which shall include a maximum amount of compensation for the work.

SECTION FOUR
COMPENSATION

A. Hourly Fee Matters. For particular assignments (each referred to as an “Hourly Fee Matter”), GETHC shall compensate the Firm according to its hourly rate schedule, attached hereto as Exhibit “A,” for actual time devoted to performing conflict counsel services related to the Hourly Fee Matter.

1. Work Plan. For all contemplated work, the Firm shall submit a Work Plan to GETHC before the work begins. This Work Plan shall have the scope of work, the plan by which the firm shall achieve the objectives of the work, the estimated hours to be charged in completing the Work Plan, and the per hour rate of the Firm’s personnel who will complete the Work Plan. No invoice submitted by the Firm will be paid by GETHC to the Firm unless a Work Plan was approved by GETHC before the work began and that such approval was in writing.

2. Invoices. The Firm shall invoice GETHC for payments on a monthly basis and shall be required to provide a record of hours worked and the description of work. GETHC’s obligation for payment of the Firm’s fees and costs shall be subject to the availability of funds for such payment. GETHC shall pay all invoices within thirty days of receipt.

3. Reimbursement of Expenses. GETHC shall reimburse the Firm for the following expenses if incurred on behalf of GETHC:

- i. Travel, lodging, and other related traveling expenses, provided the prior approval of GETHC is obtained for such travel and provided further that reimbursement for such travel expenses shall be pursuant to GETHC’s policy and rates for per diem compensation; and
- ii. Whenever the Firm finds it necessary to obtain any specialized services not normally retained by the Firm, such as, without limitation, spokespersons, interpreters, expert consultants, the Firm and GETHC together shall determine first that the acquisition of such services by the Firm will not circumvent the Guam Procurement Law. The determination shall be made by reviewing the scope of services needed for their degree of specialization and the purpose of the services. If it is determined that the services should be procured in accordance with the Guam Procurement Law, then the acquisition must be undertaken by GETHC. However, if it is determined that the acquisition of such specialized services can be procured by the Firm directly, the Firm may contract directly for such services, except for legal services which must always be procured by GETHC. The costs and fees associated with the specialized services contracted directly by the Firm shall be paid directly to the Firm by GETHC as reimbursement; and
- iii. Messenger and delivery fees, and court filing fees; and
- iv. Any other expenses provided that the prior approval of GETHC has been obtained.

The Firm shall provide vouchers and receipts, together with a brief explanation of such expenses that it has incurred for the benefit of GETHC.

Contingency Fee Matters. This contract will not be employed to pursue any efforts for which the Firm will be compensated via a contingency fee.

B. GETHC will closely monitor the performance of work by the Firm and GETHC has determined that it would not be practical to use any other type of contract to obtain the needed services. The Firm agrees that it shall not receive any of the benefits given to full-time non-contractual employees of the Government of Guam.

SECTION FIVE
COMPLIANCE WITH LAWS AND REGULATIONS

In performing the work provided for herein, the Firm agrees to fully comply with any and all applicable laws, rules and regulations adopted or promulgated by any governmental agency or regulatory body, both territorial and federal. The Firm assumes full responsibility for the payment of all contributions, payroll taxes, or assessments, territorial or federal, and further agrees to meet all requirements that may be specified under regulations of administrative officials or bodies charged with enforcement of any local or federal laws on this subject. The Firm has provided GETHC with a copy of its Statement of Exemption pursuant to 11 G.C.A. § 70126.

SECTION SIX
FINAL PAYMENT AND RELEASE OF CLAIMS

Final payment shall be made upon satisfactory delivery and acceptance of all services as herein specified and performed under this Agreement. Prior to final payment, as a condition precedent thereto, the Firm shall execute and deliver to GETHC a release, in a form approved by GETHC, of claims against GETHC arising under virtue of this Agreement.

SECTION SEVEN
INDEPENDENT AGENT

For the purpose of the Government Claims Act, the Firm shall not be considered an agent of GETHC with respect to any acts performed by it in connection with the discharge of the duties of this Agreement. There shall be no employee benefits provided under this Agreement, such as health or life insurance, retirement benefits, vacation leave or sick leave, and there shall be no withholding of taxes by GETHC. The Firm contracts herein with GETHC as an independent contractor, and is neither an employee nor an agent of GETHC for the purpose of performing the services hereunder. GETHC, therefore, assumes no responsibility of liability for the acts of the Firm which are performed in its independent and professional capacity.

SECTION EIGHT
RESPONSIBILITY OF THE FIRM

The Firm shall be responsible for the professional and technical accuracy of all work and materials furnished under this Agreement. The Firm shall correct or revise all errors or deficiencies in its work. GETHC's review, approval, acceptance of, and payment of fees for services required under this Agreement, shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the Firm's failure to GETHC for all costs of any kind which may be incurred by GETHC as a result of the Firm's negligent performance of any of the services performed under this Agreement.

SECTION NINE
ASSIGNMENT

The Firm may not assign this Agreement, or any sum becoming due under the provisions of this Agreement without the prior written consent of GETHC.

SECTION TEN
ACCESS TO RECORDS AND OTHER REVIEW

The Firm, including its subcontractors, if any, shall maintain all books, documents, papers, accounting records and other evidence concerning the expenses and costs incurred by the Firm's performance under this Agreement and shall make such materials available at its respective offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under this Agreement, for inspection by GETHC. Each subcontract by the Firm pursuant to this Agreement shall incorporate this Section.

SECTION ELEVEN
OWNERSHIP OF DOCUMENTS

All briefs, memoranda and other incidental work of the Firm or materials furnished hereunder shall be and remain the property of GETHC including all publication rights and copyright interests and may be used by GETHC without any additional costs to GETHC.

SECTION TWELVE
INSURANCE

The Firm shall maintain in effect during the term of this Agreement, and any extensions of the term, Comprehensive General Liability and Professional Liability Insurance.

SECTION THIRTEEN
CHANGES IN SCOPE OF WORK AND SERVICES

15.1. GETHC Initiated.

To the extent permitted by law, GETHC may by written order, make changes to the general scope of this contract in the services to be performed. The Firm shall not make any changes to the general scope without the written approval of GETHC.

If such changes cause an increase or decrease in the Firm's cost of, or time required for, performance of any services under this Agreement, the Agreement shall be modified in writing accordingly. Any claim for adjustment under this Section must be made in writing to GETHC within thirty (30) days from the date of receipt by the Firm of the notification of change; provided however, GETHC, if it determines the facts to justify such action, may receive and consider and adjust any such claim asserted at any time prior to the date of final settlement of the Agreement. Nothing provided in this Section shall excuse the Firm from diligently proceeding with the work so charged.

15.2. Initiated by the Firm.

If the Firm believes that a change in the scope of services is necessary and desirable to the furtherance of the interest of the project under this Agreement, the Firm shall make a request, in writing, for GETHC to issue a Change Order. Such requests for Change Order shall include the proposed change in scope of services, as well as the proposed change in compensation and/or schedule associated with granting such a Change Order. GETHC shall, in response to such request for Change Order, utilize the same options as stated above.

SECTION FOURTEEN
TERMINATION

Either of the parties hereto may, by written notice to the other, terminate this Agreement in whole or in part upon thirty (30) days written notice either for convenience or default or the Firm may withdraw at any time with GETHC's consent. Upon such termination, all briefs, reports, summaries, completed work and work in progress, and such other information and materials as may have been accumulated by the Firm in performing this Agreement shall, in the manner to the extent determined by GETHC, become the property of and be delivered to GETHC. Any fees or costs owing to the Firm as of the date of termination shall be paid in accordance with Section Four.

SECTION FIFTEEN
SEVERABLE

If any provision of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the Agreement and the Agreement shall be enforced according to its valid and subsisting terms and provisions.

SECTION SIXTEEN
GOVERNING LAW

Venue of any action brought under this Agreement shall lie in Guam exclusively. This Agreement shall be governed by and construed in accordance with the laws and court decisions of Guam.

SECTION SEVENTEEN
GETHC NOT LIABLE

GETHC assumes no liability for any accident or injury that may occur to the Firm, its agents, dependents, or personal property while en route to or from this territory or during travel mandated by the terms of this Agreement.

SECTION EIGHTEEN
APPROVALS

Any approvals of GETHC required herein shall mean approval by the GETHC Executive Director, per section three "ASSIGNMENTS; ISSUANCE OF ADDENDUM TO AGREEMENT" of this Contract, unless another person is designated by the GETHC Executive Director to issue particular or limited approvals on certain matters.

In all circumstances, the selected firm shall submit a proposed work plan for each assignment made by the GETHC. This work plan shall include for each task assigned, the maximum number of hours that will be charged, estimated total cost, and a calendar by which the work shall be conducted and a date by which it shall be completed. The selected Firm shall not begin any work nor will any work by the selected Firm be paid for unless the GETHC provides a written notice to proceed for the specific work plans submitted for the assignment.

SECTION NINETEEN
CONFLICTS

Prior to accepting a request to provide conflict counsel services for a particular matter, the Firm shall disclose to GETHC any conflicts of interest and obtain a written waiver from GETHC regarding such conflict, if required by applicable law. The Firm will not undertake any representation requested by GETHC without a written waiver from GETHC and/or other clients of the Firm, if required by applicable law. Should a conflict of interest arise during the course of the Firm's representation of GETHC, the Firm shall determine whether continued representation of GETHC is permitted by applicable law and, if permitted, the Firm shall not continue its representation of GETHC without a written waiver from GETHC and/or other clients of the Firm, if required by applicable law. If the Firm is unable to continue its representation of GETHC under applicable law, the Firm shall withdraw as counsel for GETHC and agrees not to disclose or otherwise use any matters learned from GETHC to the disadvantage of GETHC.

SECTION TWENTY
INTEREST OF THE FIRM

Except for matters that have been disclosed in writing to GETHC, the Firm covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Firm further covenants that in the performance of this Agreement, no person having such interest shall be employed.

SECTION TWENTY-ONE
GUAM TAX

The Firm is responsible for payment of all applicable Guam taxes.

SECTION TWENTY-TWO
NO WAIVER OF LEGAL RIGHTS

No waiver of any breach of the Agreement shall be held to be waiver of any other or subsequent breach, or of any right that GETHC may have for damages. Each party reserves the right to correct any error that may be discovered in any invoice that may have been paid to the Firm and to adjust the same to meet the requirements of the Agreement.

SECTION TWENTY-THREE
SUCCESSORS AND ASSIGNS

Subject to the limitations on assignment and transfer herein contained, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns.

SECTION TWENTY-FOUR
BREACH OF CONTRACT TERMS

Any violation or breach of terms of this Agreement on the part of the Firm or its subcontractors may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties of this Agreement. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

SECTION TWENTY-FIVE

COVENANT AGAINST CONTINGENT FEES

The Firm warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Firm to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Firm, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement.

For breach or violation of this warranty, GEthC shall have the right to annul this Agreement without liability or, in its discretion to deduct from the contract price of consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

SECTION TWENTY-SIX

ETHICAL STANDARDS

With respect to this Agreement and any other contract that the Firm may have, or wish to enter into, with any Government of Guam agency, the Firm represents that it has not knowingly influenced, and promises that it will not knowingly influence, any of Client's employees or Government of Guam employees to breach any of the ethical standards set forth in the Guam Procurement Law and in any of the Guam Procurement Regulations.

SECTION TWENTY-SEVEN

PROHIBITION AGAINST GRATUITIES AND KICKBACKS

With respect to this Agreement and any other contract that the Firm may have or wish to enter into with any Client or any Government of Guam agency, the Firm represents that it has not violated, is not violating, and promises that he will not violate the prohibition against gratuities and kickbacks set forth in the Guam Procurement Regulations.

SECTION TWENTY-EIGHT

MINIMUM WAGES DETERMINED BY U.S. DEPARTMENT OF LABOR

The Firm agrees to comply with Title 5, Guam Code Annotated, Sections 5801 and 5802. In the event that the Firm employs persons whose purpose, in whole or in part, is the direct delivery of service contracted by GEthC, then the Firm shall pay such employees, at a minimum, in accordance with the U.S. Department of Labor Wage Determination for Guam and the Northern Mariana Islands in effect on the date of this Agreement. In the event that this Agreement is renewed by GEthC and the Firm, at the time of renewal, the Firm shall pay such employees in accordance with the Wage Determination for Guam and the Northern Mariana Islands promulgated on a date most recent to the renewal date. The Firm agrees to provide employees whose purpose, in whole or in part, is the direct delivery of service contracted by GEthC those mandated health and similar benefits having a minimal value as detailed in the U.S. Department of Labor Wage Determination for Guam and the Northern Mariana Islands, and guarantee such employees a minimum of ten (10) paid holidays per annum.

The Firm is advised that the Guam Department of Labor, or its successor, shall monitor compliance with the provisions of 5 G.C.A. Article 13, Wage and Benefit Determination. The Director of the Department of Labor, or that person's successor, shall investigate possible or reported violations of the provisions of

the law, and shall forward such findings to Client. The Department of Labor, or its successor, shall promulgate rules and regulations, pursuant to the Administrative Adjudication law, as needed to ensure the equitable investigation of violations and the maintenance of due process, as well as the assessment of any monetary penalties in the event of a violation, providing that such monetary penalties shall be limited to assessment of no less than One Hundred Dollars (\$100.00) per day, and no more than One Thousand Dollars (\$1,000.00) per day, until such time as a violation has been corrected, as well as the payment of all back wages and benefits due. §5803.

In the event there is a violation in the process set forth in this Section Twenty-Eight above, the Firm may be placed on probationary status by the Chief Procurement Officer of the General Services Agency, or its successor, for a period of one (1) year. During the probationary status, the Firm shall not be awarded any contract by any instrumentality of the Government of Guam. In the event the Firm is placed on probationary status, or has been assessed a monetary penalty pursuant to 5 G.C.A. Article 13 may appeal such penalty or probationary status to the Superior Court of Guam. §5804.

The Firm has submitted a Declaration of Compliance with Wage Determination laws. §5805.

SECTION TWENTY-NINE
INFORMATION TO BE FURNISHED TO THE FIRM

All information, data, reports, and records as are existing, available, and in GETHC's custody, and necessary for the carrying out of the services shall be furnished to the Firm without charge by GETHC, and GETHC shall cooperate with the Firm in every reasonable way during all phases of the project. The Firm hereby agrees to indemnify and hold GETHC harmless from any losses, damages, costs, claims, suits and judgments, expenses of any nature or kind, including attorneys' fees, arising from any defects or failures attributable to the Firm's unreasonable or imprudent reliance on the aforementioned documents.

SECTION THIRTY
RESTRICTIONS AGAINST SEX OFFENDERS

If an agreement is awarded, then the offeror must warrant that no person in its employment who has been convicted of a sex offense under the provisions of 9 GCA Chapter 25 or of an offense defined in 9 GCA Chapter 28 Article 2 or who has been convicted in any other jurisdiction with the same elements as heretofore defined, or who is listed on the Sex Offense Registry, shall provide services on behalf of the offeror while on Government property, with the exception of public highways.

If any employee of an offeror is provided services on Government property and is convicted subsequent to an award of an agreement, then the offeror warrants that it will notify the Government of the conviction within twenty-four hours of the conviction and will immediately remove such convicted person from providing services on Government property.

If the offeror is found to be in violation of any of the provisions of this section, then the Government will give notice to the offeror to take corrective action. The offeror shall take corrective action within twenty-four hours of such notice, and the offeror shall notify the Government when action has been taken. If the offeror fails to take corrective steps within twenty-four hours of notice, then the Government in its sole discretion may suspend temporarily the agreement until corrective action has been taken.

SECTION THIRTY-ONE
ENTIRE AGREEMENT

This Agreement and exhibits or attachments hereto constitute the entire agreement between the parties, and no prior or contemporaneous written or oral promises, representations or assurances shall be deemed to alter the provisions hereof. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the retention of the Firm by GEthC and contains all of the covenants and agreements between the parties with respect to such retention in any manner whatsoever. Each party to this Agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

SECTION THIRTY-TWO
MODIFICATION

This Agreement shall not be amended, modified, or revised except pursuant to a dated written instrument executed by GEthC and the Firm pursuant to 5 GCA Sections 5150 and 5121(b).

SECTION THIRTY-FIVE
NOTICES

Notices to either party shall be in writing and shall be deemed served when personally delivered or when deposited in the mail, registered or certified, first-class postage prepaid, addressed as follows, or sent via facsimile or emailed to the number or email address provided:

GEthC Executive Director
Guam Ethics Commission
134 West Soledad Avenue
BOH Building Suite 406
Hagåtña, Guam 96910
Fax: (671) 969-5626
Email: info@ethics.guam.gov

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year signed by the Guam Ethics Commission Executive Director:

GUAM ETHICS COMMISSION

CERTIFIED FUNDS AVAILABLE:

Jesse J. Quenga
Authorizing Official, GEthC Executive Director

Pamela D. Mabazza
Certifying Officer, GEthC Ethics Investigation
and Compliance Officer II

Date: _____

Date: _____

Account Number: _____

Amount: _____

[INSERT NAME OF LAW FIRM HERE]

By: _____

Date: _____

EXHIBIT A
FEE SCHEDULE

All Attorneys	\$ _____ per hour
Legal assistants and other support staff	\$ _____ per hour
Other	\$ _____

**ACKNOWLEDGEMENT RECEIPT FORM
GEthC-RFP-002-24 CONFLICT COUNSEL SERVICES**

Please be advised that to be considered a prospective proposer, you must fill out this acknowledgement receipt form. Please submit the completed form via fax to (671) 969-5626 or via email to info@ethics.guam.gov

Acknowledgement receipt form must be submitted no later than three (3) days upon receipt of RFP package.

Date: _____

Time: _____

Name: _____

Contact Number: _____

Fax Number: _____

Point of Contact: _____

Title: _____

E-mail: _____

Company/ Firm: _____

Address: _____

Signature: _____

Note: GEthC recommends that prospective proposers register their current contact information with GEthC to ensure they receive any notices regarding any updates or changes to the RFP. GEthC will not be liable for failure to provide notice to any party who did not register with their current contact information.