



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

5856

DEC 29 1982

The Honorable Frank F. Blas
Acting Speaker
Sixteenth Guam Legislature
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill No. 80, signed and is now Public
Law 16-124.

Sincerely yours,

Joseph F. Ada
JOSEPH F. ADA
Acting Governor
1600698

Enclosure

[Handwritten signature]
12/30/82
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SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

Bill No. 80
(As Substituted by the Committee
on Governmental Operations)

Introduced by: A.R. Unpingco
J.T. San Agustin K.S. Moylan

J.Q. Torres

AN ACT TO ESTABLISH A GENERAL SERVICES
AGENCY RESPONSIBLE FOR PROCUREMENT OF
SUPPLIES IN THE GOVERNMENT OF GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Title VII-A is added to the Government Code to
3 read:

4 "TITLE VII-A

5 Procurement

6 Chapter 1

7 General Provisions

8 Article A

9 Purposes, Construction and Application

10 Section 6950. Purposes, Rules of Construction.

11 (a) Interpretation. This Title shall be construed and applied to
12 promote its underlying purposes and policies.

13 (b) Purposes and Policies. The underlying purposes and poli-
14 cies of this Title are:

15 (1) to simplify, clarify, and modernize the law governing
16 procurement by this territory;

17 (2) to permit the continued development of procurement
18 policies and practices;

19 (3) to provide for increased public confidence in the pro-
20 cedures followed in public procurement;

21 (4) to ensure the fair and equitable treatment of all persons
22 who deal with the procurement system of this territory;

23 (5) to provide increased economy in territorial activities and
24 to maximize to the fullest extent practicable the purchasing value
25 of public funds of the territory;

1 (6) to foster effective broad-based competition within the free
2 enterprise system; and

3 (7) to provide safeguards for the maintenance of a procurement
4 system of quality and integrity.

5 (c) Singular-Plural and Gender Rules. In this Title, unless the
6 context requires otherwise:

7 (1) words in the singular number include the plural,
8 and those in the plural include the singular; and

9 (2) words of a particular gender include any gender
10 and the neuter, and when the sense so indicates, words
11 of the neuter gender may refer to any gender.

12 Section 6950.1. Supplementary General Principles of Law App-
13 licable. Unless displaced by the particular provisions of this Title,
14 the principles of law and equity, including the Uniform Commercial
15 Code of Guam, the law merchant, and law relative to capacity to
16 contract, agency, fraud, misrepresentation, duress, coercion, mistake,
17 or bankruptcy shall supplement the provisions of this Title.

18 Section 6950.2. Requirement of Good Faith. This Title requires
19 all parties involved in the negotiation, performance, or administration
20 of territorial contracts to act in good faith.

21 Section 6950.3. Application of this Title.

22 (a) General Application. This Title applies only to contracts
23 solicited or entered into after the effective date of this Title unless
24 the parties agree to its application to a contract solicited or entered
25 into prior to the effective date.

26 (b) Application to Territorial Procurement. This Title shall
27 apply to every expenditure of public funds irrespective of their
28 source, including federal assistance funds except as otherwise spe-
29 cified in Section 6979 of this Title, by this territory, acting through a
30 governmental body as defined herein, under any contract, except that
31 this Title shall not apply to either grants or contracts between the
32 territory and another government. Nothing in this Title or in regu-
33 lations promulgated hereunder shall prevent any governmental body or

1 political subdivision from complying with the terms and conditions of
2 any grant, gift, bequest, or cooperative agreement.

3 Section 6950.5. Construction Against Implicit Repealer. Since this
4 Title is a general law, no part of it shall be deemed to be impliedly
5 repealed by subsequent legislation if such construction of the subse-
6 quent legislation can be reasonably avoided.

7 Section 6950.6. Policy Against Advance Payments. No procure-
8 ment shall be made under this Title which shall require advance
9 payment.

10 Section 6950.7. Policy In Favor of Local Procurement.

11 All procurements of supplies and, where possible, services, shall
12 be made from among businesses licensed to do business on Guam.
13 Procurement of supplies and services from off-Guam may be made if no
14 agent for such supplies or services may be found on Guam or if the
15 total cost f.o.b. jobsite, unloaded, of procurement from off-island is
16 no greater than ninety percent (90%) of the total cost f.o.b. jobsite,
17 unloaded, of the same supplies or services when procured from a
18 business licensed to do business on Guam.

19 Section 6950.8. Effective Date. This Title shall become effective at
20 12:01 A.M. on October 1, 1983, but shall be deemed effective immediately for
21 purposes of planning and organization.

22 Article B

23 Determinations

24 Section 6951. Determinations. Written determinations required by
25 this Title shall be retained in the appropriate official file of the Chief
26 Procurement Officer or the purchasing agency.

27 Article C

28 Definitions Used in this Title

29 Section 6952. Definitions. As used in this Title, unless the con-
30 text in which they are used requires a different meaning, or unless a
31 different definition is prescribed for a particular Chapter, Article or
32 provision:

1 (a) 'Business' means any corporation, partnership, individual,
2 sole proprietorship, joint stock company, joint venture, or any other
3 private legal entity.

4 (b) 'Change Order' means a written order signed by the Procure-
5 ment Officer, directing the contractor to make changes which the
6 changes clause of the contract authorizes the Procurement Officer to
7 order without the consent of the contractor.

8 (c) 'Chief Procurement Officer' means the person holding the
9 position created in Section 6954 of this Title, as the head of the
10 central procurement office of Guam.

11 (d) 'Contract' means all types of territorial agreements, re-
12 gardless of what they may be called, for the procurement or disposal
13 of supplies, services or construction.

14 (e) 'Contract Modification' means any written alteration in spe-
15 cifications, delivery point, rate of delivery, period of performance,
16 price, quantity or other provisions of any contract accomplished by
17 mutual action of the parties to the contract.

18 (f) 'Contractor' means any person having a contract with a
19 governmental body.

20 (g) 'Construction' means the process of building, altering,
21 repairing, improving, or demolishing any public structure or building,
22 or other public improvements of any kind to any public real property.
23 It does not include the routine operation, routine repair, or routine
24 maintenance of existing structures, buildings, or real property.

25 (h) 'Data' means recorded information, regardless of form or
26 characteristic.

27 (i) 'Designee' means a duly authorized representative of a person
28 holding a superior position.

29 (j) 'Employee' means an individual drawing a salary from a
30 governmental body, whether elected or not, and any noncompensated
31 individual performing personal services for any governmental body.

32 (k) 'Governmental Body' means any department, commission,
33 council, board, bureau, committee, institution, agency, government

1 corporation, authority or other establishment or official of the
2 executive, legislative or judicial branches of Guam.

3 (l) 'Grant' means the furnishing by the territory of assistance,
4 whether financial or otherwise, to any person to support a program
5 authorized by law. It does not include an award whose primary pur-
6 pose is to procure an end product, whether in the form of supplies,
7 services or construction; a contract resulting from such an award is
8 not a grant but a procurement contract.

9 (m) 'May' denotes the permissive.

10 (n) 'Person' means any business, individual, union, committee,
11 club, other organization or group of individuals.

12 (o) 'Procurement' means buying, purchasing, renting, leasing or
13 otherwise acquiring any supplies, services or construction. It also
14 includes all functions that pertain to the obtaining of any supply,
15 service or construction, including description of requirements, se-
16 lection and solicitation of sources, preparation and award of contract,
17 and all phases of contract administration.

18 (p) 'Procurement Officer' means any person duly authorized to
19 enter into and administer contracts and make written determinations
20 with respect thereto. The term also includes an authorized repre-
21 sentative acting within the limits of authority.

22 (q) 'Purchasing Agency' means any governmental body other
23 than the Chief Procurement Officer or the Director of Public Works
24 which is authorized by this Title or its implementing regulations, or by
25 way of delegation from the Chief Procurement Officer, to enter into
26 contracts.

27 (r) 'Regulation' shall have the meaning given in the Adminis-
28 trative Adjudication Law.

29 (s) 'Services' means the furnishing of labor, time or effort by a
30 contractor, not involving the delivery of a specific end product other
31 than reports which are merely incidental to the required performance.
32 This term shall not include any form of employment relationship with
33 the government or collective bargaining agreements. 'Services' also

1 includes printing and processing for printing finished products, such
2 as books, reports, and other items which are, when delivered in
3 finished form and are not to be further processed by the using
4 agency.

5 (t) 'Shall' denotes the imperative.

6 (u) 'Supplies' means all property, including but not limited to
7 equipment, materials, printing of forms, stationery and the like which
8 are designed for further use or processing by the using agency,
9 insurance, and leases of real property, excluding land and a per-
10 manent interest in land.

11 (v) 'Using Agency' means any governmental body of the terri-
12 tory which utilizes any supplies, services or construction procured
13 under this Title.

14 Chapter 2

15 Procurement Organization

16 Article A

17 Procurement Policy Office

18 Section 6953. Creation and Membership of the Procurement Policy
19 Office. (a) There is created in the Office of the Governor the 'Pro-
20 curement Policy Office' which in this Title is referred to as the Policy
21 Office.

22 (b) Membership of the Policy Office. The Policy Office shall
23 consist of three (3) officers or employees of the government of Guam
24 appointed by the Governor, the Director of Public Works and the
25 Director of Administration, who shall serve as the chairperson. None
26 of the three members appointed by the Governor shall act concurrently
27 as Procurement Officer nor shall any of such members' subordinates,
28 unless such members are directors of agencies or instrumentalities, act
29 as Procurement Officer.

30 (c) Administrative Support. The Governor's Office shall provide
31 such services as the Policy Office may request, including office space
32 and administrative assistance.

1 Section 6953.1. Authority and Duties of the Policy Office.
2 Except as otherwise provided in this Title, the Policy Office shall have
3 the authority and responsibility to promulgate regulations, consistent
4 with this Title, governing the procurement, management, control and
5 disposal of any and all supplies, services and construction to be
6 procured by the territory. The Policy Office shall consider and decide
7 matters of policy within the provision of this Title including those
8 referred to it by the Chief Procurement Officer or the Director of
9 Public Works. The Policy Office shall have the power to audit and
10 monitor the implementation of its regulations and the requirements of
11 this Title, but shall not exercise authority over the award or admin-
12 istration of any particular contract, or over any dispute, claim, or
13 litigation pertaining thereto, except that the Chief Procurement Officer
14 and the Director of Public Works shall exercise such authority in
15 accordance with the provisions of this Title.

16 Article B

17 General Services Agency

18 Section 6954. Creation of the General Services Agency. There is
19 within the Department of Administration the 'General Services Agency'
20 headed by the Chief Procurement Officer.

21 Section 6954.1. Qualifications of the Chief Procurement Officer.
22 The Chief Procurement Officer shall have a minimum of eight (8) years
23 experience, at least five (5) years of which shall have been in public
24 procurement within twelve (12) years preceding the date of appoint-
25 ment, in the large-scale procurement of supplies or services and shall
26 be a person with demonstrated executive and organizational ability.

27 Section 6954.2. Tenure, Removal, and Compensation.

28 (a) Tenure and Removal. The Chief Procurement Officer shall
29 be a full-time classified employee and may be removed from office in
30 accordance with the provisions of the Personnel Law, 4 GCA Chapter
31 4.

32 (b) Compensation. The Chief Procurement Officer shall be
33 compensated as provided by law.

1 Section 6954.3. Authority of the Chief Procurement Officer and
2 the Director of Public Works.

3 (a) Principal Contracting Officers of the Territory. The Chief
4 Procurement Officer of the General Services Agency, shall serve as the
5 central procurement officer of the territory with respect to supplies
6 and services. The Director of Public Works shall serve as the central
7 procurement officer of the territory with respect to construction.

8 (b) Power to Adopt Operational Procedures. Consistent with the
9 provisions of this Title, the Chief Procurement Officer and the Dir-
10 ector of Public Works may adopt operational procedures governing the
11 internal functions of their procurement operations.

12 (c) Duties. (1) Except as otherwise specifically provided in
13 this Title, the Chief Procurement Officer shall, in accordance with
14 regulations promulgated by the Policy Office:

15 (i) procure or supervise the procurement of all sup-
16 plies and services needed by the territory;

17 (ii) exercise general supervision and control over all
18 inventories of supplies belonging to the territory; and

19 (iii) establish and maintain programs for the inspec-
20 tion, testing and acceptance of supplies and services.

21 (2) Except as otherwise specifically provided in this Title,
22 the Director of Public Works shall, in accordance with regulations
23 promulgated by the Policy Office:

24 (i) procure or supervise the procurement of all con-
25 struction needed by the territory; and

26 (ii) establish and maintain programs for the inspection,
27 testing and acceptance of construction.

28 Section 6954.4. Delegation of Authority by the Chief Procurement
29 Officer and the Director of Public Works. Subject to the regulations
30 of the Policy Office, the Chief Procurement Officer or the Director of
31 Public Works may delegate authority to designees or to any govern-
32 mental body or official.

1 Section 6954.5. Revolving Fund. The 'Inventory Revolving
2 Fund' is created and shall be maintained separate and apart from other
3 government funds. The Chief Procurement Officer shall be the cer-
4 tifying officer of the Inventory Revolving Fund. The Fund shall be
5 used for the purchase and replenishment of items to be carried in the
6 supplies inventory to be maintained in the warehouse operated by the
7 General Services Agency. The Fund shall be reimbursed by govern-
8 mental agencies obtaining supplies from the General Services Agency.

9 Article C

10 Organization of Public Procurement

11 Section 6954.6. Centralization of Procurement Authority. Except
12 as otherwise provided in this Article, all rights, powers, duties, and
13 authority relating to the procurement of supplies, services, and con-
14 struction, and the management, control, warehousing of supplies,
15 services, and construction now vested in, or exercised by, any gov-
16 ernmental body under the several statutes relating thereto are hereby
17 transferred to the Policy Office and the Chief Procurement Officer and
18 the Director of Public Works, as provided in this Title.

19 Section 6954.7. Authority to Contract for Certain Services and
20 Approval of Contracts.

21 (a) General Authority. For the purpose of procuring the ser-
22 vices of accountants, physicians, lawyers, dentists and other pro-
23 fessionals, any governmental body of this territory may act as a
24 purchasing agency and contract on its own behalf for such services,
25 subject to this Title and regulations promulgated by the Policy Office,
26 but this subsection shall not authorize the procuring of such services
27 where any given governmental body is otherwise prohibited from
28 procuring such services.

29 (b) Approval of Contracts for Legal Services. No contract for
30 the services of legal counsel in the Executive Branch shall be executed
31 without the approval of the Attorney General. Nothing in this Section
32 or Title shall preclude the Attorney General or his designee from
33 participating in negotiations for any contract upon the request of the

1 government officer or agency primarily responsible for such
2 negotiations.

3 (c) Approval of Contracts Generally. The Chief Procurement
4 Officer, or his designee, or a procurement officer of an agency
5 authorized to procure the services or supplies in question, as stated
6 in the Rules promulgated by the Policy Office, shall execute all con-
7 tracts for the government of Guam. The Chief Procurement Officer
8 may approve standard form contracts or purchase orders and once
9 such approval of the standard form is given, contracts or purchase
10 orders made on such form may be executed without the further approval
11 of the Chief Procurement Officer unless he has reserved such power of
12 approval pursuant to the applicable rules promulgated by the Policy
13 Office.

14 Section 6954.8. U. S. Government. The General Services Agency
15 shall procure supplies from the United States when the cost to the General
16 Services Agency is less by ten percent (10%) than from other contractors.

17 Section 6954.9. Motor Vehicles. (a) The General Services Agency
18 shall purchase or lease all motor vehicles required for all government
19 agencies as a fleet at least once every three (3) years. No governmental
20 agency may purchase a motor vehicle not a part of the fleet without the
21 written authorization of the Chief Procurement Officer. This Section shall
22 not be interpreted to permit the lease of non-standardized fleet vehicles.
23 The Chief Procurement Officer shall authorize nonfleet purchase or lease
24 only if:

25 (1) the type of vehicle is not required by other governmental
26 agencies; or

27 (2) the vehicle is in replacement of a fleet vehicle which is no
28 longer in service and the governmental agency cannot function without
29 a replacement until the next fleet purchase.

30 (b) All government of Guam vehicles except those assigned to
31 one particular person, such as the Governor, Lieutenant Governor,
32 Senators, and Presiding Judge of the Superior Court, and except for
33 emergency vehicles or vehicles used by any law enforcement agency

1 for "undercover work" shall be of one standard color. Such color
2 shall be white, or whatever white color or colors are a standard color
3 for the models and years of the fleet vehicles. The procurement
4 officer shall determine what of several standard white colors available
5 shall be used on the fleet.

6 (c) The Chief Procurement Officer shall determine, when pro-
7 curing the vehicle fleet, whether a contract for maintenance should be
8 included in the contract for purchase. He shall also determine, by
9 requesting for proposals, whether it would be less costly to contract
10 for fleet maintenance with private businesses and if less costly, using
11 either separate contracts for purchase and maintenance or a combined
12 contract for purchase and maintenance from one source, he shall so
13 contract for the maintenance of the fleet. In any maintenance con-
14 tract, there shall be inserted provisions requiring that the maintenance
15 be performed within a certain period of time or liquidated damages
16 assessed against the contractor.

17 (d) At the end of the useful life of the vehicle fleet, the Chief
18 Procurement Officer shall dispose of such vehicles as he determines to
19 be of no further use to the government by public auction to the
20 highest bidder. The funds so realized shall be deposited in the
21 General Fund.

22 Section 6954.10. Exemptions. Unless otherwise ordered by
23 regulation of the Policy Office, with approval of the Governor, the
24 following supplies, and services need not be procured through the
25 General Services Agency or the Department of Public Works, but shall
26 nevertheless be procured by the appropriate purchasing agency sub-
27 ject to the requirements of this Title and the regulations promulgated
28 by the Policy Office:

- 29 (a) works of art for museum and public display;
30 (b) published books, books or other regular publications pub-
31 lished by any government agency, maps, periodicals and technical
32 pamphlets; and

1 (c) architect, engineer and land surveying services as defined
2 in Section 6966 of this Title.

3 Article D

4 Guam Procurement Regulations

5 Section 6955. Guam Procurement Regulations.

6 (a) Regulations. Regulations shall be promulgated by the Policy
7 Office in accordance with the applicable provisions of the Adminis-
8 trative Adjudication Law.

9 (b) Policy Office Not To Delegate Power to Promulgate Regula-
10 tions. The Policy Office shall not delegate its power to promulgate
11 regulations.

12 (c) Regulations Shall Not Change Existing Contract Rights. No
13 regulation shall change any commitment, right or obligation of the
14 territory or of a contractor under a contract in existence on the
15 effective date of such regulation.

16 Article E

17 Coordination, Training and Education

18 Section 6956. Collection of Data Concerning Public Procurement.
19 The Chief Procurement Officer shall cooperate with the Bureau of
20 Budget and Management Research and the Territorial Auditor, or any
21 successor agency, in the preparation of statistical data concerning the
22 procurement, usage and disposition of all supplies and services, and
23 employ such trained personnel as may be necessary to carry out this
24 function. All using agencies shall furnish such reports as the Chief
25 Procurement Officer may require concerning usage, needs and stocks
26 on hand, and the Chief Procurement Officer shall have authority to
27 prescribe forms to be used by the using agencies in requisitioning,
28 ordering and reporting of supplies and services.

29 Article F

30 Duties of the Attorney General

31 Section 6957. Duties of the Attorney General. The Attorney
32 General, the Deputy Attorney General or such Assistant Attorneys
33 General as the Attorney General may designate, shall serve as legal

1 counsel and provide necessary legal services to the Policy Officer and
2 the General Services Agency. The Attorney General shall, in addi-
3 tion, when he approves contracts, determine not only the correctness
4 of their form, but their legality. In making such a determination of
5 legality, he may require any or all agencies involved in the contract to
6 supply him with evidence that the required procedures precedent to
7 executing the contract were carried out. He may prescribe the forms
8 and format required to be followed by the agencies in aiding him in his
9 determination of legality.

10 Chapter 3

11 Source Selection and Contract Formation

12 Article A

13 Definitions

14 Section 6958. Definitions. As used in this Chapter:

15 (a) 'Cost-Reimbursement Contract' means a contract under which
16 a contractor is reimbursed for costs which are allowable and allocable
17 in accordance with the contract terms and the provisions of this Title,
18 and a fee, if any.

19 (b) 'Established Catalogue Price' means the price included in a
20 catalogue, price list, schedule or other form that:

21 (1) is regularly maintained by a manufacturer or contractor;

22 (2) is either published or otherwise available for inspection
23 by customers; and

24 (3) states prices at which sales are currently or were last
25 made to a significant number of any category of buyers or buyers
26 constituting the general buying public for the supplies or ser-
27 vices involved.

28 (c) 'Invitation for Bids' means all documents, whether attached
29 or incorporated by reference, utilized for soliciting bids.

30 (d) 'Purchase Description' means the words used in a solicitation
31 to describe the supplies, services or construction to be purchased,
32 and includes specifications attached to, or made a part of, the so-
33 licitation.

1 (e) 'Requests for Proposals' means all documents, whether at-
2 tached or incorporated by reference, utilized for soliciting proposals.

3 (f) 'Responsible Bidder or Officer' means a person who has the
4 capability in all respects to perform fully the contract requirements,
5 and the integrity and reliability which will assure good faith per-
6 formance.

7 (g) 'Responsive Bidder' means a person who has submitted a bid
8 which conforms in all material respects to the Invitation for Bids.

9 Article B

10 Methods of Source Selection

11 Section 6959. Methods of Source Selection. (a) Unless other-
12 wise authorized by law, all territorial contracts shall be awarded by
13 competitive sealed bidding, pursuant to Section 6959.1 of this Article,
14 except for the procurement of professional services and except as
15 provided in:

- 16 (1) Section 6959.2 of this Article;
17 (2) Section 6959.3 of this Article;
18 (3) Section 6959.4 of this Article;
19 (4) Section 6959.5 of this Article; or
20 (5) Section 6959.6 of this Article for services specified in Sec-
21 tion 6954.7 of this Title.

22 (b) Nothing in this section requiring competitive bidding shall
23 prohibit the development of specifications which require compatibility
24 with existing supplies, equipment or data processing systems.

25 Section 6959.1. Competitive Sealed Bidding.

26 (a) Conditions for Use. Contracts shall be awarded by com-
27 petitive sealed bidding except as otherwise provided in Section 6959 of
28 this Article.

29 (b) Invitation for Bids. An Invitation for Bids shall be issued
30 and shall include a purchase description, and all contractual terms and
31 conditions applicable to the procurement.

32 (c) Public Notice. Adequate public notice of the Invitation for
33 Bids shall be given a reasonable time prior to the date set forth

1 therein for the opening of bids, in accordance with regulations pro-
2 mulgated by the Policy Office. Such notice may include publication in a
3 newspaper of general circulation a reasonable time prior to bid open-
4 ing. If a bid is given public notice which is within the time specified
5 in the Policy Office's rules and regulations on the subject, it shall not
6 be challenged unless the bidder can show exceptional circumstances
7 which would render the rules and regulations inapplicable in the case
8 of a particular bid being requested.

9 (d) Bid Opening. Bids shall be opened publicly in the presence
10 of one or more witnesses at the time and place designated in the
11 Invitation for Bids. The amount of each bid, and such other relevant
12 information as may be specified by regulation, together with the name
13 of each bidder shall be recorded; the record and each bid shall be
14 open to public inspection.

15 (e) Bid Acceptance and Bid Evaluation. Bids shall be uncon-
16 ditionally accepted without alteration or correction, except as auth-
17 orized in this Title. Bids shall be evaluated based on the require-
18 ments set forth in the Invitation for Bids, which may include criteria
19 to determine acceptability such as inspection, testing, quality, work-
20 manship, delivery and suitability for a particular purpose. Those
21 criteria that will affect the bid price and be considered in evaluation
22 for award shall be objectively measurable, such as discounts, trans-
23 portation costs, and total or life cycle costs. The Invitation for Bids
24 shall set forth the evaluation criteria to be used. No criteria may be
25 used in bid evaluation that are not set forth in the Invitation for
26 Bids.

27 (f) Correction or Withdrawal of Bids; Cancellation of Awards.
28 Correction or withdrawal of inadvertently erroneous bids before or
29 after award, or cancellation of awards or contracts based on such bid
30 mistakes, shall be permitted in accordance with regulations promulgated
31 by the Policy Office. After bid opening, no changes in bid prices or
32 other provisions of bids prejudicial to the interest of the territory or
33 fair competition shall be permitted. Except as otherwise provided by

1 regulation, all decisions to permit the correction or withdrawal of bids,
2 or to cancel awards or contracts based on bid mistakes, shall be
3 supported by a written determination made by the Chief Procurement
4 Officer, the Director of Public Works or head of a purchasing agency.

5 (g) Award. The contract shall be awarded with reasonable
6 promptness by written notice to the lowest responsible bidder whose
7 bid meets the requirements and criteria set forth in the Invitation for
8 Bids. In the event all bids for a construction project exceed available
9 funds as certified by the appropriate fiscal officer, and the low re-
10 sponsive and responsible bid does not exceed such funds by more than
11 five percent (5%), the Chief Procurement Officer, the Director of
12 Public Works, or the head of a purchasing agency, is authorized in
13 situations where time or economic considerations preclude resolicitation
14 of work of a reduced scope to negotiate an adjustment of the bid
15 price, including changes in the bid requirements, with the low respon-
16 sive and responsible bidder, in order to bring the bid within the
17 amount of available funds.

18 (h) Multi-Step Sealed Bidding. When it is considered impractical
19 to initially prepare a purchase description to support an award based
20 on price, an Invitation for Bids may be issued requesting the sub-
21 mission of unpriced offers to be followed by an Invitation for Bids
22 limited to those bidders whose offers have been qualified under the
23 criteria set forth in the first solicitation.

24 Section 6959.2. Competitive Sealed Proposals.

25 (a) Conditions for Use. When, under regulations promulgated
26 by the Policy Office, the Chief Procurement Officer, the Director of
27 Public Works, the head of a purchasing agency, or a designee of
28 either officer above the level of the Procurement Officer determines in
29 writing that the use of competitive sealed bidding is either not prac-
30 ticable or not advantageous to the territory, a contract may be entered
31 into by competitive sealed proposals. The Policy Office may provide
32 by regulation that it is either not practicable or not advantageous to

1 the territory to procure specified types of supplies, services or con-
2 struction by competitive sealed bidding.

3 (b) Request for Proposals. Proposals shall be solicited through
4 a Request for Proposals.

5 (c) Public Notice. Adequate public notice of the Request for
6 Proposals shall be given in the same manner as provided in Section
7 6959.1(c) of this Article.

8 (d) Receipt of Proposals. Proposals shall be opened so as to
9 avoid disclosure of contents to competing offerors during the process
10 of negotiation. A Register of Proposals shall be prepared in accord-
11 ance with regulations promulgated by the Policy Office, and shall be
12 open for public inspection after contract award.

13 (e) Evaluation Factors. The Request for Proposals shall state
14 the relative importance of price and other evaluation factors.

15 (f) Discussion with Responsible Offerors and Revisions to Pro-
16 posals. As provided in the Request for Proposals, and under regu-
17 lations promulgated by the Policy Office, discussions may be conducted
18 with responsible offerors who submit proposals determined to be rea-
19 sonably susceptible of being selected for award for the purpose of
20 clarification to assure full understanding of, and responsiveness to,
21 the solicitation requirements. Offerors shall be accorded fair and
22 equal treatment with respect to any opportunity for discussion and
23 revision of proposals, and such revisions may be permitted after
24 submissions and prior to award for the purpose of obtaining best and
25 final offers. In conducting discussions, there shall be no disclosure
26 of any information derived from proposals submitted by competing
27 offerors.

28 (g) Award. Award shall be made to the responsible offeror
29 whose proposal is determined in writing to be the most advantageous to
30 the territory taking into consideration price and the evaluation factors
31 set forth in the Request for Proposals. No other factors or criteria
32 shall be used in the evaluation. The contract file shall contain the
33 basis on which the award is made.

1 Section 6959.3. Small Purchases. Any procurement not ex-
2 ceeding the amount established by regulation may be made in accord-
3 ance with small purchase procedures promulgated by the Policy Office,
4 provided, however, that procurement requirements shall not be arti-
5 ficially divided so as to constitute a small purchase under this Section.

6 Section 6959.4. Sole Source Procurement. A contract may be
7 awarded for a supply, service, or construction item without competition
8 when, under regulations promulgated by the Policy Office, the Chief
9 Procurement Officer, the Director of Public Works, the head of a
10 purchasing agency, or a designee of either officer above the level of
11 the Procurement Officer determines in writing that there is only one
12 source for the required supply, service or construction item.

13 Section 6959.5. Emergency Procurements. Notwithstanding any
14 other provision of this Title, the Chief Procurement Officer, the
15 Director of Public Works, the head of a purchasing agency, or a
16 designee of either officer may make or authorize others to make emer-
17 gency procurements when there exists a threat to public health,
18 welfare, or safety under emergency conditions as defined in regu-
19 lations promulgated by the Policy Office; provided that such emergency
20 procurements shall be made with such competition as is practicable
21 under the circumstances. A written determination of the basis for the
22 emergency and for the selection of the particular contractor shall be
23 included in the contract file. The requirements for a written deter-
24 mination for the emergency shall be met if the procurements are being
25 made on the basis of the Governor's declaration of an emergency
26 situation by Executive Order if such Order states that emergency pro-
27 curement may be resorted to for the purposes of the Order.

28 Section 6959.6. Competitive Selection Procedures for Services
29 Specified in Section 6954.7 of this Title.

30 (a) Conditions for Use. The services specified in Section
31 6954.7(a) of this Title shall be procured in accordance with this
32 Section, except as authorized under Section 6959.4 or Section 6959.5 of
33 this Title.

1 (b) Statement of Qualifications. Persons engaged in providing
2 the types of services specified in Section 6954.7(a) of this Title may
3 submit statements of qualifications and expressions of interest in
4 providing such types of services. The Procurement Officer may
5 specify a uniform format for statements of qualifications. Persons may
6 amend these statements at any time by filing a new statement.

7 (c) Public Announcement and Form of Request for Proposals.
8 Adequate notice of the need for such services shall be given by the
9 purchasing agency through a Request for Proposals. The Request for
10 Proposals shall describe the services required, list the type of in-
11 formation and data required of each offeror, and state the relative
12 importance of particular qualifications.

13 (d) Discussions. The head of the purchasing agency or a
14 designee of such officer may conduct discussions with any offeror who
15 has submitted a proposal to determine such offeror's qualifications for
16 further consideration. Discussions shall not disclose any information
17 derived from proposals submitted by other offerors.

18 (e) Award. Award shall be made to the offeror determined in
19 writing by the head of the purchasing agency or a designee of such
20 officer to be best qualified based on the evaluation factors set forth in
21 the Request for Proposals, and negotiation of compensation determined
22 to be fair and reasonable. If compensation cannot be agreed upon
23 with the best qualified offeror, the negotiations will be formally ter-
24 minated with the selected offeror. If proposals were submitted by one
25 or more other offerors determined to be qualified, negotiations may be
26 conducted with such other offeror or offerors, in the order of their
27 respective qualification ranking, and the contract may be awarded to
28 the offeror then ranked as best qualified if the amount of compensation
29 is determined to be fair and reasonable.

1 Article C

2 Cancellation of Invitations for

3 Bids or Requests for Proposals

4 Section 6960. Cancellation of Invitations for Bids or Requests for
5 Proposals. An Invitation for Bids, a Request for Proposals, or other
6 solicitation may be cancelled, or any or all bids or proposals may be
7 rejected in whole or in part as may be specified in the solicitation,
8 when it is in the best interests of the territory in accordance with
9 regulations promulgated by the Policy Office. The reasons therefor
10 shall be made part of the contract file.

11 Article D

12 Qualifications and Duties

13 Section 6961. Responsibility of Bidders and Offerors.

14 (a) Determination of Nonresponsibility. A written determination
15 of nonresponsibility of a bidder or offeror shall be made in accordance
16 with regulations promulgated by the Policy Office. The unreasonable
17 failure of a bidder or offeror to promptly supply information in con-
18 nection with an inquiry with respect to responsibility may be grounds
19 for a determination of nonresponsibility with respect to such bidder or
20 offeror.

21 (b) Right of Nondisclosure. Information furnished by a bidder
22 or offeror pursuant to this Section shall not be disclosed outside of
23 the General Services Agency, the Department of Public Works or the
24 purchasing agency without prior written consent by the bidder or
25 offeror, but may be disclosed to the Attorney General at any time.

26 Section 6961.1. Prequalification of Suppliers. Prospective sup-
27 pliers may be prequalified for particular types of supplies, services
28 and construction. Solicitation mailing lists of potential contractors
29 shall include but shall not be limited to such prequalified suppliers.

30 Section 6961.2. Cost or Pricing Data.

31 (a) Contractor Certification. A contractor shall, except as
32 provided in Subsection (c) of this Section, submit cost or pricing data
33 and shall certify that, to the best of its knowledge and belief, the

1 cost or pricing data submitted was accurate, complete, and current as
2 of a mutually determined specified date prior to the date of:

3 (1) the pricing of any contract awarded by competitive
4 sealed proposals (Section 6959.2) or pursuant to the sole source
5 procurement authority (Section 6959.4) where the total contract
6 price is expected to exceed an amount established by Policy Office
7 regulations; or

8 (2) the pricing of any change order or contract modification
9 which is expected to exceed an amount established by Policy
10 Office regulations.

11 (b) Price Adjustment. Any contract, change order, or contract
12 modification under which a certificate is required shall contain a pro-
13 vision that the price to the territory, including profit or fee, shall be
14 adjusted to exclude any significant sums by which the territory finds
15 that such price was increased because the contractor-furnished cost or
16 pricing data was inaccurate, incomplete or not current as of the date
17 agreed upon between the parties. The price shall also be adjusted to
18 reflect the non-payment by the contractor of any taxes which would
19 have been paid by him were it not for the exclusion provided by
20 §19543.1016 of the Government Code (Gross Receipts Tax).

21 (c) Cost or Pricing Data Not Required. The requirements of
22 this Section need not be applied to contracts:

23 (1) where the contract is based on adequate price competi-
24 tion;

25 (2) where the contract price is based on established cata-
26 logue prices or market prices;

27 (3) where contract prices are set by law or regulation; or

28 (4) where it is determined in writing in accordance with
29 regulations promulgated by the Policy Office that the requirements
30 of this Section may be waived, and the reasons for such waiver
31 are stated in writing.

1 Article E

2 Types of Contracts

3 Section 6962. Types of Contracts. Subject to the limitations of
4 this Section, any type of contract which will promote the best interest
5 of the territory may be used; provided that the use of cost-plus-a-
6 percentage-of-cost contract is prohibited. A cost-reimbursement
7 contract may be used only when a determination is made in writing
8 that such contract is likely to be less costly to the territory than any
9 other type or that it is impracticable to obtain the supplies, services
10 or construction required except under such contract.

11 Section 6962.1. Approval of Accounting System. Except with
12 respect to firm fixed-price contracts, no contract type shall be used
13 unless it has been determined in writing by the Chief Procurement
14 Officer, the Director of Public Works, the head of a purchasing
15 agency, or a designee of any such officer that:

16 (a) the proposed contractor's accounting system will permit
17 timely development of all necessary cost data in the form required
18 by the specific contract type contemplated; and

19 (b) the proposed contractor's accounting system is adequate
20 to allocate costs in accordance with generally accepted accounting
21 principles.

22 Section 6962.2. Multi-Year Contracts.

23 (a) Specified Period. Unless otherwise provided by law, a
24 contract for supplies or services may be entered into for any period of
25 time deemed to be in the best interests of the territory provided the
26 term of the contract and conditions of renewal or extension, if any,
27 are included in the solicitation and funds are available for the first
28 fiscal period at the time of contracting. Payment and performance
29 obligations for succeeding fiscal periods shall be subject to the
30 availability and appropriation of funds therefor.

1 (b) Determination Prior to Use. Prior to the utilization of a
2 multi-year contract, it shall be determined in writing:

3 (1) that estimated requirements cover the period of the
4 contract and are reasonably firm and continuing; and

5 (2) that such a contract will serve the best interests of the
6 territory by encouraging effective competition or otherwise pro-
7 moting economies in territory procurement.

8 (c) Cancellation Due to Unavailability of Funds in Succeeding
9 Fiscal Periods. When funds are not appropriated or otherwise made
10 available to support continuation of performance in a subsequent fiscal
11 period, the contract shall be cancelled and the contractor shall be
12 reimbursed for the reasonable value of any non-recurring costs in-
13 curred but not amortized in the price of the supplies or services
14 delivered under the contract. The cost of cancellation may be paid
15 from any appropriations available for such purposes.

16 Article F

17 Inspection of Plant and Audit of Records

18 Section 6963. Right to Inspect Plant. The territory may, at
19 reasonable times, inspect the part of the plant or place of business of
20 a contractor or any subcontractor which is related to the performance
21 of any contract awarded or to be awarded by the territory.

22 Section 6963.1. Right to Audit Records.

23 (a) Audit of Cost or Pricing Data. The territory may, at rea-
24 sonable times and places, audit the books and records of any person
25 who has submitted costs or pricing data pursuant to Section 6961.2 of
26 this Title to the extent that such books and records relate to such
27 cost or pricing data. Any person who receives a contract, change
28 order, or contract modification for which cost or pricing data is re-
29 quired shall maintain such books and records that relate to such cost
30 or pricing data for three (3) years from the date of final payment
31 under the contract, unless a shorter period is otherwise authorized in
32 writing.

1 (b) Contract Audit. The territory shall be entitled to audit the
2 books and records of a contractor or any subcontractor under any
3 negotiated contract or subcontract other than a firm fixed price con-
4 tract to the extent that such books and records relate to the per-
5 formance of such contract or subcontract. Such books and records
6 shall be maintained by the contractor for a period of three (3) years
7 from the date of final payment under the prime contract and by the
8 subcontractor for a period of three (3) years from the date of final
9 payment under the subcontract, unless a shorter period is otherwise
10 authorized in writing.

11 Article G

12 Determinations and Reports

13 Section 6964. Finality of Determinations. The determinations
14 required by Section 6959.1(f), Section 6959.2(a), Section 6959.2(g),
15 Section 6959.4, Section 6959.5, Section 6959.6(e), Section 6961(a),
16 Section 6961.2(c), Section 6962, Section 6962.1 and Section 6962.2(b) of
17 this Title are final and conclusive unless they are clearly erroneous,
18 arbitrary, capricious or contrary to law.

19 Section 6964.1. Reporting of Anticompetitive Practices. When for
20 any reason collusion or other anticompetitive practices are suspected
21 among any bidders or offerors, a notice of the relevant facts shall be
22 transmitted to the Attorney General and to the Territorial Prosecutor.

23 Section 6964.2. Retention of Procurement Records. All procure-
24 ment records shall be retained and disposed of in accordance with
25 records retention guidelines and schedules approved by the Attorney
26 General. All retained documents shall be made available to the
27 Attorney General or a designee upon request and proper receipt
28 therefor.

29 Section 6964.3. Record of Procurement Actions Taken under
30 Section 6959.4 and Section 6959.5 of this Title.

31 (a) Contents of Record. The Chief Procurement Officer or the
32 Director of Public Works shall maintain a record listing of all contracts

1 made under Section 6959.4 or Section 6959.5 of this Title for a mini-
2 mum of five (5) years. The record shall contain:

- 3 (1) each contractor's name;
4 (2) the amount and type of each contract; and
5 (3) a listing of the supplies, services or
6 construction procured under each contract.

7 (b) Submission to Legislature. A copy of such record shall be
8 submitted to the Legislature on an annual basis. The record shall be
9 available for public inspection.

10 Chapter 4

11 Specifications

12 Section 6965. Definitions. As used in this Chapter 'Specification'
13 means any description of the physical or functional characteristics, or
14 of the nature of a supply, service, or construction item. It may
15 include a description of any requirement for inspecting, testing or
16 preparing a supply, service or construction item for delivery.

17 Section 6965.1. Duties of the Policy Office. The Policy Office
18 shall promulgate regulations governing the preparation, maintenance,
19 and content of specifications for supplies, services and construction
20 required by the territory.

21 Section 6965.2. Duties of the Chief Procurement Officer and
22 Director of Public Works. (a) The Chief Procurement Officer shall
23 prepare, issue, revise, maintain and monitor the use of specifications
24 for supplies and services required by the territory.

25 (b) The Director of Public Works shall prepare, issue, revise,
26 maintain and monitor the use of specifications for construction required
27 by the territory.

28 Section 6965.3. Exempted Items. Specifications for supplies,
29 services or construction items procured under Section 6954.6 of this
30 Title, or exempted pursuant to Section 6954.7 of this Title, may be
31 prepared by a purchasing agency in accordance with the provisions of
32 this Article and regulations promulgated hereunder.

1 Section 6965.4. Relationship With Using Agencies. The Chief
2 Procurement Officer and the Director of Public Works shall obtain
3 expert advice and assistance from personnel of using agencies in the
4 development of specifications and may delegate in writing to a using
5 agency the authority to prepare and utilize its own specifications.

6 Section 6965.5. Maximum Practicable Competition. All speci-
7 fications shall seek to promote overall economy for the purposes in-
8 tended and encourage competition in satisfying the territory's needs,
9 and shall not be unduly restrictive.

10 Section 6965.6. Specifications Prepared by Architects and Engin-
11 eers. The requirements of this Article regarding the purposes and
12 nonrestrictiveness of specifications shall apply to all specifications,
13 including, but not limited to, those prepared by architects, engineers,
14 designers and draftsmen for public contracts.

15 Chapter 5

16 Procurement of Construction,

17 Architect-Engineer and Land Surveying Services

18 Section 6966. Definitions. As used in this Chapter 'Architect-
19 Engineer and Land Surveying Services' are those professional services
20 within the scope of the practice of architecture, professional engin-
21 eering, or land surveying, as defined by the laws of Guam.

22 Section 6966.1. Responsibility for Selection of Methods of Con-
23 struction Contracting Management. The Policy Office shall promulgate
24 regulations providing for as many alternative methods of construction
25 management as it may determine to be feasible. These regulations
26 shall:

27 (a) set forth criteria to be used in determining which
28 method of construction contracting management is to be used for a
29 particular project;

30 (b) grant to the Director of Public Works, or the head of
31 the Purchasing Agency responsible for carrying out the construc-
32 tion project, the discretion to select the appropriate method of
33 construction contracting management for a particular project; and

1 (c) require the Director of Public Works or head of the
2 Purchasing Agency to execute and include in the contract file a
3 written statement setting forth the facts which led to the selection
4 of a particular method of construction contracting management for
5 each project.

6 Section 6967. Bid Security.

7 (a) Requirement for Bid Security. Bid security shall be re-
8 quired for all competitive sealed bidding for construction contracts
9 when the price is estimated by the Procurement Officer to exceed
10 Twenty-Five Thousand Dollars (\$25,000). Bid security shall be a bond
11 provided by a surety company authorized to do business in this terri-
12 tory, or the equivalent in cash, or otherwise supplied in a form sat-
13 isfactory to the territory. Nothing herein prevents the requirement of
14 such bonds on construction contracts under Twenty-Five Thousand
15 Dollars (\$25,000) when the circumstances warrant.

16 (b) Amount of Bid Security. Bid security shall be in an amount
17 equal to at least fifteen percent (15%) of the amount of the bid.

18 (c) Rejection of Bids for Noncompliance with Bid Security Re-
19 quirements. When the invitation for bids requires security, non-
20 compliance requires that the bid be rejected unless, pursuant to Policy
21 Office regulations, it is determined that the bid fails to comply in a
22 non-substantial manner with the security requirements.

23 (d) Withdrawal of Bids. After the bids are opened, they shall be
24 irrevocable for the period specified in the invitation for bids, except
25 as provided in Section 6959.1(f) of this Title. If a bidder is permitted
26 to withdraw its bid before award, no action shall be had against the
27 bidder or the bid security.

28 Section 6967.1. Contract Performance and Payment Bonds.

29 (a) When Required; Amounts. When a construction contract is
30 awarded in excess of Twenty-Five Thousand Dollars (\$25,000), the
31 following bonds or security shall be delivered to the territory and
32 shall become binding on the parties upon the execution of the con-
33 tract:

1 (1) a performance bond satisfactory to the territory, ex-
2 ecuted by a surety company authorized to do business in this
3 territory or otherwise secured in a manner satisfactory to the
4 territory, in an amount equal to one hundred percent (100%) of
5 the price specified in the contract; and

6 (2) a payment bond satisfactory to the territory, executed
7 by a surety company authorized to do business in this territory
8 or otherwise secured in a manner satisfactory to the territory,
9 for the protection of all persons supplying labor and material to
10 the contractor or its subcontractors for the performance of the
11 work provided for in the contract. The bond shall be in an
12 amount equal to one hundred percent (100%) of the price specified
13 in the contract.

14 (b) Reduction of Bond Amounts. The Policy Office may promul-
15 gate regulations that authorize the Director of Public Works or head of
16 a Purchasing Agency to reduce the amount of performance and payment
17 bonds to fifty percent (50%) of the contract price for each bond.

18 (c) Authority to Require Additional Bonds. Nothing in this
19 Section shall be construed to limit the authority of the territory to
20 require a performance bond or other security in addition to those
21 bonds, or in circumstances other than specified in Subsection (a) of
22 this Section.

23 (d) Suits on Payment Bonds; Right to Institute. Every person
24 who has furnished labor or material to the contractor or its subcon-
25 tractors for the work provided in the contract, in respect of which a
26 payment bond is furnished under this Section, and who has not been
27 paid in full therefor before the expiration of a period of ninety (90)
28 days after the day on which the last of the labor was done or per-
29 formed by such person or material was furnished or supplied by such
30 person for which such claim is made, shall have the right to sue on
31 the payment bond for the amount, or the balance thereof, unpaid at
32 the time of institution of such suit and to prosecute said action for the
33 sum or sums justly due such person; provided, however, that any

1 person having a direct contractual relationship with a subcontractor of
2 the contractor, but no contractual relationship express or implied with
3 the contractor furnishing said payment bond, shall have a right of
4 action upon the payment bond upon giving written notice to the con-
5 tractor within ninety (90) days from the date on which such person
6 did or performed the last of the labor or furnished or supplied the
7 last of the material upon which such claim is made, stating with sub-
8 stantial accuracy the amount claimed and the name of the party to
9 whom the material was furnished or supplied or for whom the labor was
10 done or performed. Such notice shall be personally served or served
11 by mailing the same by registered or certified mail, postage prepaid,
12 in an envelope addressed to the contractor at any place the contractor
13 maintains an office or conducts its business.

14 (e) Suits on Payment Bonds; Where and When Brought. Every
15 suit instituted upon a payment bond shall be brought in the Superior
16 Court, but no such suit shall be commenced after the expiration of one
17 (1) year after the day on which the last of the labor was performed or
18 material was supplied by the person bringing suit. The obligee named
19 in the bond need not be joined as a part in any such suit.

20 Section 6967.2. Bond Forms and Copies.

21 (a) Bond Forms. The Policy Office shall promulgate by regu-
22 lation the form of the bonds required by this Article.

23 (b) Certified Copies of Bonds. Any person may request and
24 obtain from the territory a certified copy of a bond upon payment of
25 the cost of reproduction of the bond and postage, if any. A certified
26 copy of a bond shall be prima facie evidence of the contents, execution
27 and delivery of the original.

28 Section 6968. Contract Clauses and Their Administration.

29 (a) Contract Clauses. The Policy Office shall promulgate regu-
30 lations requiring the inclusion in territory construction contracts of
31 clauses providing for adjustments in prices, time of performance, or
32 other contract provisions, as appropriate, and covering the following
33 subjects:

- 1 (1) the unilateral right of the territory to order in writing:
- 2 (i) changes in the work within the scope of the con-
- 3 tract; and
- 4 (ii) changes in the time of performance of the contract
- 5 that do not alter the scope of the contract;
- 6 (2) variations occurring between estimated quantities of
- 7 work in a contract and actual quantities;
- 8 (3) suspension of work ordered by the territory; and
- 9 (4) site conditions differing from those indicated in the
- 10 contract, or ordinarily encountered, except that differing site
- 11 conditions clauses promulgated by the Policy Office need not be
- 12 included in a contract:
- 13 (i) when the contract is negotiated;
- 14 (ii) when the contractor provides the site or design;
- 15 or
- 16 (iii) when the parties have otherwise agreed with
- 17 respect to the risk of differing site conditions.
- 18 (b) Price Adjustments.
- 19 (1) Adjustments in price pursuant to clauses promulgated
- 20 under Subsection (a) of this Section shall be computed in one or
- 21 more of the following ways:
- 22 (i) by agreement on a fixed price adjustment before
- 23 commencement of the pertinent performance or as soon there-
- 24 after as practicable;
- 25 (ii) by unit prices specified in the contract or sub-
- 26 sequently agreed upon;
- 27 (iii) by the costs attributable to the events or situations
- 28 under such clauses with adjustment of profit or fee, all as
- 29 specified in the contract or subsequently agreed upon;
- 30 (iv) in such other manner as the contracting parties
- 31 may mutually agree; or
- 32 (v) in the absence of agreement by the parties, by a
- 33 unilateral determination by the territory of the costs at-

1 tributable to the events or situations under such clauses
2 with adjustment of profit or fee, all as computed by the
3 territory in accordance with applicable sections of the reg-
4 ulations promulgated under Chapter 7 and subject to the
5 provisions of Chapter 9 of this Title.

6 (2) A contractor shall be required to submit cost or pricing
7 data if any adjustment in contract price is subject to the pro-
8 visions of Section 6961.2 of this Title.

9 (c) Additional Contract Clauses. The Policy Office shall pro-
10 mulgate regulations requiring the inclusion in territory construction
11 contracts of clauses providing for appropriate remedies and covering
12 the following subjects:

- 13 (1) liquidated damages as appropriate;
- 14 (2) specified excuses for delay or nonperformance;
- 15 (3) termination of the contract for default; and
- 16 (4) termination of the contract in whole or in part for the
17 convenience of the territory.

18 (d) Modification of Required Clauses. The Director of Public
19 Works or the head of a purchasing agency may vary the clauses pro-
20 mulgated by the Policy Office under Subsection (a) and Subsection (c)
21 of this Section for inclusion in any particular territorial construction
22 contract, provided, that any variations are supported by a written
23 determination that states the circumstances justifying such variations,
24 and provided, that notice of any such material variation be stated in
25 the invitation for bids or request for proposals.

26 Section 6968.1. Fiscal Responsibility. Every contract modi-
27 fication, change order, or contract price adjustment under a con-
28 struction contract with the territory in excess of Five Thousand
29 Dollars (\$5,000) shall be subject to prior written certification by the
30 fiscal officer of the entity responsible for funding the project or the
31 contract, or other official responsible for monitoring and reporting
32 upon the status of the costs of the total project budget or contract
33 budget, as to the effect of the contract modification, change order, or

1 adjustment in contract price on the total project budget or the total
2 contract budget. In the event that the certification of the fiscal
3 officer or other responsible official discloses a resulting increase in the
4 total project budget or the total contract budget, the Director of
5 Public Works or the head of a purchasing agency shall not execute or
6 make such contract modification, change order, or adjustment in con-
7 tract price unless sufficient funds are available therefor, or the scope
8 of the project or contract is adjusted so as to permit the degree of
9 completion that is feasible within the total project budget or total
10 contract budget as it existed prior to the contract modification, change
11 order, or adjustment in contract price under consideration; provided,
12 however, that with respect to the validity, as to the contractor, of
13 any executed contract modification, change order, or adjustment in
14 contract price which the contractor has reasonably relied upon, it shall
15 be presumed that there has been compliance with the provisions of this
16 Section.

17 Chapter 6

18 Modification and Termination of

19 Contracts for Supplies and Services

20 Section 6969. Contract Clauses and Administration.

21 (a) Contract Clauses. The Policy Office may promulgate regu-
22 lations permitting or requiring the inclusion of clauses providing for
23 adjustments in prices, time of performance or other contract provisions
24 as appropriate covering the following subjects:

25 (1) the unilateral right of the territory to order in writing:

26 (i) changes in the work within the scope of the
27 contract; and

28 (ii) temporary stopping of the work or delaying per-
29 formance; and

30 (2) variations occurring between estimated quantities of
31 work in a contract and actual quantities.

1 (b) Price Adjustments.

2 (1) Adjustments in price pursuant to clauses promulgated
3 under Subsection (a) of this Section shall be computed in one or
4 more of the following ways:

5 (i) by agreement on a fixed price adjustment before
6 commencement of the pertinent performance or as soon there-
7 after as practicable;

8 (ii) by unit prices specified in the contract or sub-
9 sequently agreed upon;

10 (iii) by the costs attributable to the events or situations
11 under such clauses with adjustment of profit or fee, all as
12 specified in the contract or subsequently agreed upon;

13 (iv) in such other manner as the contracting parties
14 may mutually agree; or

15 (v) in the absence of agreement by the parties, by a
16 unilateral determination by the territory of the costs attri-
17 butable to the events or situations under such clauses with
18 adjustment of profit or fee, all as computed by the territory
19 in accordance with applicable sections of the regulations
20 promulgated under Chapter 7 and subject to the provisions
21 of Chapter 9 of this Title.

22 (2) A contractor shall be required to submit cost or pricing
23 data if any adjustment in contract price is subject to the pro-
24 visions of Section 696l.2 of this Title.

25 (c) Additional Contract Clauses. The Policy Office may pro-
26 mulgate regulations including, but not limited to, regulations per-
27 mitting or requiring the inclusion in territorial contracts of clauses
28 providing for appropriate remedies and covering the following subjects:

29 (1) liquidated damages as appropriate;

30 (2) specified excuses for delay or nonperformance;

31 (3) termination of the contract for default; and

32 (4) termination of the contract in whole or in part for the
33 convenience of the territory.

1 (d) Modification of Clauses. The Chief Procurement Officer or
2 the head of a purchasing agency may vary the clauses promulgated by
3 the Policy Office under Subsection (a) and Subsection (c) of this
4 Section for inclusion in any particular territorial contract; provided
5 that any variations are supported by a written determination that
6 states the circumstances justifying such variation and provided that
7 notice of any such material variation be stated in the Invitation for
8 Bids or Request for Proposals.

9 Chapter 7

10 Cost Principles

11 Section 6970. Cost Principles Regulations Required. The Policy
12 Office shall promulgate regulations setting forth cost principles which
13 shall be used to determine the allowability of incurred costs for the
14 purpose of reimbursing costs under contract provisions which provide
15 for the reimbursement of costs, provided, that if a written determina-
16 tion is approved at a level above the Procurement Officer, such cost
17 principles may be modified by contract.

18 Chapter 8

19 Supply Management

20 Section 6971. Definitions. As used in this Chapter:

21 (a) 'Excess Supplies' means any supplies other than expendable
22 supplies having a remaining useful life but which are no longer re-
23 quired by the using agency in possession of the supplies.

24 (b) 'Expendable Supplies' means all tangible supplies other than
25 nonexpendable supplies.

26 (c) 'Nonexpendable Supplies' means all tangible supplies having
27 an original acquisition cost of over One Hundred Dollars (\$100) per
28 unit and a probable useful life of more than one (1) year.

29 (d) 'Supplies' means supplies owned by the territory. (See
30 Section 6952(a) of this Title).

31 (e) 'Surplus Supplies' means any supplies other than expendable
32 supplies no longer having any use to the territory. This includes

1 obsolete supplies, scrap materials and nonexpendable supplies that
2 have completed their useful life cycle.

3 Section 6972. Supply Management Regulations Required. The
4 Policy Office shall promulgate regulations governing:

5 (a) the management of supplies during their entire life cycle;

6 (b) the sale, lease, or disposal of surplus supplies by public
7 auction, competitive sealed bidding, or other appropriate method
8 designated by regulation, provided, that no employee of the owning or
9 disposing agency shall be entitled to purchase any such supplies; and

10 (c) transfer of excess supplies.

11 Section 6973. Allocation of Proceeds from Sale or Disposal of
12 Surplus Supplies. Unless otherwise provided by law, the Chief Pro-
13 curement Officer shall be empowered, pursuant to regulations promul-
14 gated by the Policy Office, to allocate proceeds from the sale, lease or
15 disposal of surplus supplies.

16 Chapter 9

17 Legal and Contractual Remedies

18 Article A

19 Pre-Litigation Resolution of Controversies

20 Section 6975. Authority to Resolve Protested Solicitations and
21 Awards.

22 (a) Right to Protest. Any actual or prospective bidder, offeror,
23 or contractor who is aggrieved in connection with the solicitation or
24 award of a contract may protest to the Chief Procurement Officer, the
25 Director of Public Works or the head of a purchasing agency. The
26 protest shall be submitted in writing within fourteen (14) days after
27 such aggrieved person knows or should have known of the facts giving
28 rise thereto.

29 (b) Authority to Resolve Protests. The Chief Procurement
30 Officer, the Director of Public Works, the head of a purchasing
31 agency, or a designee of one of these officers shall have the
32 authority, prior to the commencement of an action in court concerning
33 the controversy, to settle and resolve a protest of an aggrieved

1 bidder, offeror, or contractor, actual or prospective, concerning the
2 solicitation or award of a contract. This authority shall be exercised in
3 accordance with regulations promulgated by the Policy Office.

4 (c) Decision. If the protest is not resolved by mutual agree-
5 ment, the Chief Procurement Officer, the Director of Public Works, the
6 head of a purchasing agency, or a designee of one of these officers
7 shall promptly issue a decision in writing. The decision shall:

8 (1) state the reasons for the action taken; and

9 (2) inform the protestant of its right to judicial review as
10 provided in this Chapter.

11 (d) Notice of Decision. A copy of the decision under Subsection
12 (c) of this Section shall be mailed or otherwise furnished immediately
13 to the protestant and any other party intervening.

14 (e) Finality of Decision. A decision under Subsection (c) of this
15 Section shall be final and conclusive, unless fraudulent, or any person
16 adversely affected by the decision commences an action in court in
17 accordance with Section 6978(a) of this Chapter.

18 (f) Stay of Procurements During Protests. In the event of a
19 timely protest under Subsection (a) of this Section or under Section
20 6978(a) of this Chapter, the Territory shall not proceed further with
21 the solicitation or with the award of the contract until the Chief Pro-
22 curement Officer or the Director of Public Works, after consultation
23 with the head of the using agency or the head of a purchasing
24 agency, makes a written determination that the award of the contract
25 without delay is necessary to protect substantial interests of the
26 territory.

27 (g) Entitlement to Costs. In addition to any other relief, when
28 a protest is sustained and the protesting bidder or offeror should have
29 been awarded the contract under the solicitation but is not, then the
30 protesting bidder or offeror shall be entitled to the reasonable costs
31 incurred in connection with the solicitation, including bid preparation
32 costs other than attorney's fees.

1 Section 6975.1. Authority to Debar or Suspend.

2 (a) Authority. After reasonable notice to the person involved
3 and reasonable opportunity for that person to be heard, the Chief
4 Procurement Officer, the Director of Public Works or the head of a
5 purchasing agency, after consultation with the using agency and the
6 Attorney General, shall have authority to debar a person for cause
7 from consideration for award of contracts. The debarment shall not be
8 for a period of more than two (2) years. The same officer, after
9 consultation with the using agency and the Attorney General, shall
10 have authority to suspend a person from consideration for award of
11 contracts if there is probable cause for debarment. The suspension
12 shall not be for a period exceeding three (3) months. The authority
13 to debar or suspend shall be exercised in accordance with regulations
14 promulgated by the Policy Office.

15 (b) Causes for Debarment or Suspension. The causes for debar-
16 ment or suspension include the following:

17 (1) conviction for commission of a criminal offense as an
18 incident to obtaining or attempting to obtain a private contract or
19 subcontract; or in the performance of such contract or subcon-
20 tract;

21 (2) conviction under territorial or federal statutes of
22 embezzlement, theft, forgery, bribery, falsification or destruction
23 of records, receiving stolen property, or any other offense
24 indicating a lack of business integrity or business honesty which
25 currently, seriously and directly affects responsibility as a
26 territorial contractor;

27 (3) conviction under federal antitrust statutes arising out
28 of the submission of bids or proposals;

29 (4) violation of contract provisions, as set forth below, of a
30 character which is regarded by the Chief Procurement Officer,
31 the Director of Public Works or the head of a a purchasing
32 agency to be so serious as to justify debarment action:

1 (i) deliberate failure without good cause to perform in
2 accordance with the specifications or within the time limit
3 provided in the contract; or

4 (ii) a recent record of failure to perform or of un-
5 satisfactory performance in accordance with the terms of one
6 or more contracts, provided, that failure to perform or un-
7 satisfactory performance caused by acts beyond the control
8 of the contractor shall not be considered to be a basis for
9 debarment;

10 (5) any other cause the Chief Procurement Officer, the
11 Director of Public Works or the head of a purchasing agency
12 determines to be so serious and compelling as to affect respon-
13 sibility as a territorial contractor, including debarment by another
14 governmental entity for any cause listed in regulations of the
15 Policy Office; and

16 (6) for violation of the ethical standards set forth in Chap-
17 ter 11 of this Title.

18 (c) Decision. The Chief Procurement Officer, the Director of
19 Public Works or the head of a purchasing agency shall issue a written
20 decision to debar or suspend. The decision shall:

21 (1) state the reasons for the action taken; and

22 (2) inform the debarred or suspended person involved of its
23 rights to judicial review as provided in this Chapter.

24 (d) Notice of Decision. A copy of the decision under Subsection
25 (c) of this Section shall be mailed or otherwise furnished immediately
26 to the debarred or suspended person and any other party intervening.

27 (e) Finality of Decision. A decision under Subsection (c) of this
28 Section shall be final and conclusive, unless fraudulent, or the de-
29 barred or suspended person commences an action in court in accord-
30 ance with Section 6978(b) of this Chapter.

1 Section 6975.2. Authority to Resolve Contract and Breach of
2 Contract Controversies.

3 (a) Applicability. This Section applies to controversies between
4 the territory and a contractor and which arise under, or by virtue of,
5 a contract between them. This includes without limitation contro-
6 versies based upon breach of contract, mistake, misrepresentation, or
7 other cause for contract modification or rescission.

8 (b) Authority. The Chief Procurement Officer, the Director of
9 Public Works, the head of a purchasing agency, or a designee of one
10 of these officers is authorized, prior to commencement of an action in a
11 court concerning the controversy, to settle and resolve a controversy
12 described in Subsection (a) of this Section. This authority shall be
13 exercised in accordance with regulations promulgated by the Policy
14 Office.

15 (c) Decision. If such a controversy is not resolved by mutual
16 agreement, the Chief Procurement Officer, the Director of Public
17 Works, the head of a purchasing agency, or the designee of one of
18 these officers shall promptly issue a decision in writing. The decision
19 shall:

20 (1) state the reasons for the action taken; and

21 (2) inform the contractor of its right to judicial review as
22 provided in this Chapter.

23 (d) Notice of Decision. A copy of the decision under Subsection
24 (c) of this Section shall be mailed or otherwise furnished immediately
25 to the contractor.

26 (e) Finality of Decision. The decision under Subsection (c) of
27 this Section shall be final and conclusive, unless fraudulent, or the
28 contractor commences an action in court in accordance with Section
29 6978(c) of this Chapter.

30 (f) Failure to Render Timely Decision. If the Chief Procurement
31 Officer, the Director of Public Works, the head of a purchasing
32 agency, or the designee of one of these officers does not issue the
33 written decision required under Subsection (c) of this Section within

1 sixty (60) days after written request for a final decision, or within
2 such longer period as may be agreed upon by the parties, then the
3 contractor may proceed as if an adverse decision had been received.

4 Article B

5 Solicitations or Awards in Violation of Law

6 Section 6976. Applicability of this Article. The provisions of
7 this Article apply where it is determined administratively, or upon
8 judicial review, that a solicitation or award of a contract is in violation
9 of law.

10 Section 6976.1. Remedies Prior to an Award. If prior to award it
11 is determined that a solicitation or proposed award of a contract is in
12 violation of law, then the solicitation or proposed award shall be:

13 (a) cancelled; or

14 (b) revised to comply with the law.

15 Section 6976.2. Remedies After an Award. (a) If after an
16 award it is determined that a solicitation or award of a contract is in
17 violation of law, then:

18 (1) if the person awarded the contract has not acted fraud-
19 ulently or in bad faith:

20 (i) the contract may be ratified and affirmed, pro-
21 vided it is determined that doing so is in the best interests
22 of the territory; or

23 (ii) the contract may be terminated and the person
24 awarded the contract shall be compensated for the actual
25 expenses reasonably incurred under the contract, plus a
26 reasonable profit, prior to the termination.

27 (2) if the person awarded the contract has acted fraudu-
28 lently or in bad faith:

29 (i) the contract may be declared null and void; or

30 (ii) the contract may be ratified and affirmed if such
31 action is in the best interests of the territory, without
32 prejudice to the territory's rights to such damages as may
33 be appropriate.

1 (b) This Section shall be read as being in addition to and not in
2 conflict with, or repealing 4 GCA §4137 (Prohibitions on the Activities
3 of Government Employees).

4 Article C

5 Interest

6 Section 6977. Interest. Interest on amounts ultimately deter-
7 mined to be due to a contractor or the Territory shall be payable at
8 the statutory rate applicable to judgments from the date the claim
9 arose through the date of decision or judgment, whichever is later.

10 Article D

11 Waiver of Sovereign Immunity;

12 Limitations on Actions

13 Section 6978. Waiver of Sovereign Immunity in Connection with
14 Contracts.

15 (a) Solicitation and Award of Contracts. The Superior Court of
16 Guam shall have jurisdiction over an action between the territory and a
17 bidder, offeror, or contractor, either actual or prospective, to
18 determine whether a solicitation or award of a contract is in accordance
19 with the statutes, regulations, and the terms and conditions of the
20 solicitation. The Superior Court shall have such jurisdiction in actions
21 at law or in equity, and whether the actions are for monetary damages
22 or for declaratory, or other equitable relief.

23 (b) Debarment or Suspension. The Superior Court shall have
24 jurisdiction over an action between the territory and a person who is
25 subject to a suspension or debarment proceeding, to determine whether
26 the debarment or suspension is in accordance with the statutes and
27 regulations. The Superior Court shall have such jurisdiction, in
28 actions at law or in equity, and whether the actions are for declara-
29 tory, or other equitable relief.

30 (c) Actions Under Contracts or for Breach of Contract. The
31 Superior Court shall have jurisdiction over an action between the
32 territory and a contractor, for any cause of action which arises under,
33 or by virtue of, the contract, whether the action is at law or in

1 equity, whether the action is on the contract or for a breach of the
2 contract, and whether the action is for monetary damages or declara-
3 tory, or other equitable relief, but shall be subject to Section 526 of
4 the Code of Civil Procedure, and as it may be amended or recodified
5 from time to time.

6 (d) Limited Finality for Administrative Determinations. In any
7 judicial action under this Section, factual or legal determinations by
8 employees, agents or other persons appointed by the territory shall
9 have no finality and shall not be conclusive, notwithstanding any
10 contract provision, or regulation, except to the extent provided in
11 Section 6964 of this Title.

12 (e) For purposes of this Section a "prospective" bidder, con-
13 tractor or offeror is one who will actually submit a bid, contract or
14 otherwise offer his services if, in the actions permitted by this
15 section, such person would prevail.

16 (f) All actions permitted by this Article shall be conducted as
17 provided in the Government Claims Act.

18 Section 6978.1. Time Limitations on Actions.

19 (a) Protested Solicitations and Awards. Any action under Sec-
20 tion 6978(a) of this Chapter shall be initiated as follows:

21 (1) within thirty (30) days after the aggrieved person
22 knows or should have known of the facts giving rise to the
23 action; or

24 (2) within fourteen (14) days after receipt of a final
25 administrative decision pursuant to Section 6975 of this Chapter..

26 (b) Debarments and Suspensions for Cause. Any action under
27 Section 6978(b) of this Chapter shall be commenced within six (6)
28 months after receipt of the decision of the Chief Procurement Officer,
29 the Director of Public Works or head of a purchasing agency under
30 Section 6975.1(c) of this Chapter or the decision of the Policy Office
31 under Section 6981.1 of this Title whichever is applicable.

1 (c) Actions Under Contracts or for Breach of Contract.

2 Any action commenced under Section 6978(c) of this Chapter shall
3 be commenced within six months of the date the claim arose, or within
4 six months of the date the claimant knew, or should have known, that
5 a claim existed against the other party.

6 Chapter 10

7 Compliance with Federal Requirements

8 Section 6979. Federal Funds. Where a procurement involves the
9 expenditure of federal assistance or contract funds, or other federal
10 funds as defined by Section 20 of the Organic Act of Guam, all per-
11 sons within the government of Guam shall comply with such federal law
12 and regulations which are applicable and which may be in conflict with
13 or may not be reflected in this Title.

14 Chapter 11

15 Ethics In Public Contracting

16 Article A

17 Definitions

18 Section 6980. Definitions. As used in this Chapter:

19 (a) 'Blind Trust' means an independently managed trust in which
20 the employee-beneficiary has no management rights and in which the
21 employee-beneficiary is not given notice of alterations in, or other
22 dispositions of, the property subject to the trust.

23 (b) 'Confidential Information' means any information which is
24 available to an employee only because of the employee's status as an
25 employee of this territory and is not a matter of public knowledge or
26 available to the public on request.

27 (c) 'Conspicuously' means written in such special or distinctive
28 format, print or manner that a reasonable person against whom it is to
29 operate ought to have noticed it.

30 (d) 'Direct' or 'Indirect Participation' means involvement through
31 decision, approval, disapproval, recommendation, preparation of any
32 part of a purchase request, influencing the content of any specifica-

1 tion or procurement standard, rendering or advice, investigation,
2 auditing or in any other advisory capacity.

3 (e) 'Financial Interest' means:

4 (1) ownership of any interest or involvement in any rela-
5 tionship from which, or as a result of which, a person within the
6 past year has received, or is presently or in the future entitled
7 to receive, more than Two Thousand Five Hundred Dollars
8 (\$2,500) per year, or its equivalent;

9 (2) ownership or such interest in any property or any
10 business as may be specified by the Ethics Commission; or

11 (3) holding a position in a business such as an officer,
12 director, trustee, partner, employee, or the like, or holding any
13 position of management.

14 (f) 'Gratuity' means a payment, loan, subscription, ad-
15 vance, deposit of money, services, or anything of more than nominal
16 value, present or promised, unless consideration of substantially equal
17 or greater value is received.

18 (g) 'Immediate Family' means a spouse, children, parents,
19 brothers and sisters.

20 (h) 'Official Responsibility' means direct administrative or
21 operating authority, whether intermediate or final, either exercisable
22 alone or with others, either personally or through subordinates, to
23 approve, disapprove, or otherwise direct territorial action.

24 (i) 'Purchase Request' means that document whereby a using
25 agency requests that a contract be entered into for a specified need,
26 and may include, but is not limited to, the technical description of the
27 requested item, delivery schedule, transportation, criteria for
28 evaluation, suggested sources of supply, and information supplied for
29 the making of any written determination required by this Title.

1 Article B

2 Standards of Conduct

3 Section 6980.1. Statement of Policy. Public employment is a
4 public trust. It is the policy of the territory to promote and balance
5 the objective of protecting government integrity and the objective of
6 facilitating the recruitment and retention of personnel needed by the
7 territory. Such policy is implemented by prescribing essential stand-
8 ards of ethical conduct without creating unnecessary obstacles to
9 entering public service.

10 Public employees must discharge their duties impartially so as to
11 assure fair competitive access to governmental procurement by respon-
12 sible contractors. Moreover, they should conduct themselves in such a
13 manner as to foster public confidence in the integrity of the territorial
14 procurement organization.

15 To achieve the purpose of this Chapter, it is essential that those
16 doing business with the territory also observe the ethical standards
17 prescribed herein.

18 Section 6980.2. General Standards of Ethical Conduct.

19 (a) General Ethical Standards for Employees. Any attempt to
20 realize personal gain through public employment by conduct inconsis-
21 tent with the proper discharge of the employee's duties is a breach of
22 a public trust.

23 In order to fulfill this general prescribed standard, employees
24 must also meet the specific standards set forth in Sections 6980.4
25 through 6980.9 of this Chapter.

26 (b) General Ethical Standards for Non-Employees. Any effort to
27 influence any public employee to breach the standards of ethical con-
28 duct set forth in this Section and Section 6980.4 through Section
29 6980.9 of this Chapter is also a breach of ethical standards.

30 Section 6980.3. Criminal Sanctions. To the extent that violations
31 of the ethical standards of conduct set forth in this Chapter constitute
32 violations of Title 9 GCA (Crimes and Corrections), they shall be

1 punishable as provided therein. Such sanctions shall be in addition to
2 the civil remedies set forth in this Chapter.

3 Section 6980.4. Employee Conflict of Interest.

4 (a) Conflict of Interest. It shall be a breach of ethical
5 standards for any employee to participate directly or indirectly in a
6 procurement when the employee knows that:

7 (1) the employee or any member of the employee's immediate
8 family has a financial interest pertaining to the procurement;

9 (2) a business or organization in which the employee, or
10 any member of the employee's immediate family, has a financial
11 interest pertaining to the procurement; or

12 (3) any other person, business or organization with whom
13 the employee or any member of the employee's immediate family is
14 negotiating or has an arrangement concerning prospective employ-
15 ment is involved in the procurement.

16 (b) Financial Interest in a Blind Trust. Where an employee or
17 any member of the employee's immediate family holds a financial in-
18 terest in a blind trust, the employee shall not be deemed to have a
19 conflict of interest with regard to matters pertaining to that financial
20 interest, provided that disclosure of the existence of the blind trust
21 has been made to the Civil Service Commission.

22 (c) Discovery of Actual or Potential Conflict of Interest, Dis-
23 qualification, and Waiver. Upon discovery of an actual or potential
24 conflict of interest, an employee shall promptly file a written statement
25 of disqualification and shall withdraw from further participation in the
26 transaction involved. The employee may, at the same time, apply to
27 the Civil Service Commission in accordance with Section 6982(c) of this
28 Chapter for an advisory opinion as to what further participation, if
29 any, the employee may have in the transaction.

30 (d) Notice. Notice of this prohibition shall be provided in
31 accordance with regulations promulgated by the Civil Service Com-
32 mission.

1 Section 6980.5. Employee Disclosure Requirements.

2 (a) Disclosure of Benefit Received from Contract. Any employee
3 who has, or obtains any benefit from, any territorial contract with a
4 business in which the employee has a financial interest shall report
5 such benefit to the Civil Service Commission; provided, however, that
6 this Section shall not apply to a contract with a business where the
7 employee's interest in the business has been placed in a disclosed
8 blind trust.

9 (b) Failure to Disclose Benefit Received. Any employee who
10 knows or should have known of such benefit, and fails to report such
11 benefit to the Civil Service Commission is in breach of the ethical
12 standards of this Section.

13 (c) Notice. Notice of this requirement shall be provided in
14 accordance with regulations promulgated by the Civil Service Com-
15 mission.

16 Section 6980.6. Gratuities and Kickbacks.

17 (a) Gratuities. It shall be a breach of ethical standards for any
18 person to offer, give or agree to give any employee or former em-
19 ployee, or for any employee or former employee to solicit, demand,
20 accept or agree to accept from another person, a gratuity or an offer
21 of employment in connection with any decision, approval, disapproval,
22 recommendation, preparation of any part of a program requirement or a
23 purchase request, influencing the content of any specification or
24 procurement standard, rendering of advice, investigation, auditing, or
25 in any other advisory capacity in any proceeding or application,
26 request for ruling, determination, claim or controversy, or other par-
27 ticular matter, pertaining to any program requirement or a contract or
28 subcontract; or to any solicitation or proposal therefor.

29 (b) Kickbacks. It shall be a breach of ethical standards for any
30 payment, gratuity or offer of employment to be made by or on behalf
31 of a subcontractor under a contract to the prime contractor or higher
32 tier subcontractor or any person associated therewith, as an induce-
33 ment for the award of a subcontract or order.

1 (c) Contract Clause. The prohibition against gratuities and
2 kickbacks prescribed in this Section shall be conspicuously set forth in
3 every contract and solicitation therefor.

4 Section 6980.7. Prohibition Against Contingent Fees.

5 (a) Contingent Fees. It shall be a breach of ethical standards
6 for a person to be retained, or to retain a person, to solicit or secure
7 a territorial contract upon an agreement or understanding for a com-
8 mission, percentage, brokerage or contingent fee, except for retention
9 of bona fide employees or bona fide established commercial selling
10 agencies for the purpose of securing business.

11 (b) Representation of Contractor. Every person, before being
12 awarded a territorial contract, shall represent, in writing, that such
13 person has not retained anyone in violation of Subsection (a) of this
14 Section. Failure to do so constitutes a breach of ethical standards.

15 (c) Contract Clause. The representation prescribed in sub-
16 section (b) of this Section shall be conspicuously set forth in every
17 contract and solicitation therefor.

18 Section 6980.8. Restrictions on Employment of Present and For-
19 mer Employees.

20 (a) Contemporaneous Employment Prohibited. Except as may be
21 permitted by regulations pursuant to this Title or pursuant to Title 4
22 GCA, or rulings of the Civil Service Commission pursuant to this
23 Title, it shall be a breach of ethical standards for any employee who is
24 participating directly or indirectly in the procurement process to
25 become or be, while such an employee, the employee of any person
26 contracting with the governmental body by whom the employee is
27 employed. Notice of this provision shall be provided in accordance
28 with regulations promulgated by the Civil Service Commission.

29 (b) Restrictions on Former Employees in Matters Connected with
30 Their Former Duties.

31 (1) Permanent Disqualification of Former Employee Personally
32 Involved in a Particular Matter. It shall be a breach of ethical
33 standards for any former employee knowingly to act as a prin-

1 ciproal, or as an agent for anyone other than the territory, in
2 connection with any:

3 (i) judicial or other proceeding, application,
4 request for a ruling, or other determination;

5 (ii) contract;

6 (iii) claim; or

7 (iv) charge or controversy;

8 in which the employee participated personally and substantially
9 through decision, approval, disapproval, recommendation, ren-
10 dering of advice, investigation, or otherwise while an employee,
11 where the territory is a party or has a direct and substantial
12 interest.

13 (2) One Year Representation Restriction Regarding Matters
14 for Which a Former Employee Was Officially Responsible. It shall
15 be a breach of ethical standards for any former employee, within
16 one (1) year after cessation of the former employee's official
17 responsibility, knowingly to act as a principal, or as an agent for
18 anyone other than the territory, in connection with any:

19 (i) judicial or other proceeding, application, request
20 for a ruling or other determination;

21 (ii) contract;

22 (iii) claim; or

23 (iv) charge or controversy; in matters which were
24 within the former employee's official responsibility, where the
25 territory is a party or has a direct or substantial interest.

26 (c) Disqualification of Business When an Employee Has a Finan-
27 cial Interest. It shall be a breach of ethical standards for a business
28 in which an employee has a financial interest knowingly to act as a
29 principal, or as an agent for anyone other than the territory, in
30 connection with any:

31 (1) judicial or other proceeding, application, request for a
32 ruling or other determination;

- 1 (2) contract;
- 2 (3) claim; or
- 3 (4) charge or controversy;

4 in which the employee either participates personally and substantially
5 through decision, approval, disapproval, recommendation, the ren-
6 dering of advice, investigation or otherwise, or which is the subject of
7 the employee's official responsibility, where the territory is a party or
8 has a direct and substantial interest.

9 (d) Selling to the Territory After Termination of Employment is
10 Prohibited. It shall be a breach of ethical standards for any former
11 employee, unless the former employee's last annual salary did not
12 exceed Twelve Thousand Dollars (\$12,000), to engage in selling or
13 attempting to sell supplies, services other than personal services, or
14 construction to the territory for ninety (90) days following the date
15 employment ceased.

16 The term 'sell' as used herein means signing a bid, proposal, or
17 contract; negotiating a contract, contracting any employee for the
18 purpose of obtaining, negotiating or discussing changes in speci-
19 fications, price, cost allowances or other terms of a contract; settling
20 disputes concerning performance of a contract; or any other liaison
21 activity with a view toward the ultimate consummation of a sale al-
22 though the actual contract therefor is subsequently negotiated by
23 another person; provided, however, that this Section is not intended
24 to preclude a former employee from accepting employment with private
25 industry solely because the former employee's employer is a contractor
26 with this territory, nor shall a former employee be precluded from
27 serving as a consultant to this territory.

28 Section 6980.9. Use of Confidential Information. It shall be a
29 breach of ethical standards for any employee or former employee
30 knowingly to use confidential information for actual or anticipated
31 personal gain, or for the actual or anticipated personal gain of any
32 other person.

1 Article C

2 Remedies

3 Section 6981. Civil and Administrative Remedies Against
4 Employees Who Breach Ethical Standards.

5 (a) Existing Remedies Not Impaired. Civil and administrative
6 remedies against employees which are in existence on the effective date
7 of this Title shall not be impaired.

8 (b) Supplemental Remedies. In addition to existing remedies for
9 breach of the ethical standards of this Chapter or regulations pro-
10 mulgated hereunder, the Civil Service Commission may, in connection
11 with employees of the government of Guam, direct the appointing
12 authority to issue any one or more of the following:

13 (1) oral or written warnings or reprimands;

14 (2) suspension with or without pay for specified
15 periods of time; and

16 (3) termination of employment;

17 but the Civil Service Commission members who made such recommen-
18 dation shall not sit upon any appeal from the resulting adverse action
19 and the Governor shall appoint members pro tempore, without the
20 consent of the Legislature, to hear such appeals.

21 (c) Right to Recover from Employee Value Received in Breach of
22 Ethical Standards. The value of anything received by an employee in
23 breach of the ethical standards of this Chapter or regulations pro-
24 mulgated hereunder shall be recoverable by the territory as provided
25 in Section 6981.2 of this Chapter.

26 (d) Due Process. All procedures under this Section shall be in
27 accordance with existing law and regulations regarding adverse actions
28 and employee discipline promulgated pursuant to Title 4 GCA.

29 Section 6981.1. Civil and Administrative Remedies Against Non-
30 Employees Who Breach Ethical Standards.

31 (a) Existing Remedies Not Impaired. Civil and administrative
32 remedies against non-employees which are in existence on the effective
33 date of this Title shall not be impaired.

1 (b) Supplemental Remedies. In addition to existing remedies for
2 breach of the ethical standards of this Chapter or regulations pro-
3 mulgated hereunder, the Procurement Policy Office, in connection with
4 non-employees, may impose any one or more of the following:

5 (1) written warnings or reprimands;

6 (2) termination of transactions; and

7 (3) debarment or suspension from being a contractor or
8 subcontractor under territorial contracts.

9 (c) Right to Recover from Non-Employee Value Transferred in
10 Breach of Ethical Standards. The value of anything transferred in
11 breach of the ethical standards of this Chapter or regulations pro-
12 mulgated hereunder by a non-employee shall be recoverable by the
13 territory as provided in Section 6981.2 of this Chapter.

14 (d) Right of the Territory to Debar or Suspend. Debarment or
15 suspension may be imposed by the Procurement Policy Office in ac-
16 cordance with the procedures set forth in Section 6975.1 of this Title
17 for breach of the ethical standards of this Chapter, provided that
18 such action may not be taken without the concurrence of the Attorney
19 General.

20 (e) Due Process. All procedures under this Section shall be in
21 accordance the Administrative Adjudication Law.

22 Section 6981.2. Recovery of Value Transferred or Received in
23 Breach of Ethical Standards.

24 (a) General Provisions. The value of anything transferred or
25 received in breach of the ethical standards of this Chapter or regu-
26 lations promulgated hereunder by an employee or a non-employee may
27 be recovered from both the employee and non-employee.

28 (b) Recovery of Kickbacks by the Territory. Upon a showing
29 that a subcontractor made a kickback to a prime contractor or a higher
30 tier subcontractor in connection with the award of a subcontract or
31 order thereunder, it shall be conclusively presumed that the amount
32 thereof was included in the price of the subcontract or order and
33 ultimately borne by the territory and will be recoverable hereunder

1 from the recipient. In addition, said value may also be recovered from
2 the subcontractor making such kickbacks. Recovery from one offend-
3 ing party shall not preclude recovery from other offending parties.

4 Article D

5 Ethics Enforcement

6 Section 6982. Ethics: Non-Employees. In addition to the
7 authority and duties of the Policy Office established under Section 6953 of
8 this Title, such office is hereby given the functions required under this
9 Chapter with regard to non-employees and the Civil Service Commission is
10 hereby given the functions required with regard to employees.

11 Section 6982.1. Ethics Commission.

12 (a) Regulations. The Civil Service Commission shall promulgate
13 regulations to implement this Chapter with regard to employees. The
14 Procurement Policy Office shall promulgate regulations to implement this
15 Chapter with regard to non-employees, contractors and subcontractors
16 and the Procurement Policy Office shall do so in accordance with the
17 applicable provisions of the Administrative Adjudication Law of this
18 territory.

19 (b) Advisory Opinions. On written request of employees, the
20 Civil Service Commission may render written advisory opinions re-
21 garding the appropriateness of the course of conduct to be followed in
22 proposed transactions. The Policy Office may render such opinions to
23 contractors regarding the appropriateness of the course of conduct to
24 be followed by the contractors in proposed transactions. Such re-
25 quests and advisory opinions must be duly published in the manner in
26 which regulations of this territory are published. Compliance with
27 requirements of a duly promulgated advisory opinion of the Civil
28 Service Commission or Policy Office shall be deemed to constitute
29 compliance with the ethical standards of this Chapter.

30 (c) Waiver. On written request of an employee, the Civil
31 Service Commission may grant an employee, or the Policy Office may
32 grant a contractor, a written waiver from the application of Section
33 6980.4 of this Chapter and grant permission to proceed with the trans-

1 action to such extent and upon such terms and conditions as may be
2 specified. Such waiver and permission may be granted when the
3 interests of the territory so require or when the ethical conflict is
4 insubstantial or remote.

5 Section 6982.2. Appeal of Decisions.

6 (a) General. Except as provided under Subsections (b) and (c)
7 of this Section, a decision of the Policy Office under Section 6981.1
8 of this Chapter shall be reviewable in accordance with the Adminis-
9 trative Adjudication Law of this territory. The opinions of the
10 Civil Service Commission shall be reviewable in the same manner, but
11 only in connection with their duty to render opinions.

12 (b) Debarment or Suspension. A decision of the Policy Office
13 regarding debarment or suspension under Section 6981.1(b) of this
14 Chapter shall be reviewable as provided in Section 6978.1(b) of this
15 Title.

16 (c) An appeal from the decision of the Civil Service Commission
17 under Section 6981 of this Chapter shall be taken before members,
18 either permanent or pro tempore, who had no part in the decision
19 being appealed from in accordance with the rules of the Civil Service
20 Commission governing adverse actions in general. Further review by
21 the Superior Court, where permitted, shall be pursuant to the pro-
22 visions of Title 4 GCA."

23 Section 2. Sections 6600.4, 6600.5 and 6600.6 of the Government Code
24 (as enacted by P.L. 16-40) are renumbered Sections 6965.7, 6965.8 and
25 6965.9, respectively, of the Government Code and the remainder of Chapter
26 VII of Title VII of the Government Code is repealed.

27 Section 3. One Million Dollars (\$1,000,000) is appropriated from the
28 General Fund to the Inventory Revolving Fund created in Section 1 of this
29 Act. The appropriation shall take effect in four (4) equal installments of
30 Two Hundred Fifty Thousand Dollars (\$250,000) at the beginning of each
31 calendar quarter of fiscal year 1983.

1 Section 4. Section 6500.02 of the Government Code is amended to
2 read:

3 "Section 6500.02. Exclusion. This Chapter shall not apply to
4 claims pertaining to any tax refund, the Workers' Compensation Law,
5 the Government of Guam Retirement Fund, and claims payable by the
6 Guam Port Authority pursuant to Section 14007 of the Government
7 Code. Claims arising under Title VII-A of the Government Code shall
8 be governed by said Title VII-A and this Title as prescribed in Title
9 VII-A."

10 Section 5. (a) Transition to Central Procurement. The Chief Pro-
11 curement Officer shall adopt a plan effectuating the transfer of functions
12 for procurement in accordance with Section 6954.6 of the Government Code
13 for all government agencies. The Chief Procurement Officer may appoint
14 authorized purchasing agencies as a part of his plan and shall indicate why
15 he has permitted a government agency to be a purchasing agency. The
16 Director of Public Works shall determine which construction projects shall
17 continue under the authority of a government agency until their completion
18 and shall review and determine which pending construction projects shall
19 come under his jurisdiction pursuant to the provisions of Title VII-A of the
20 Government Code. The transition to central procurement shall be in place
21 and ready to be implemented for the fiscal year beginning October 1, 1983.

22 (b) Upon the transfer of functions, all personnel in procurement
23 offices in government agencies shall be given the opportunity to transfer to
24 the General Services Agency or the Department of Public Works by accept-
25 ing appointment in the General Services Agency or the Department of Public
26 Works. Personnel shall be transferred in the same grade and step as they
27 hold in the agency they are leaving.

28 (c) Upon the transfer of function, all files, records and equipment
29 assigned to the government agency shall be transferred to the General
30 Services Agency.

31 (d) No later than May 1, 1983, the Chief Procurement Officer and the
32 Director of the Department of Public Works shall submit to the Legislature,
33 a plan for the organization of the General Services Agency, the Policy

1 Office and any needed reorganization of the Department of Public Works.
2 The plan shall include proposed staffing patterns and budget requirements
3 for fiscal year 1983.

4 Section 6. Section 13930 of the Government Code is amended to read:

5 "Section 13930. Construction with other laws. Insofar as the
6 provisions of this Chapter are inconsistent with the provisions of any
7 other law, the provisions of this Chapter shall be controlling; and in
8 particular but not by way of limitation, except as may be provided in
9 this Chapter, no provision of any law with respect to the receipt or
10 disbursement of funds by agencies or instrumentalities of the govern-
11 ment of Guam, or employment of personnel, shall be applicable to the
12 Authority unless the Legislature shall specifically so state; provided,
13 however, that the Authority may utilize in its operations the pro-
14 cedures and facilities provided by any such law or by the executive
15 agencies of the government of Guam. The provisions of Title VII-A of
16 the Government Code shall be applicable to the Authority except when
17 requirements of federal law with respect to the expenditure of federal
18 funds are inconsistent with the provisions of Title VII-A and under
19 such conditions federal law shall control."

20 Section 7. Subsection (f) of Section 20003 of the Government Code is
21 amended to read:

22 "(f) To acquire, in accordance with Title VII-A of this Code and
23 the laws of Guam, any property, real, personal, or mixed, tangible or
24 intangible, to hold, maintain, use, and operate the same; and to sell,
25 lease, or otherwise dispose of the same, whenever any of the foregoing
26 transactions are deemed necessary or appropriate to the conduct of the
27 activities authorized by this Chapter, and on such terms as may be
28 prescribed by the Housing Corporation."

29 Section 8. Subsection (2) of Section 21503 of the Government Code is
30 amended to read:

31 "(2) Acquire, in accordance with Title VII-A of this Code and
32 subject to the laws of the territory of Guam, by grant, purchase,
33 gift, devise or lease, or by the exercise of the right of eminent do-

1 main in accordance with the provisions and subject to the limitations of
2 Title V of Part III of the Code of Civil Procedure of Guam, and hold
3 and use any real or personal property necessary or convenient or
4 useful for the carrying on of any of its powers pursuant to the pro-
5 visions of this Chapter;"

6 Section 9. Section 21510 of the Government Code is repealed.

7 Section 10. Subsection (f) of Section 53553 of the Government Code is
8 amended to read:

9 "(f) To acquire, in any lawful manner, any real property, and
10 to hold, maintain, use, and operate the same; and to sell, lease,
11 encumber or otherwise dispose of the same, whenever any of the
12 foregoing transactions are deemed necessary or appropriate to the
13 conduct of the activities authorized by this Chapter, and on such
14 terms as may be prescribed by the Corporation."

15 Section 11. Subsection (k) of Section 53553 of the Government Code is
16 amended to read:

17 "(k) In accordance with Title VII-A of this Code, to construct,
18 equip, operate and maintain buildings, works, factories, plants, forms,
19 fisheries, and other facilities, including all equipment, supplies and
20 machinery incident thereto."

21 Section 12. A new Subsection (t) is added to Section 53553 of the
22 Government Code to read:

23 "(t) To acquire in accordance with Title VII-A of this Code, any
24 tangible personal property and to hold, maintain, use, and operate the
25 same; and to sell, lease, encumber or otherwise dispose of the same,
26 whenever any of the foregoing transactions are deemed necessary or
27 appropriate to the conduct of the activities authorized by this
28 Chapter, and on such terms as may be prescribed by the Corpora-
29 tion."

30 Section 13. A new Subsection (u) is added to Section 53553 of the
31 Government Code to read:

32 "(u) To acquire, in any lawful manner, any intangible personal
33 property, and to hold, maintain, use and operate the same; and to

1 sell, encumber or otherwise dispose of the same, whenever any of the
2 foregoing transactions are deemed necessary or appropriate to the
3 conduct of the activities authorized by this Chapter, and on such
4 terms as may be prescribed by the Corporation."

5 Section 14. Subsection (b) of Section 21603 of the Government Code is
6 amended to read:

7 "(b) Acquire, subject to the laws of the territory of Guam, by
8 grant, purchase, gift, devise or lease, or by the exercise of the right
9 of eminent domain in accordance with the provisions and subject to the
10 limitations of Title V of Part III of the Code of Civil Procedure of
11 Guam, and hold and use any real or personal property necessary or
12 convenient or useful for the carrying on of any of its powers pursuant
13 to the provisions of this Chapter. The provisions of Title VII-A of
14 the Government Code shall be applicable to the Authority except when
15 requirements of federal law or federal loans with respect to the expen-
16 diture of federal funds are inconsistent with the provisions of Title
17 VII-A of this Code and under such conditions federal law or federal
18 requirements shall control;"

19 Section 15. Section 21610 of the Government Code is repealed.

20 Section 16. Subsection (b) of Section 62004 of the Government Code is
21 amended to read:

22 "(b) Acquire by grant, purchase, gift, devise, lease, permit,
23 right of entry or by the exercise of the right of eminent domain in
24 accordance with the provisions and subject to the limitations of laws of
25 Guam including Title VII-A of this Code, and hold and use any real
26 and personal property necessary, convenient or useful for the carry-
27 ing out of any of its powers pursuant to the provisions of this Title,
28 and to dispose of the same."

29 Section 17. Section 62009 of the Government Code is repealed.

30 Section 18. Subsection (b) of Section 14004 of the Government Code is
31 amended to read:

32 "(b) In accordance with Title VII-A of this Code and other laws,
33 any property, real, personal, or mixed, tangible or intangible and

1 hold, maintain, use, operate, encumber, or dispose of same whenever
2 deemed necessary in the execution of its responsibilities."

3 Section 19. Section 14009 of the Government Code is repealed.

4 Section 20. Subsection (g) is added to Section 11847 of the Govern-
5 ment Code to read:

6 "(g) Title VII-A of this Code shall be applicable to the pro-
7 curement of supplies, services and construction of projects by the
8 University."

9 Section 21. Subsection (c) of Section 49003 of the Government Code is
10 amended to read:

11 "(c) Acquire, subject to the laws of the territory of Guam, by
12 grant, purchase, gift, devise or lease, and hold and use any real
13 property necessary or convenient or useful for the carrying on of any
14 of its powers pursuant to the provisions of this Chapter."

15 Section 22. Subsection (p) is added to Section 49003 of the Govern-
16 ment Code to read:

17 "(p) Acquire in accordance with Title VII-A of this Code and
18 hold and use any personal property or construct any projects neces-
19 sary or convenient or useful for carrying on of any of its powers
20 pursuant to the provisions of this Chapter."

21 Section 23. Section 49009 of the Government Code is repealed.

22 Section 24. Subsection (4) of Section 11970 of the Government Code is
23 amended to read:

24 "(4) in accordance with Title VII-A of this Code, acquire any
25 real or personal property or interest or estate therein by lease,
26 option, purchase, gift, grant, donation, appropriation, bequest or
27 devise or otherwise."

28 Section 25. Section 21951 of the Government Code is amended to read:

29 "Section 21951. General Management. The Board of Directors,
30 with the approval of the Governor, may appoint such other officers as
31 it deems necessary for the proper conduct of the Authority's business,
32 including and upon such terms as it deems appropriate, a General
33 Manager who shall be the Chief Executive Officer of the Authority. In

1 addition, the Board, with the approval of the Governor, may contract
2 with responsible transportation companies for the operation of buses
3 and other vehicles, facilities and other properties owned by the
4 Authority. The provisions of Title VII-A of the Government Code
5 shall be applicable to the Authority except when requirements of
6 federal law with respect to the expenditure of federal funds is incon-
7 sistent with the provisions of Title VII-A and under such conditions
8 federal law shall control."

9 Section 26. Item .1016 is added to Section 19543 of the Government
10 Code to read:

11 ".1016. Amounts received from the sales of personal property to
12 the government of Guam."

13 Section 27. The provisions of this Act shall take effect October 1,
14 1983, but the Executive Branch of the government of Guam shall, upon
15 enactment of this Act and in accordance with the transition provisions
16 contained herein, begin planning for the centralization of all procurement
17 activities of the government.

DATE 12-6-82

SIXTEENTH GUAM LEGISLATURE

VOTING RECORD

S BILL/RESOLUTION NO. 80

MAIN SPONSOR ARU

SENATOR	AYE	NAY	NOT VOTING	ABSENT
BLAS, Frank F.	✓			
BORDALLO, Madeleine Z.	✓			
CHARFAUROS, Edward T.		✓		
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
GUTIERREZ, Carl T. C.		✓		
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	✓			
LEON GUERRERO, Jose I.	abs			
MOYLAN, Kurt S.	✓			
PEREZ, Peter F., Jr.	✓			
QUAN, John F.	✓			
QUITUGUA, Franklin J.	✓		✓	
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SUDO, Ramon Q.	✓			
TANAKA, Thomas V. C.	✓			
TORRES, Jess Q.	✓			
UMAGAT, Lloyd M.		✓		
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

16 3 1 1