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Article 6 Bid Evaluation and Award

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§2640. Policy. In order to foster competition in the contract selection process, public bidding under a two (2) envelope/two (2) stage system will be used, *except* for unsolicited proposals or where direct negotiations are permitted.

§2641. Limitation on Direct Negotiations. Direct negotiations shall be resorted to only when one (1) complying bidder is available in accordance with Public Law Number 24-37, §8. Otherwise, no negotiation shall take place between GWA and a bidder with respect to a bid submission. This limitation, however, shall *not* prevent requests for clarification as provided in §§2649 and §2652.

§2642. Bidding Process. Each participating pre-qualified bidder shall submit two (2) envelopes. The first envelope shall contain the Technical Proposal, and the second envelope the Financial Proposal.

§2643. Contents of the Technical Proposal. The Technical Proposals shall address the areas identified in the Request for Proposals and detail the manner in which the Bidder proposes to comply with §3(a) of Public Law Number 24-37 concerning the employment of local residents to the maximum extent possible.

§2644. Contents of the Financial Proposal. The Financial Proposal shall address the areas identified in the Request for Proposals.

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§2645. Timing of the Bidding Process. The location, time and date of each stage of the bidding process will be established by GWA and provided to pre-qualified bidders with the Request for Proposals.

§2646. Confidentiality. All information contained in the Technical Proposal and the Financial Proposal shall remain confidential until after contract award, *except* as follows:

1. upon opening of the Technical Proposal, it may be publicly announced the name of the bidder and the presence or absence of documents required by the Request for Bids;
2. upon opening of the Financial Proposal it may be publicly announced the name of the bidder, the submitted price(s) and the presence or absence of documents required for a complete submittal, as indicated in the Request for Bids.

This confidentiality requirement shall extend to the GWA Board of Directors, BOT Committee, GWA employees and any other advisors or government personnel involved in the bidding process.

§2647. Technical Proposal Opening. The Technical Proposals shall be opened publicly in the presence of one (1) or more witnesses at the time, date and location designated in the Request for Proposals.

§2648. Evaluation of the Technical Proposal. The BOT Committee shall evaluate the Technical Proposals based on the requirements set forth in the Request for Proposals. The Committee shall obtain expert advice as needed. This evaluation will ensure technical merit. After the evaluation, the BOT Committee shall approve or reject the Technical Proposal. The Financial Proposal of a bidder whose Technical Proposal has been rejected shall be returned to the bidder. No criteria may be used in the proposal evaluation that are not set forth in the Request for Proposals.

§2649. Clarification of the Technical Proposal. The BOT Committee may request clarification of the Technical Proposal *if* that committee believes that such clarification is needed. All qualified bidders shall receive this Request for Clarification. This clarification is at the discretion of the Committee. Bidders shall be given a reasonable time in which to provide clarification.

§2650. Financial Proposal Opening. The Financial Proposals accompanying approved Technical Proposals shall be opened publicly in the presence of one (1) or more witnesses at the time, date and location designated in the Request for Proposals.

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§2651. Evaluation of the Financial Proposal . The BOT Committee shall evaluate the Financial Proposals based on the requirements set forth in the Request for Proposals. The Committee shall obtain expert advice as needed. This evaluation will ensure financial merit. After the evaluation the BOT Committee shall provide a report to the GWA Board of Directors with its recommendation within sixty (60) days of the public opening of the Financial Proposals. No criteria may be used in the proposal evaluation that are not set forth in the Request for Proposals.

§2652. Clarification of the Financial Proposal . The BOT Committee may request clarification of the Financial Proposal if that committee believes that such clarification is needed. All qualified bidders shall receive this Request for Clarification. This clarification is at the discretion of the Committee. Bidders shall be given a reasonable time in which to provide clarification.

§2653. Proposal Corrections or Withdrawals . Technical and Financial Proposals may only be corrected or withdrawn as set forth in the Request for Proposals.

§2654. Project Award. GWA's Board of Directors shall award the contract to the bidder who, having satisfied the minimum financial, technical, organizational and legal standards, has submitted the lowest bid and most favorable terms for the project, based on the present value of its proposed tolls, fees, rentals and charges over a fixed term for the facility to be constructed or rehabilitated and operated and maintained according to the prescribed minimum design and performance standards, plans and specifications. This award may be conditioned upon GPUC approval required by §2235. GWA's Board of Directors shall consider the report of the BOT Committee before identifying the successful bidder. The winning project proponent shall be *automatically* granted by GWA the franchise to operate and maintain the facility, including the collection of tolls, fees, rentals and charges from its sole wholesale customer, GWA. This shall *not* operate to preclude contract modification. Any contract modification shall require the approval of GWA's Board of Directors. A copy of each contract shall forthwith be submitted to *ILiheslaturan Guahan* for its information within thirty (30) days of award.

§2655. Cancellation of Request for Proposals . At any time before the project award, GWA's Board of Directors may cancel the Request for Proposals.