

TITLE 29
PUBLIC WORKS

- Chapter 1 Director of Public Works
(Department of Public Works).
2 Solid Waste Management.

CHAPTER 1
DIRECTOR OF PUBLIC WORKS
(DEPARTMENT OF PUBLIC WORKS)

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2 Street Addresses. (No rules filed.)
3 Building Law Regulations.
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Article 1
Public Works Policies, Procedures and Regulations

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NOTE: Rule-making authority cited for formulation of Public Works policies, procedures and regulations by the Director of Public Works, 5 GCA Chapter 50.

The Public Works policies, procedures and regulations are reprinted here in form as exact as possible to those filed on December 23, 1975 with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Director of the Department of Public Works.

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§1101. Public Works Policies, Procedures and Regulations. (a) Policies and Procedures for the Implementation of Capital Improvement Projects.

§1102. Definitions. The following are definitions of terms and titles used in the body of the procedures. Other terms not defined should be self-explanatory:

(a) *CIP* - the abbreviation stands for Capital Improvement Project and is defined as construction of new public facilities, or projects which improves by construction of extensions, additions, utilities or other systems, any existing public facility.

CIPs do not apply to projects classified as normal maintenance of existing public facilities.

(b) *Chief*- shall be either the Chief of Administration, Operations or Engineering of the Department of Public Works. In the processing of projects, "Chief" is that person who has functional responsibility for the program which the particular project falls under. For example, the Chief of Operations retains responsibility for processing Transportation Maintenance related projects. Should a clarification be needed to determine the Chief responsible for a particular project, the Director of Public Works shall issue such a clarification. The attached organizational charge shall be used for guidance and reference.

(c) *Director*- shall mean the Director of Public Works.

(d) *Implementing Division* - shall be that division who has responsibility for that program the project falls under. Should a clarification be needed to identify Implementing Division, the appropriate Chief will issue such a clarification.

(e) *Scope of Work* - shall be a document approved by the Director and satisfactory to the Using Agency which sets forth those items of work which must be accomplished for any project.

(f) *Using Agency* - that agency responsible for maintaining and operating a completed project.

(g) *Work Request* - a standard form used to officially create a project and to transfer responsibilities for the proper use of project funds.

§1103. Project Initiation: Policy - Project Initiation. Work on capital improvement projects shall be initiated only upon the approval of the Chief of Engineering.

Only capital improvement projects with adequate funds to accomplish the intent and scope of each project shall be undertaken by the Department of Public Works. Funds shall be authorized for use either through an appropriation, subsequently followed by an adequate allotment advice, or through a certified work request from another government agency.

Projects shall be properly assigned, identified, scheduled and records thereof shall be properly maintained by each responsible Division in accord with approved filing methods and procedures.

§1104. Same: Application . The provisions of §§1103 through 1112, shall apply to all capital improvement projects under the purview of the Department, or more specifically, those projects assigned to any Engineering or Operations Division of this Department.

§1105. Same: Creation and Preliminary Processing of Projects. There are essentially two (2) methods by which projects are created:

(a) **Public Law.** A project may be created through the enactment of a public law requiring joint action by the Legislative and Executive Branches of the Government. For the purposes of policies and procedures the creation of a project begins upon enactment of a law authorizing the design and/or construction of a public facility.

Plate 3 outlines the pre-implementation activities and notification procedures for projects created in this manner. Such projects are normally termed CAPITAL IMPROVEMENT PROJECTS.

(b) **Work Request.** Projects may be created when an official request for work is made to the Department of Public Works by a

government of Guam agency. Such a project may have been authorized by public law, or may be authorized for implementation through the operating budget of the using agency. All requests must be made on latest standard government of Guam work requests forms (sample attached). Projects of this nature are termed PROJECTS BY WORK REQUEST.

Plate 4 outlines the notification procedures for projects initiated by Work Request.

§1106. Same: Designation of the Using Agency . If there is no clear distinction regarding the role of the Using Agency, the Director of Public Works shall define, designate and inform the specific government of Guam agency who will assume this role on each specific project.

§1107. Same: Project Assignment. After the Department of Public Works has been properly notified of the creation of a project, the implementing division shall be responsible for assigning a project manager to manage all aspects of the project. Project assignments shall be made by the Chief Project Engineer for design upon the concurrence of the Principal Engineer.

§1108. Same: Project Identification and Numbering Procedures: Capital Improvement Projects (Except Highways). The project identification and numbering code will have twelve (12) characters:

(a) Project Category. The first two (2) characters will indicate the Project Category:

Example: 140

—

Sewage Treatment Plant

Plate 5 establishes the project categories and appropriate code reference numbers (with the exception of Highway Projects).

(b) Project Phasing. The fourth character will indicate whether a project is under planning and design or construction. "0" for Planning and Design, "1" for Completed Design, "2" (unassigned), "3" for Collateral Equipment, "4" (unassigned), "5" (un-

der construction), "6" Completed Construction, "7" Service Contracts, "8" Completed Service Contracts, "9" (unassigned).

Example: 140 - 0

$\frac{\quad}{/}$ $\frac{\quad}{/}$

Sewage Treatment Plant Under Design

(c) Project Numbers. The next four (4) digits will indicate the project number.

Active projects (except Highway Projects) will be assigned consecutive numbers from 1001.

Past projects completed before FY74 will be assigned numbers up to 1,000 for record purposes.

Example: 140 - 0 - 1007

$\frac{\quad}{/}$ $\frac{\quad}{/}$ $\frac{\quad}{/}$

Sewage Treatment Plant Under Design Project Number

(d) Project Funding Sources. The 9th character will be either "F" - Federal Funds involved and "L" - Local Funds only.

Example: 140 - 0 1007 - F

$\frac{\quad}{/}$ $\frac{\quad}{/}$ $\frac{\quad}{/}$ $\frac{\quad}{/}$

Sewage Treatment Project Number Federal Funds
 Plant under Design involved

(e) **Project Location.** The last three (3) characters symbolized by letters will indicate project location, specifically by municipality or islandwide.

Code Reference - Location

Municipality	Code
Agana	AGN
Agana Heights	AGH
Agat	AGT
Asan	ASN
Barrigada	BAR
Chalan Pago-Ordot	CPO
Dededo	DED
Inarajan	INR

Mangilao	MAN
Merizo	MER
Mongmong-Toto-Maite	MTM
Piti	PIT
Santa Rita	STR
Sinajana	SIN
Talofofo	TAL
Tamuning	TAM
Umatac	UMA
Yigo	YGO
Yona	YNA

*The TER designation will be used if a project transcends the boundaries of a municipality, or if a project cannot be logically classified under a municipality.

Example: 140 - 0 1007 - F - AGN

/	/	/	/	/
Sewage Treatment Plant on Design		Project Number	Federal Funds Involved	Project Location Is Agana

§1109. Same: Same: Highway Projects. The highway project identification and numbering code will have twelve (12) characters:

(a) **Project Category.** The first three (3) characters will indicate the road, intersection or bridge designation. Digits will indicate the Route Number. Letters will indicate local village streets, collector roads, bridges.

For example:

Digits - Primary and Secondary Roads

- 001 - Route 1
- 002 - Route 2
- 003 - Route 3
- 10A - Route 10A
- 02A - Route 2A

Letters

- VST - Local Village Street
- COL - Collector Road
- BRG - Bridges

INT - Intersections

Plate 6 establishes the project categories and appropriate code.

(b) **Project Phasing.** The 4th character will indicate whether a Highway Project is under design or construction. "0" for Design, "5" for Construction.

For example:

001 - 0 -

/

Route 1 Under Design

or

VST - 5 -

/

Village Street Under Construction

(c) **Project Number.** The 5th, 6th and 7th and 8th characters will signify the unique project number.

For example:

002 - 5 001

/

Route 2 Under Construction Project No.

(d) **Project Funding Source.** The 9th character will indicate whether there is federal participation in a project or whether a project is financed entirely by local funds.

For example:

002 - 5 - 003 - F

/

Route 2 Under Project Federally
Construction No. Assisted

(e) **Location.** The 10th, 11th and 12th characters will signify the municipality where the project is located. If a project transcends the boundaries of a municipality, the designation will be TER.

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Code Reference -	Location
AGN -	Agana
AGH -	Agana Heights
AGT -	Agat
ASN -	Asan
BAR -	Barrigada
CPO -	Chalan Pago-Ordot
DED -	Dededo
INR -	Inarajan
MAN -	Mangilao
MER -	Merizo
MTM -	Mongmong-Toto-Maite
PIT -	Piti
STR -	Santa Rita
SIN -	Sinajana
TAL -	Talofofu
TAM -	Tamuning
UMA -	Umatac
YGO -	Yigo
YNA -	Yona
TER -	Islandwide or Government

Examples:

001 -	5 -	0001 -	F -	TAM
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
/	/	/	/	/
/	/	/	/	/
Route 1	Under Project		Federally	Tamuning
	Construction	No.	Assisted	
002 -	5 -	0001 -	F -	TER
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
/	/	/	/	/
/	/	/	/	/
Route 2	Under Project		Federally	
	Construction	No.	Assisted	
BRG -	5 -	0001 -	F -	CPO

—	/	—	/	—	/	—	/	—	/
Bridge	Under	Project	Federally	Chalan					
	Construction	No.	Assisted	Pago-Ordot					
VST -	0	-	0002 -	L	-	STR			
/	/	/	/	/	/	/	/	/	/
Village	Under	Project	Local	Santa					
	Design	No.	Funding	Rita					

§1110. Same: Same: Implementation Responsibility. The Principal Engineer of the Implementing Division shall assure that all projects are numbered properly.

§1111. Same: Project Filing Procedures. General. All project files must be created and maintained in accordance with the following format and procedures.

There shall be one project file with two (2) basic divisions which must be initiated and maintained separately:

DIVISION ONE - PLANNING AND DESIGN PHASE

DIVISION TWO - BID AND CONSTRUCTION PHASE

(a) DIVISION ONE - PLANNING AND DESIGN PHASE.

There shall be two (2) file categories under this phase as follows:

Category I - ADMINISTRATION

Category II - PLANNING, DESIGN AND PRODUCTION

Category I - ADMINISTRATION. Files shall be set up under two (2) separate file headings. These files shall contain all project information and documents selected to this category in chronological order.

File A -

- (1) Certified Work Request/Public Law
- (2) Project Cost Breakdown (Schedule A)
- (3) Project Implementation Program (Scheduling)
- (4) Consultant Selections
- (5) Negotiations

- (6) Consultant Contracts and Scope of Services
- (7) Invoices and Payments
- (8) Bid Documents and Analysis (if redesign becomes necessary)

File B -

- (1) General Correspondence
- (2) Administrative Meetings
- (3) Status Reports

Category II - PLANNING, DESIGN AND PRODUCTION FILES shall be set up under three (3) separate file headings. These files shall contain all project information and documents related to this agency in chronological order:

File A -

- (1) Approvals
- (2) Correspondence and Meetings with Consultants

File B -

- (1) Project Surveys (topo and boundary or ROW)
- (2) Soils and Site Investigations
- (3) Facilities Program
- (4) Schematics (or Preliminary Alignment)
- (5) Design Development (or Final Alignments)

File C -

- (1) Construction Documents (Final)
- (2) Specifications (Final)
- (3) Cost Estimates (Final)

(b) DIVISION TWO - BID AND CONSTRUCTION PHASE.

There shall be two (2) file categories under this phase as follows:

Category I - ADMINISTRATION

Category II - CONSTRUCTION

Category I - ADMINISTRATION files shall be set up under three (3) separate file headings. These files shall contain all project information and documents related to this category in chronological order.

File A -

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- (1) Public Law or Certified Work Request
- (2) Project Probable Construction Cost Break-down (Schedule A)
- (3) Construction Program

File B -

- (1) General Correspondence
- (2) Administrative Meetings

File C - Bid and Contract

- (1) Bid Advertisement
- (2) Prebid Conference
- (3) Bid Addenda
- (4) Bid Tabulation (results of Bid Opening)
- (5) Bid Bonds
- (6) Bid Analyses
- (7) Negotiations (if appropriate)
- (8) Intent of Award
- (9) Contract (with Performance and Payment Bonds)
- (10) Change Orders
- (11) Contract Termination (BOD or Final Inspections and Release of Claims)
- (12) Warranty

Category II - CONSTRUCTION files shall be set up under four (4) separate file headings. These files shall contain all project information and documents related to this category.

File A -

- (1) Arrangements for Preconstruction Conference
- (2) Notice to Proceed
- (3) Schedule of Values
- (4) Construction Progress Chart
- (5) Payment Estimates

File B -

- (1) Submittal (shop drawings, operating manuals, samples, etc.)

File C - Filed Inspection Reports

File D - Material Testing and Special Reports.

§1112. Same: Same: Implementation Responsibility. The Project Manager shall assure that all necessary documents are executed and filed properly.

§1113. Project Planning: Policy - Planning. All capital improvement projects must be subjected to proper planning processes to assure that the following project requirements are fully and properly addressed, evaluated and resolved:

- (a) Function and compatibility with an established facilities plan
- (b) Concept and size
- (c) Location
- (d) Financing
- (e) Infrastructure requirements

As far as practicable and feasible, all planning activities shall be performed in-house unless the Director or Chief of Engineering determines that expertise is not available in the Department or that current workload requires outside help.

All critical planning activities and decisions shall be documented, circulated for information, if appropriate and filed properly by the responsible Division.

§1114. Same: Application. The provisions of §§1103 through 1124 3 GAR [this Section] shall apply to all capital improvement projects under the purview of the Department or more specifically, those projects assigned to any Engineering or Operations division of this Department.

§1115. Same: Project Planning Procedures . The following are procedures governing the planning of all projects. Planning shall be defined as any activity which precedes the actual production of construction plans and specifications. Planning activities include but are not limited to the following:

- (a) Needs Surveys
- (b) Facilities Programming
- (c) Topographic and Boundary Surveys
- (d) Site Investigation and Soil Studies

- (e) Financing Studies
- (f) Schematics and Preliminary Alignments
- (g) Design Concept Development
- (h) Preparation of Design Scope of Work.

§1116. Same: Determination. (a) The Chief of Engineering shall determine whether planning, wholly or in part, can best be accomplished in-house, or whether the nature and magnitude of the project is such that consultant services are required.

(b) Should planning by consultant be appropriate, procurement and administration of consultant services must be in accord with policies and procedures set forth in §§1125 through 1144.

§1117. Same: Planning. Whether planning is done wholly, or in part in-house, or by consultant, the Project Manager must assure that the following are accomplished:

- (a) The Using Agency parameters that contribute of the project program and design are established;
- (b) The project site, existing rights-of-way and easements (whichever is applicable) are investigated and documented;
- (c) The impact of the proposed project on the environment is carefully evaluated, assessed and plans developed to minimize potential damage;
- (d) Project infrastructure needs are investigated, determined and documented;
- (e) Proposed access and source of utilities are identified and programmed;
- (f) Basic design parameters in accord with the various building and fire codes are established;
- (g) All project costs are identified and documented;
- (h) Facilities program and plan, if required, are developed;
- (i) All other special requirements and procedures (such as FHWA PPM's or federal regulations required in Federal-Aid Projects) are strictly followed and documented when and where appropriate.

All critical planning decisions shall be documented and distributed to appropriate agencies.

§1118. Same: Public and Special Interest Group Participation in Project Planning Activities. The Principal Engineer shall determine if a project has sufficient impact on environment, the public, a community or a special interest group to warrant a public or special meeting.

If a meeting is necessary or desirable, the Project Manager shall make appropriate arrangements which include such activities:

- (a) Preparing sufficient material or information to be disseminated at the meeting;
- (b) Issuing a public notice indicating the time and place of the meeting;
- (c) Chairing and conducting the meeting;
- (d) Coordinations, presentations and testimonies;
- (e) Recording minutes or results of the meeting.

APPENDIX B contains a suggested format for disseminating information and conducting public meetings.

§1119. Same: Same: Evaluation of Results. The Project Manager shall assure that all comments and suggestions made during the meeting are thoroughly evaluated. The Project Manager shall incorporate into the project all feasible and beneficial comments or suggestions before finalizing the project concept.

§1120. Same: Preparation of the Design Scope of Work. Based upon planning results, the Project Manager shall establish the project design concept and detailed design scope of work.

§1121. Same: Same: Required Provisions of the Design Scope of Work. The Project Manager (or Consultant when appropriate) shall prepare a detailed design scope of work which must define and set forth the following provisions:

- (a) Intent of the Design Contract
- (b) Project Location and Limits
- (c) Items of Design
- (d) Preparation of Site and Easement Acquisition Documents
- (e) Construction Cost Limitations
- (f) Construction Completion Schedule (including schedules for phased construction)

- (g) Submittal Schedule for Plans, Specifications and Estimates
- (h) Payment Schedule
- (i) Government Review Procedures and Schedule
- (j) Shop Drawings Review (if applicable)
- (k) Reproduction Services (if applicable)
- (l) Relations with Other Government Agencies
- (m) Professional Responsibilities of the Engineer and Required Certification of Project Supervision
- (n) Design References (such as UBC, National Fire Code, PUAG Standards for Sewer Construction, AASHO)
- (o) As-Built Drawings.

§1122. Same: Same: Approval of the Scope of Work . The Project Manager shall assure that:

- (a) The Scope is satisfactory to the Director or authorized representative of the Using Agency and to a participating federal agency, if appropriate.
- (b) The Scope must then be submitted to the Director for approval, preferably before initiation of contract negotiations, but absolutely prior to completion of such negotiations.

§1123. Same: Identification of Preliminary Project Costs. The Project Manager shall prepare (on Schedule A as shown in Plate 7) a Project Budget which must program the probable costs for the following:

- (a) Planning and Design
- (b) Contract Administration
- (c) Real Estate Acquisition (if applicable)
- (d) Construction and Contingencies
- (e) Material Testing

The Project Budget Document shall be filed with the Division of Fiscal Administration, via the Chief of Administration for fiscal control purposes.

Since this document is subject to change, the Project Manager shall assure that appropriate changes and corrections are made as the need arises.

§1124. Same: Filing of Project Management Documents. The Project Manager shall assure that all official actions related to project planning are documented and filed in accordance with §§1111 and 1112.

§1125. Procurement of Consultant Services: Policy . Only professionally qualified, experienced and reputable consultant firms shall be engaged to provide project planning and/or design services. Negotiations shall be carried out, contracts executed and administered in accordance with approved procedures.

Project and design will be performed in-house to the extent feasible. Consultants shall be utilized only when particular expertise is required which is not available within the Department, or when current workloads require temporary outside help.

§1126. Same: Application. The provisions of §§1125 through 1144 apply to all activities involved with procurement of consultant contracts for planning or engineering services.

§1127. Same: Professional Consultant Files. The Chief of Engineering shall be responsible for creating, maintaining and updating the files of all planning, surveying, architectural and engineering consultants who are qualified to provide the Government with professional services in their respective fields of expertise. These files shall serve as the basic reference from which consultants will be selected for government projects.

To be included in these files the following criteria must be fulfilled as a minimum:

(a) The consultant must have expressed, in writing, a desire to provide their services to the Government or have accomplished satisfactory work for the Government in past projects.

(b) The consultant must have filed with the Department of Public Works a detailed resume of qualifications, including:

(1) Firm name, address and telephone numbers.

(2) Year established and other firm names used.

(3) Types of services for which it is qualified.

(4) Names of principals of the firm and States or Territories in which they are registered.

(5) Names of key personnel with experience of such and length of time with the firm.

(6) Outside consultants and associates usually retained.

(7) List of completed projects on which the firm was principal engineer.

(8) Current projects underway and estimated total cost of each.

(9) Data-gathering methods usually used.

(10) Evaluation techniques usually used.

(c) Must be either recognized and licensed (or capable of being licensed) by the Territorial Board of Registration for Architects, Engineers and Land Surveyors and other appropriate government licensing agencies.

§1128. Same: Procedures for Selection of Consultants. The following procedures shall govern the selection of consultants for government projects.

§1129. Same: Same: Board of Review- Authority and Responsibilities. (a) **Membership.** The Board of Review is a committee convened and chaired by the Principal Engineer of the Implementing Division and consists of the following members:

(1) Chief of Engineering

(2) Principal Engineer

(3) Chief Project Manager

(4) Project Manager

(5) Using Agency Representative (optional)

* (6) DPW Staff Members (optional)

*The DPW staff member shall be appointed by the Chief of Engineering. The appointee shall be either a DPW Division Manager or the Chief of Operations or Administration.

The Director of Public Works may observe the activities of the Board, but is not a member.

(b) **Authority and Responsibilities.** The primary functions of the Board are as follows:

(1) Prepare and evaluate a list of qualified consultants.

(2) Establish the top three (3) consultant firms, in order of preference in accordance with the selection procedures.

(3) Present list of the top three (3) firms (in order of preference) to the Director for final selection.

(4) Conduct interviews of consultants during the selection process.

(5) Make special recommendations, if needed, or desired to aid the Director in making his final selection.

(c) **Board Meetings - Code of Conduct.** The following shall govern the conduct of all Board meetings:

(1) The Board shall not act without a quorum of four (4) members.

(2) The Board shall be chaired by the Principal Engineer of the Implementing Division.

(3) Minutes of meetings shall be recorded by the Project Manager.

(4) Each member of the Board shall be given a reasonable amount of time to make appropriate comments while meetings are in progress.

(5) Each member of the Board shall act in a professional manner at all times, both during and after meetings.

The Board may adopt additional rules of conduct as it sees fit for efficient and proper execution of its responsibilities.

The Principal Engineer shall assure that all selection procedures are strictly followed and that all consultants are evaluated fairly and thoroughly

§1130. Same: Same: Slate Selection (or Pre-selection of Consultants). The Principal Engineer shall convene a Board of Review to prepare and evaluate a slate of qualified consultants based upon the following criteria:

(a) Specialized experience in the type of work required;

(b) Past performance of the firm in accomplishing work on government projects in the required time;

(c) Quality of work previously performed by the firm for the Government;

- (d) On-island capability to perform the required work;
- (e) Evidence of any attempt to avoid responsibility for evident design failures;
- (f) Recent experience showing accuracy of cost estimates;
- (g) Consultant-client relations including evidence of sensitivity and response to design review comments and initiative to incorporate such comments;
- (h) Using Agency relations, including evidence of sensitivity to Using Agency concerns.

Should the Board desire that certain firms or all firms on the slate be interviewed to assure proper evaluation of qualifications, interviews shall be arranged by the Project Manager and conducted in the presence of the Board. The Board may vote to narrow the slate to a workable list of consultants before such interviews are conducted.

Furthermore, there may be unique planning, engineering or architectural projects where it would be desirable to request for proposals to assist in the selection process. The proposal must, in general, describe how the consultant proposes to carry out the tasks involved in a particular project.

APPENDIX C contains suggested guidelines for interviewing consultants and requesting for and evaluating consultant proposals.

§1131. Same: Same: Final Selection of Consultants. The following shall govern the final selection of consultants:

- (a) The slate must be narrowed to three (3) firms in order of preference. (The standard selection work sheet with rating instructions illustrated by Plate 8 shall be used.) If special recommendations to the Director are formulated, they shall be presented at this time.
- (b) The Principal Engineer shall recommend the Board's preferential selection to the Director (standard transmittal format shown by Plate 9 shall be used) including such written recommendations as the Board sees fit to make.
- (c) The Director shall have the prerogative of making the final selection from the three (3) recommended consultants.

(d) The Director shall make the selection and return the transmittal to the Principal Engineer for appropriate action.

§1132. Same: Procedures for Conduct of Negotiations. The following procedures shall govern the conduct of negotiations with selected consultants.

§1133. Same: Same: Negotiating Committee - Authority and Responsibilities. The negotiating committee is normally composed of the Principal Engineer and the Project Manager.

The size and specific membership of the committee may be increased should the Principal Engineer decide that such action is warranted. For projects of significant magnitude, the Principal Engineer shall request the Chief of Engineering to participate. He may also invite others to participate, provided such invitees are employees of the Department. In no case shall another consultant be allowed to participate in the negotiations.

The Principal Engineer may invite people from outside the Department, such as a representative of the Using Agency, to observe the conduct of negotiations if such an action is desirable and within the bounds of the professional code of ethics.

§1134. Same: Same: Scope of Services. The design Scope of Work developed in accordance with §§1120 through 1122 of this Manual shall be used as the preliminary scope of services. During negotiations the contract scope of services shall be finalized between the consultant and the Department.

§1135. Same: Same: Independent Cost Estimate. Before the selected consultant is notified, the Project Manager shall prepare an independent cost estimate of the work (see §1123 of this Subchapter [Manual]). This estimate will then be used as the basis of a mutually agreeable fee.

§1136. Same: Same: Notification and Preparation for Negotiations. The Principal Engineer shall inform the consultant of the selection in writing. He shall then arrange and conduct a conference with the consultant to explain the scope of services, departmental project management procedures, contract provisions and other project requirements.

The consultant shall be requested to submit a proposal, in writing, within a reasonable period - such proposal must contain a detailed breakdown of time, material, overhead and other applicable costs. The Principal Engineer (with guidance from the Chief of Engineering) shall determine the format of the proposal.

§1137. Same: Same: Proposal, Review and Conduct of Negotiations. (a) The Principal Engineer and his staff shall review the proposal to determine whether the scope of services was understood; the desired format followed; and if the fee as detailed is fair, reasonable and within budgetary constraints.

(b) The negotiation committee shall evaluate each facet of the consultant's proposal such as man hours of design, production time and material rates, etc.

(c) If required by the Federal participating agency or otherwise deemed necessary by the negotiating committee, a request for an audit evaluation shall be initiated. The purpose of the audit evaluation is to provide basic data needed to determine the propriety of the proposed amounts.

If the consultant refuses to provide the information for the audit evaluation, the committee may terminate the negotiations.

The Principal Engineer shall coordinate the conduct of the audit evaluation with agencies capable of performing the evaluation. If the results of the evaluation confirm the fee proposal is reasonable, negotiations will proceed. If the evaluation indicates charges significantly different than normal, the consultant shall be required to revise the fee proposal or negotiations will be terminated.

(d) If all conditions are satisfactory, the Project Manager shall initiate a formal contract with the consultant using the standard departmental consultant contract format.

(e) If the fee as presented and reviewed is determined to be excessive, it shall be rigorously negotiated by the negotiation committee.

(f) If an agreement cannot be reached, negotiations shall terminate and the second consultant preference will be entertained. Procedures in §§1128 and 1137 will be repeated once again.

(g) If an agreement is reached, the Principal Engineer shall initiate a formal contract with the consultant using the standard departmental consultant contract format (CD-1).

The Principal Engineer and Project Manager shall assure that the results of all crucial negotiation activities and final negotiated fee agreements are well documented and filed properly.

Any deviations from standard contract format procedures must have the approval of the Chief of Engineers.

§1138. Same: Contract Award and Notice to Proceed. (a) **Low Value Consultant Contract.** If the negotiated contract fee is equal to or less than Ten Thousand Dollars (\$10,000.00), the contract may be processed as a Low Value Contract - that is, the contract may be approved by the Director of Public Works.

After obtaining the Director's signature, the Principal Engineer shall transmit the approved contract, in writing, to the consultant and notify them of the effective date when work must begin and when work must be completed. Appropriate copies of the contract shall also be transmitted to the Department of Administration (Central Accounting) and other involved agencies.

(b) Consultant Contract Whose Value is in Excess of Ten Thousand Dollars (\$10,000.00). If the negotiated contract fee is in excess of Ten Thousand Dollars (\$10,000.00) the contract document and scope of services shall be forwarded to the Governor via the Attorney General's Office for approval. The contract shall be accompanied by a transmittal letter briefly explaining the intent of the contract and level of priority of the project.

The Principal Engineer shall expedite the routing of the contract documents on all priority projects.

After the contract has been signed by the Governor and returned to Public Works, the Principal Engineer shall transmit the approved contract, in writing, to the consultant and notify them of the effective date when work must begin and when work must be completed.

Appropriate copies of the contract shall also be transmitted to the Department of Administration (Central Accounting) and other involved agencies.

§1139. Same: Amendments to Professional Consultant Contracts. Amendments may be made to professional consultant contracts for the following reasons:

(a) Increase the scope of work and corresponding increase in contract amount.

(b) Decrease the scope of work and corresponding decrease in contract amount.

In no case shall an amendment to an existing contract be executed for consultant services not directly related to the intent of the original contract.

§1140. Same: Same: Format . Amendments shall be executed on the standard departmental format (CD-2).

§1141. Same: Same: Notification, Negotiation and Award. Notification, negotiation and award of amendments shall be generally in accord with procedures set forth in §§1131 to 1138 as modified to suit the purpose.

The Director may approve amendments whose total value does not exceed ten percent (10%) of the original contract amount. However, all amendments whose total value exceed ten percent (10%) of the original contract amount shall be routed to the Governor via the Attorney General for approval.

Appropriate copies of all executed amendments shall also be transmitted to the Department of Administration and other involved agencies.

§1142. Same: Contract Provisions and Administration: Provisions of Contract. The formal contract shall be executed on the Standard Departmental Contract Document CD-1 (Plate 10). The provisions of CD-1 are hereby adopted for official. There shall be no deviations from these provisions unless requested from and approved by the Chief of Engineering.

§1143. Same: Same: Administration. The Project Manager shall be responsible for assuring compliance with all contract provisions, scope of work and schedule as set forth in CD-1 and §§1145 through 1153. The Project Manager shall immediately notify his Principal

Engineer of any acts by the consultant not in compliance with the contract and steps immediately undertaken to resolve them.

§1144. Same: Same: References on Public Contract Practices.

The Code of Federal Regulations, Subtitle A, Chapters 1 and 2 are hereby adopted as official references on contracting and contract administration practices. A copy of these regulations shall be retained by the Chief of Engineering and is available for use by any Project Manager. These regulations may be used as a basis for formulating decisions on various contract matters as appropriate.

§1145. Project Design: Policy. The design of capital improvement projects shall be undertaken only after proper planning has been accomplished as set forth in §1113 through 1124 of the Subchapter [Manual].

The design of capital improvement projects shall assure at all times that subsequent construction of the project fulfills the intent of the law which created the project, is satisfactory to the Using Agency, complies with applicable construction codes, and is done with simplicity and economy.

As far as practicable and feasible, all design activities shall be performed in-house unless the Director or Chief of Engineering determines that expertise is not available in the Department or that current workload requires outside help.

All critical design activities and decisions shall be documented, circulated for information, if appropriate, and filed properly by the responsible Division.

§1146. Same: Application. The provisions of §§1145 through 1153 shall apply to all capital improvement projects under the purview of the Department or, more specifically, those projects assigned to any Engineering or Operations divisions of this Department.

§1147. Same: Project Design Procedures . The following are procedures governing the design of all projects. Design shall be defined as the actual development of complete construction plans, specifications and detailed cost estimates in accordance with an approved scope of work. Design activities include, but are not necessarily limited to the following:

- (a) Development of Working Drawings.
- (b) Delineating of Final Alignments.
- (c) Preparation of Final Construction Specifications.
- (d) Preparation of Final Construction Cost Estimates.
- (e) Securing Approvals from Appropriate Government Agencies.
- (f) Preparation and Finalization of Utility Agreements.
- (g) Request for and Securing Approvals of Plans, Specifications and Estimates (PS&E).
- (h) Securing Approvals and Authority to Advertise for Bids from Appropriate Regulatory or Federal Agencies.

§1148. Same: Determination. (a) The Chief of Engineering shall determine whether design of a project, whole or in part can best be accomplished in-house, or whether the nature and magnitude of the project or current workload is such that consultant services are required.

(b) Should design by consultant be appropriate, procurement of consultant services must be in accord with policies and procedures set forth in §§1125 through 1144 of this Subchapter [Manual].

§1149. Same: Design. Whether design is accomplished wholly, or in part, in house or by consultant, the Project Manager shall assure that the following are accomplished:

- (a) Design is in accordance with the approved design scope of work and in conformance with all applicable codes.
- (b) Design activities are programmed and scheduled.
- (c) Design of utilities and access, including all necessary offsite work are accomplished and incorporated into the final construction plans, specifications and cost estimates.
- (d) Necessary site, ROW and easement acquisition are programmed and accomplished prior to bid advertisement.
- (e) Utility Agreement, if necessary, are properly initiated and executed.
- (f) If design is by consultant, all submittal shall be in strict accordance with the design scope of work and contract documents.

(g) The Using Agency is involved in the decision-making process for all critical project design phases.

(h) All other special regulations and procedures (such as FHWA PPM's, EPA construction grant regulations or other regulations required in Federal-Aid project) are strictly followed and documented when and where appropriated.

(i) The design program and schedule is strictly followed unless deviation is justified and approved by the Principal Engineer and the Chief of Engineering.

In cases where design schedules must be modified, the Project Manager, with guidance from the Principal Engineer shall revise the design schedule and corresponding bid and construction schedules.

§1150. Same: Design Review and Submittal. All design work shall be reviewed by the Project Manager, his Chief Project Manager (or team leader) and the Principal Engineer, as a minimum.

If design is by consultant, the Project Manager shall be responsible for the detail review of plans, specifications and cost estimates. Furthermore, the Chief Project Manager shall assure that all categories of design such as electrical, mechanical, architectural and civil are reviewed thoroughly by in-house staff. This activity shall be coordinated with the Principal Engineer. For reviews outside the realm of the implementing division, coordination shall be through the Chief of Engineering and with the Principal Engineers of other divisions.

§1151. Same: Same: Design Submittal. (a) **Definition.** A submittal is defined as the body of documents prearranged and designated by the approved design scope of work and/or contract for submission to reviewing authorities and staff for the purpose of securing approval or concurrence for a distinct phase of the design of a project.

(b) Submittal Other than Final:

(1) Submittal of design work performed by consultant or in-house staff shall be reviewed by DPW Divisions and/or staff members having the expertise and responsibility for that engineering discipline (or category). Submittal shall also be reviewed by the Using Agency and/or regulatory agencies (such as FHWA, EPA, HEW, etc.) if applicable.

(2) The consultant or in-house staff executing the design shall incorporate all practical and constructive review comments into the final project construction plans and specifications.

(3) All project plans and specifications in the "PREFINAL" stage shall be transmitted for review and information to the Division or Section Manager who has the responsibility for bidding and administering the construction of the project. All practical and constructive review comments shall be incorporated in final plans, specifications and cost estimates. It would be desirable in many cases to forward project plans and specifications to the Construction Administrator in design stages much earlier than "PREFINAL." The Principal Engineer of the implementing division shall use his discretion in soliciting such review comments for project designs which have not reached the prefinal stage.

(c) Final Submittal:

(1) Acceptance of all final project design submittal shall be initiated by the Project Manager who shall assure that all constructive review comments are reflected in the final construction plans, specifications and cost estimates (PS&E).

(2) Final submittal shall be transmitted in writing to the Using Agency and/or regulatory agencies for review and acceptance. The term "SATISFACTORY TO" shall be used to denote official acceptance of the final PS&E by a Using Agency.

§1152. Same: Same: Delineation of Review Responsibilities Within the Department of Public Works . The following defines and delineates each DPW Division's (or Section if applicable) responsibility and authority for review of project plan and specifications:

DIVISION/(OR SECTION)	REVIEW CATEGORY	AUTHORITY
A/E Services (bldgs) Architectural, Civil (as related only to project site improvements) and General Building Construction	Electrical, Mechanical Structural	Review and approval
Hydraulics	Any major site grading (except Highway) storm drainage systems,	Review and approval

§1153. Same: Approval of Construction Plans, Specifications and Cost Estimates. The following procedures define the necessary approvals which must be obtained for all project plans, specifications and cost estimates:

(a) **Acceptance by the Implementing Division.** The Project Manager shall initiate acceptance of the documents by placing his signature and date under the notation "SUPERVISED BY."

The Principal Engineer shall indicate his acceptance by placing his signature and date under the notation "PRINCIPAL ENGINEER."

After all acceptance sign offs are completed, the documents shall be forwarded to the Using or Regulatory Agency for acceptance.

(b) **Using Agency and/or Regulatory Agency Acceptance.** After acceptance by the Implementing Division has been executed, the plans (specifications and cost estimates also, if necessary) shall be forwarded to the Using or Regulatory Agency for acceptance.

Using Agency acceptance shall be indicated only on the title sheet of the construction plans as noted below:

SATISFACTORY TO:

_____ (TITLE OF THE USING AGENCY HEAD)

Regulatory Agency Acceptance shall be in accordance with established procedures. In the case where procedures are unclear or nonexistent, acceptance shall be as defined for Using Agencies.

After these approvals are obtained, the documents shall be forwarded to the Chief of Engineering for his action.

(c) **Recommendation for Approval.** The Chief of Engineering shall indicate his acceptance of the construction plans, specifications and cost estimates by placing his signature and date under the notation "RECOMMENDED BY."

The Chief of Engineering shall then forward the documents to the Director for his approving signature.

(d) **Director's Approval.** The Director of Public Works shall indicate his acceptance and approval of construction plans, specifications and cost estimates by placing his signature on the specific

title sheets of the plans, specifications and cost estimates as noted below:

APPROVED BY:

DIRECTOR OF PUBLIC WORKS

The Director's approval completes the approval process and shall signify a directive to proceed with the Program Implementation Approval phase as set forth in §§1154 through 1159 of this Subchapter [Manual].

§1154. Project (Construction) Implementation Program Formulation, Review and Approval: Policy . Before any project proceeds to the bid or negotiation phase, a construction permit must be acquired and within authorized funding constraints and to assure that funds are released and made available.

§1155. Same: Application. The provisions of §§1154 through 1159 apply to all projects which have been authorized for construction either by legislation, or, if appropriate, directly by the Governor.

§1156. Same: Permits. All construction or renovation of government facilities must comply with the following permit procedures and programs:

(a) Building Permits:

(1) Before a notice to proceed to construct is issued, the division who is responsible for administering the construction of the (building) project must apply for and obtain a building permit from the Building Official on behalf of the Using Agency. It would be desirable to have the Building Official review the project plans and specifications during the design phase to eliminate any possible complications when requesting for the permit.

(2) The permit application shall be the Using Agency.

(3) Building permit fees shall be waived for all building projects administered by Public Works.

(4) Building permit fees for projects administered by other government agencies shall not be waived except as determined by the Director.

(5) The Building Official or his authorized representative shall be notified when the building is ready for occupancy and shall participate in any beneficial occupancy inspections (BODs).

(6) Before a government building is occupied an Occupancy Permit must be obtained from the Building Official. The permit shall be issued to the Using Agency.

(b) Permits for Elevators, Dumbwaiters and Escalators:

(1) All elevators, escalators or dumbwaiters in government buildings must have an Operating Permit.

(2) The Building Official shall issue such permits.

(3) The Building Official or his authorized representative shall participate in all final inspections of such vertical transport systems and shall release operating permits when satisfied that they are safe for operation.

(4) The division responsible for administering the project shall apply for and obtain the permit on behalf of the Using Agency. It is desirable to have the Highway Engineering Division review all plans and specifications which involve highway crossings during the design phase to eliminate any complications when requesting for the permit.

(5) Operating Permits for these systems must be renewed periodically by the Building Official in accord with applicable codes. The Using Agency must be notified of the responsibility and requirements for permit renewal by the Building Official.

(c) Clearing, Grading and Fencing Permits:

(1) A permit must be obtained from the Building Official for any clearing and grading of land in preparation for construction of any government facility except highways.

(2) The permit shall be applied for and obtained by the division administering the project under the name of the Using Agency.

(3) The Building Official may conduct a periodic inspection of clearing and grading work and is authorized to

issue field compliance or stop work orders when such work does not comply with conditions under which the permit was issued or is unsafe.

(4) Permit fees for project administered by Public Works shall be waived.

(5) Permit fees for government projects administered by others may be waived only as determined by the Director.

(6) Fencing permits shall be obtained when appropriate in accord with the preceding procedures.

(d) Highway Crossing Permits:

(1) All construction of government facilities within public rights-of-way must have a Highway Crossing Permit. Permits are required for, but are not necessarily limited to the following:

(A) digging within the ROW;

(B) connection of an access road to the ROW;

(C) opening of driveways onto the ROW (exit or entrance to the ROW);

(D) placing anything temporary or permanent within a ROW such as signs, poles, overhead or underground utilities, etc.

(2) Highway Crossing permits shall be obtained from the Division of Highway Engineering and enforced by the Division of Construction Administration.

(3) THE HIGHWAY CROSSING INSPECTOR SHALL HAVE THE AUTHORITY TO ISSUE FIELD COMPLIANCE OR STOP WORK ORDERS SHOULD CONSTRUCTION WITHIN THE RIGHT-OF-WAY BE UNSAFE OR NOT COMPLY WITH THE CONDITIONS UNDER THE PERMIT WAS ISSUED.

(4) A bond shall not be required as a condition for issuing a Highway Crossing Permit for projects administered by Public Works.

(5) However, an appropriate Bond must be posted as a condition for issuing a Highway Crossing Permit for any other project involving work within a public right-of-way.

(e) **Army Corps of Engineers Permits.** A permit for all construction work in navigable waters must be obtained from the Army Corps of Engineers. Since the interpretation of "navigable" may border on the ridiculous, all Project Managers are responsible for ascertaining whether or not a permit is required by contacting the local Army representative.

§1157. Same: Program Approval - Satisfactory Budget. After resolving the permit requirements, the Project Manager shall determine whether the project can be constructed within the available funds and, if so, proceed with the Bid Phase.

§1158. Same: Alternative Procedures - Unsatisfactory Budget. If the project costs exceeds available funds, the Project Manager shall proceed with one of the following alternatives:

(a) Program an incremental development of the project, such that the first increment can be constructed within available funds and concurrently satisfactory to the Using Agency. The total amount of additional funds required for the implementation of the succeeding increments shall be specified and Using Agency and the Bureau of Budget notified of recommendations in writing; or

(b) Cease all activities and recommend that an official request be submitted for additional funds (the project shall not be implemented without sufficient funds); or

(c) Recommend termination of the project and further recommend suitable alternatives for the proper utilization of remaining funds.

§1159. Same: Documentation of Program Approval . All program alternative activities and policies shall be documented, prepared for the Director's signature and routed to the Director via the Chief of Engineering.

§1160. Bid Phase - Procurement of Construction Contracts: Policy - Procurement of Construction Contracts. Except as otherwise

provided in [Section 7] of this [Manual], construction of capital improvement projects shall be accomplished by procuring construction contracts through public solicitation of bids.

§1161. Same: Application. The provisions of §§1160 through 1183 shall apply to all project under the purview of the Department of Public Works.

The following procedures shall guide all Principal Engineers and Project Managers when preparing project plans and specifications for public solicitation of bids.

§1162. Same: Same: Preparation of Plans, Specifications and Cost Estimates for Bid. The Principal Engineer of the Implementing Division shall assure that project plans and specifications are finalized, accepted and approved in accord with §§1151 through 1153 of this Subchapter [Manual].

§1163. Same: Same: Use of Standard Government, General, Special and Technical Specifications. (a) General and Special Provisions of all contract specifications, including actual contract documents for construction of all capital improvement projects, except highways, roads and bridges, shall be the most current edition of the STANDARD GOVERNMENT OF GUAM CONSTRUCTION SPECIFICATIONS as approved by the Director of Public Works and as APPROVED AS TO FORM by the Attorney General. All technical specifications shall be compatible with the standard specifications and shall be as developed during the design phase of each project.

Should any modifications be necessary to the Standard Specifications to meet Federal requirements, such modifications shall be made under the cognizance of the Principal Engineer of the Implementing Division, recommended by the Chief of Engineering, and shall be approved by the Director of prior to solicitation of bids.

(b) All highway construction contract specifications shall be a modified version of STANDARD SPECIFICATIONS FOR CONSTRUCTION OF ROADS AND BRIDGES ON FEDERAL HIGHWAY PROJECTS, commonly known as FP-69.

(c) Construction of roads in government subdivisions shall be accomplished in accordance with FP-69 as updated and as modified to meet local requirements.

§1164. Same: Same: Cost Estimates. Detailed cost estimates shall be prepared (or, if already prepared, then updated) before bid advertisement using current material, labor and equipment prices. The cost estimates shall be prepared in such a manner as to retain credibility and validity for a period of ninety (90) days.

The updated cost estimate for each project shall constitute the government estimate and shall serve as the basis for a bid analysis once bids have been opened.

The government estimate shall not be made public before or during the bid period.

§1165. Same: Bid Advertisement. The following procedures shall guide the solicitation of bids for construction of capital improvement projects.

§1166. Same: Same: Bid Period. The Bid Period shall mean that period when bids are received, beginning the date when plans and specifications are made available to bidder, and ending the date and time of the bid opening.

The bid period for each project shall reflect the complexity and magnitude of that project.

The Principal Engineer of the Implementing Division shall determine the most practical bid period, which in any case shall not be less than seven (7) calendar days for each project, and solicit bids accordingly.

If the Principal Engineer determines that the bid period for any project should be extended, this may be done through the issuance of an addendum, provided such addendum is issued at least one (1) working day prior to the bid opening and approved by the Chief of Engineering.

If cancellation of bids is appropriate, the Principal Engineer shall prepare a letter for the Director's signature informing all prospective bidders of such cancellation. A cancellation notice shall be published at

least once in a periodical of general circulation at least one (1) day prior to the bid opening.

§1167. Same: Same: Publication of Invitation to Bid. (a) An invitation to bid for each project shall be advertised in a newspaper or periodical of general circulation in the Territory for not less than three (3) separate days within the bid period.

(b) The publication of the invitation to bid shall take place during the first three (3) quarters of the bid period.

(c) The invitation does not necessarily have to be published on consecutive days and may be done so on separate days. The Principal Engineer, at his discretion, shall determine the number of days and exact dates for publishing the invitation to bid and proceed accordingly.

(d) The Project Manager shall be responsible for preparing the invitation to bid, processing all documents required to initiate publication, and subsequent filing of the published invitation in the project filed.

The Project Manager shall coordinate the publication process (as set forth in Appendix ____) with his Principal Engineer and the Department's Public Information Officer.

§1168. Same: Same: Format and Contents of the Invitation to Bid. The invitation to bid shall be made as brief and simple as possible but must contain the following information as a minimum:

- (a) Date and exact time when bids will be opened.
- (b) Location of the bid opening event.
- (c) Date when and place where plans and specifications will be made available to prospective bidders.
- (d) Project name and number.
- (e) Brief description of the project.
- (f) Any Using Agency or Federal requirements with which bidders must comply.

Plate _____ gives sample Invitation to Bid for guidance.

§1169. Same: Bidding Requirements and Conditions: Qualification of Bidders. Before a bid is considered for award, the bidder may be requested by the Government to submit a statement regarding his

previous experience in performing comparable work, his business and technical organization, financial resources and plant available to be used in performing the work.

This condition will be specified in the contract documents. A certified detailed statement setting forth such qualification shall be submitted at a time specified in the Invitation for Bids.

§1170. Same: Same: Contents of Bid Forms . Upon request, the Government will furnish a prospective bidder with an Invitation to Bid. This invitation must be accompanied by a set of documents called the BID FORMS which will state the location and description of the contemplated construction and will show the following:

(a) Unit Price Contracts. Bid Forms must show the estimate of the various quantities and kinds of work to be performed or materials to be furnished and will have a schedule of items for which unit bid prices are invited.

(b) Lump Sum Contracts. Bid Forms must show the kinds of work to be performed, materials to be furnished and, if applicable, methods or modes of construction, and an invitation to submit a lump sum bid price or prices for work to be accomplished.

Bid Forms will state the time in which the work must be completed, the amount of the bid guarantee, and the date, time and place of the opening of bids. The Bid Forms will also include any special provisions or requirements which vary from or are not contained in the Standard Specifications.

All papers bound with or attached to the Bid Forms are considered a part thereof and must not be detached or altered when the bid is submitted.

The Plans, specifications and other documents designated in the Bid Forms will be considered a part of the Invitation to Bid whether attached or not.

§1171. Same: Same: Interpretation of Quantities in Bid Schedule (Unit Price Contract Only). The quantities appearing in the bid schedule are approximate only and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished in

accordance with the contract. The scheduled quantities of work to be done and materials to be furnished may each be increased, decreased or omitted as hereinafter provided. Bid schedule quantities will be considered the original contract quantities.

§1172. Same: Same: Examination of Plans, Specifications, Special Provisions and Site of Work. The Government will prepare plans and specifications giving directions to be carried out by the Contractor.

When subsurface investigations have been made, Bid Forms will indicate where bidders may inspect the investigation records.

The records of subsurface investigations are not a part of the contract and are made available to bidders for informational purposes only.

While subsurface investigations will have been performed with reasonable care, it shall be specified in the Invitation to Bid that there is no warranty or guaranty, either expressed or implied, that they will disclose the actual conditions which will be encountered during the progress of the work.

When a log of test boring is included in the subsurface investigation record, the data shown in the individual log of each test boring apply only to that particular boring and are not intended to be conclusive as to the character of any material between or around test boring.

Any interpretation of the Government's subsurface investigation record made by the bidder as to the types, characteristics, quantity and quality of any subsurface material or condition shall be at the sole risk of the bidder.

The following clause shall be made a part of the contract provisions:

CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work without additional expense to the Government. The Govern-

ment assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this contract, unless such understanding or representations by the Government are expressly stated in the contract.

§1173. Same: Same: Changes or Clarifications to the Bid Documents During the Bid Period. A change in or clarification to the plans and/or specifications may be initiated and issued as an "Addendum" during the bid period provided basis and the intent of the project is not significantly altered.

The Addendum shall be prepared with clarity and in sufficient detail to preclude misinterpretations by prospective bidders. All addenda shall be routed through the Chief of Engineering for approval prior to issuance.

Addenda may be issued at any time during the bid period, provided however, that it be issued one (1) day prior to the bid opening.

§1174. Same: Same: Preparation of Bid Forms. The following clauses shall be made a part of all contract provisions and shall govern the preparation of all bids:

(a) Preparation of Bids:

(1) Bids shall be submitted on the forms furnished, or copies thereof, and must be manually signed. If erasures or other changes appear on the forms, each erasure or change must be initialed by the person signing the bid. Unless specifically authorized in the Bid Forms, telegraphic bids will not be considered.

(2) The Bid Forms may provide for submission of a price or prices for one or more items, which may be lump sum bids, alternate prices, scheduled items resulting in a bid on a unit of construction or a combination thereof, etc. Where the Bid Forms explicitly requires that the bidder bid on all items, failure to do so will disqualify the bid. When submission of a price on all items is not required, bidders should insert the words "no bid" in the space provided for any item on which no price is submitted.

(3) Unless called for, alternate bids will not be considered.

(4) Modifications of bids already submitted will be considered if received at the office designated in the Invitation to Bid by the time set for opening of bids. Telegraphic modifications will be considered, but should not reveal the amount of the original or revised bid.

(5) Unit Price Bid. The bidder shall specify a unit price in words and figures, for each pay item for which a quantity is given and shall also show the products of the respective unit prices and quantities written in figures in the column provided for that purpose and the total amount of the bid obtained by adding the amounts of the several items. All the words and figures shall be in ink or typed. In case of a discrepancy between the prices written in words and those written in figures, the prices written in words will govern.

When an item in the bid schedule contains a choice to be made by the bidder, the bidder shall indicate his choice in accordance with the specifications for that particular item, and thereafter no further choice will be permitted.

(6) The bidder shall specify a lump sum price in words and figures for each item of work delineated in the BID FORMS and as provided further by the General Provisions of the STANDARD SPECIFICATIONS.

All the words and figures shall be in ink, or typed. In case of a discrepancy between the prices written in words and those written in figures, the prices in words shall govern.

When an item of work for which a price is invited contains a choice to be made by the bidder, the bidder shall indicate his choice in accord with the specifications for that particular item, and thereafter no further choice will be permitted.

(7) The bidder's bid must be signed with ink by the individual, by one or more members of the partnership, by one or more members or officers of each firm representing a

joint venture or by one or more officers of a corporation, or by an agent of the Contractor legally qualified and acceptable to the Government.

§1175. Same: Same: Irregular Bids. Bids will be considered irregular and may be rejected for the following reasons or as otherwise set forth in the standard forms contained in Bid Forms:

(a) If the bid is on a form other than that furnished by the Government or if forms are altered or any parts thereof are detached.

(b) If there are unauthorized additions, conditional or alternative bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning.

(c) If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award. This does not exclude a bid limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting, provided that any selection of awards will be made by the Government.

(d) If the bid on a unit price contract does not contain a unit price for each pay item listed except in the case of authorized alternative pay items.

102.08 Bid Guarantee. The following clause shall be included in the contract provisions and sets forth bid surety requirements:

4. Bid Guarantee. Where a bid guarantee is required by the invitation to bid, failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid. A bid guarantee shall be in the form of a firm commitment, such as a bid bond, postal money order, certified check, cashier's check, irrevocable letter of credit. Bid guarantees, other than bid bonds, will be returned:

(a) to unsuccessful bidders as soon as practicable after the opening of bids; and

(b) to the successful bidder upon execution of such further contractual documents and bonds as may be required by the bid as accepted.

If the successful bidder, upon acceptance of his bid by the Government within the period specified therein for acceptance (sixty (60) days if no period is specified) fails to execute such further contractual documents, if any, and given such bond(s) as may be required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by him, his contract may be terminated for default. In such event, he shall be liable for any cost of procuring the work which exceeds the amount of his bid, and the bid guarantee shall be available toward offsetting such difference.

See subsection for specific instructions on return of bid guarantee.

Checks or money orders submitted as a bid guarantee shall be made payable to the Treasurer of Guam, government of Guam.

§1176. Same: Same: Submission of Bids. Bids must be sealed, marked and addressed as directed in the Invitation to Bid. Failure to do so may result in a premature opening of, or a failure to open such bid.

§1177. Same: Same: Late Bids and Modifications or Withdrawals. (a) Bids and modifications or withdrawals thereof received at the office designated in the Invitation to Bid after the exact time set for opening of bids will not be considered unless:

- (1) They are received before award is made; and either
- (2) They are sent by registered mail or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained, or by telegraph if authorized, and it is determined by the Government that the late receipt was due solely to delay in the mails, or delay by the telegraph company, for which the bidder was not responsible; or
- (3) If submitted by mail (or by telegram if authorized), it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation: Provided, that timely receipt at such installation is established upon examination of an appropriate date or time stamp (if any) of such installation, or other documentary evidence of receipt (if readily available) within the control of such installa-

tion or of the post office serving it. However, a modification which makes the terms of the otherwise successful bid more favorable to the Government will be considered at any time it is received and may thereafter be accepted.

(b) Bidders using certified mail are cautioned to obtain a Receipt for Certified Mail showing a legible, dated postmark and to retain such receipt against the chance that it will be required as evidence that a late bid was timely mailed.

(c) The time of mailing of late bids submitted by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt or registered mail wrapper or on the Receipt for Certified Mail unless the bidder furnishes evidence from the post office station of mailing which establishes an earlier time. In the case of certified mail, the only acceptable evidence is as follows:

(1) Where the Receipt for Certified Mail identifies the post office station of mailing, evidence furnished by the bidder which establishes that the business day of that station ended at an earlier time, in which case the time of mailing shall be deemed to be the last minute of the business day of that station; or

(2) An entry in ink on the Receipt for Certified Mail showing the time of mailing and the initials of the postal employee receiving the item and making the entry, with appropriate written verification of such entry from the post office station of mailing, in which case the time of mailing shall be the time shown in the entry. If the postmark on the original Receipt for Certified Mail does not show a date, the bid shall not be considered.

§1178. Same: Same: Withdrawal of Bids. Bids may be withdrawn by written or telegraphic request received from bidders prior to the time set for opening of bids.

§1179. Same: Same: Combination or Conditional Bids. No combination bids, other than those specifically provided for in the Bid Forms by the Government will be considered. Conditional bids will be considered when so stated in the special provisions.

§1180. Same: Public Opening of Bids . Bids will be publicly opened at the time set for opening in the Invitation to Bid. The content

of each bid will be made public for the information of bidders and others interested, who may be present either in person or by representative.

The Principal Engineer of the Implementing Division shall appoint a member of his staff to conduct the bid opening and perform such related duties as determining a location for the bid opening, opening of bids, checking for acknowledgment of Addenda, reading of bids. The appointee shall be knowledgeable in all aspects of conducting bid openings.

§1181. Same: Disqualification of Bidders. The Government reserves the right to disqualify a bidder for any of the following reasons, or as otherwise set forth in the standard forms contained in the Invitation for Bids:

(a) Lack of competency as revealed by the financial statement and experience questionnaires required under §1169.

(b) Uncompleted work which, in the judgment of the Government might hinder or prevent the prompt completion of additional work if awarded.

(c) Failure to pay or satisfactorily settle all bills due for labor and material on former contracts in force at the time of advertisement for bids.

(d) Failure to comply with any qualification regulations of the Government.

(e) Default under previous contracts.

(f) More than one bid for the same work from a bidder under the same or different name.

(g) Evidence of Collusion Among Bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Government until any such participant shall have been reinstated as a qualified bidder.

(h) Otherwise not responsible.

§1182. Same: Material Guarantee. The following clause shall be made a part of the contract provisions:

(a) Unless otherwise specifically provided in this contract, all equipment, material and articles incorporated in the work covered

by this contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this contract, reference to any equipment, material, article or patented process, by trade name, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at his option, use any equipment, material, article or process which, in the judgment of the Contracting Officer, is equal to that named. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When required by this contract or when called for by the Contracting Officer, the Contractor shall furnish the Contracting Officer for approval full information concerning the material or articles which he contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without required approval shall be at the risk of subsequent rejection.

(b) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may, in writing, require the Contractor to remove from the work any employees the Contracting Officer deems incompetent, careless or otherwise objectionable.

§1183. Same: Revisions, Additions to or Alterations to §1160 Et. Seq. to Conform to Federal Regulations. Where construction of capital improvements partially financed by Federal grants are involved, provisions of §§1160 through 1183 of this Manual may be revised, altered or added to conform to applicable Federal regulations.