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**BUREAU OF BUDGET AND MANAGEMENT RESEARCH**

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**STANDARD OPERATING PROCEDURES**

**SUBJECT:** Contracts

**EFFECTIVE DATE:** November 8, 2019

- **A contract is a binding agreement between two or more persons/parties**
- **Executive Order 2012-01 (Requirements):**
  - All contracts with any Executive Branch agency shall require the review and approval of BBMR
  - All contracts shall be submitted to BBMR at least thirty (30) days prior to its effective date
  - All contracts must comply with legal provisions and regulations of Guam including the merit system laws and rules
    - Title 4 GCA, Government Code
    - DOA Personnel Rules and Regulations
    - CSC Classification and Compensation Plan
    - Title 5 GCA, Government Code
    - Executive Order No. 2012-01
    - Attorney General Opinions, Guidance, etc.
  - Contractual Agreements - Include, but are not limited to:
    - Office Space Lease: the following criterion must be met (ref. E.O. 2012-01)
      - Adequate space is not available at any public building
      - The space requested is determined the minimum space required
      - The lowest responsible bidder is selected
      - Funding is allocated for the entire length of the contract
      - The space is in compliance with American Disabilities Act (ADA)
      - Minimum standard floor space requirements, as prescribed by OSHA, shall be determined by each entity leasing office space and shall identify excess lease space and negotiate leases accordingly. Such entity shall submit a report to BBMR as an attachment to office space lease agreements, detailing its findings. BBMR shall review all office space lease agreements, and consider the minimum space requirements in its review and recommend consolidation/reduction of office space where applicable.
    - Unclassified Service Employee
    - Off Island Recruitment or Consultant

- The department must make every effort to document that there is a lack of qualified people on island before they seek to recruit off island
  - Government shall provide transportation cost for household effects not to exceed 1250 pounds (single) and 2500 pounds (married), (ref. 4GCA, §6213)
- The position title and salary must be consistent with the CSC Classification and Compensation Plan
- The Request for Personnel Action (GG-1) is attached to the Contractual Agreement (Off-island recruitment & employment)
- The Consultant is called for when services are as an independent contractor
  - A Consultant has no employment benefits such as retirement, leave, health plan and are usually employed for a specific period of time
- Contracts shall not be used as a substitute for the merit system employment
  - Departments/agencies shall not contract for personnel services which normally are performed by employees under the Merit System
- Executive Order No. 2012-01 (Requirements):
  - All contracts must be submitted to BBMR before recruitment
  - Contracts must comply with the laws and regulations of Guam applicable to recruitments
  - Departments, agencies, bureaus, and other instrumentalities of the government of Guam shall provide proof that funding is available throughout the entire contract
- Capital Improvement Projects (CIPs) – Items included as support documentation:
  - Cover memorandum from issuing department/agency
  - Chronology of contract events
  - Memorandum of A/E selection process
  - List of firms (A/E & Construction) responding to Bid
  - Letter to firm selected
  - Documentation of contractor/firm:
    - Business License
    - Certificate of Business
    - Copy of Bonding Requirement
    - Copy of Major Shareholder Affidavit
  - Copy of Scope of Work/Services
  - Copy of Fee Schedule

- Contractor Agreement
- Multi-Year
  - Requires certification of funds (BBMR Form CFF)
  - Copy of the previous approved contractual agreement
  - Executive Order No. 2012-01 (Requirements):
    - Agency must submit proposed contract requiring multiple fiscal year expenditures or appropriations to the Director of BBMR for approval before commencement of respective fiscal year
    - Submittal must occur no less than 30 days prior to the proposed commencement date of the contracts unless otherwise accepted by the Director of BBMR for justifiable circumstance
    - Submittal is required to have the signature of the Director of BBMR to enable any department or agency to issue notice to proceed
    - Failure to meet BBMR review requirements established shall result in the non-release of funds for payment of contracts that are not in compliance
- Procurement Contracts- must be submitted to BBMR and accompanied by (ref. E.O. 2012-01):
  - Copy of bid specifications
  - Copy of prior year's agreement, if applicable
  - Evidence of funding to meet the obligations
  - Justification showing that the procurement from the supplier is the most cost effective
- Services and Contractual Agreements – agencies must submit proposals to BBMR for approval (ref. E.O. 2012-01):
  - Must indicate the inability to perform the services sought in-house
  - Must provide a cost savings analysis or assessment
  - Must indicate that funding is available for the entire contractual period
- Authorization to Release Funds
  - The Director of BBMR will make appropriation releases to Government of Guam entities only upon compliance with Executive order requirements
- Monitoring of Non-General Fund Sourced Entities
  - All Executive branch agencies must submit a quarterly financial statement and quarterly staffing pattern to BBMR
  - Such agencies, departments, bureaus, and other instrumentalities must submit copies of their current year's budget and other fiscal information as requested to BBMR
- Non-Compliance

- Any non-compliance with the requirements through this executive order, inclusive of deadlines, shall result in the immediate return/disapproval of such requests
  - All departments/agencies are liable and responsible for the accuracy and compliance with all rules/regulations and policies governing the respective requests/expenditures
  - BBMR/DOA shall promptly return/disapprove such requests once identified
- **Contract Review**
- Are funds available?
  - Is the contract in compliance with federal regulations?
  - Is clause, 'Subject to Availability of Funds' incorporated?
  - Required signature blocks
    - (i.e. Contractor, BBMR Director, Attorney General, Governor, etc.)
  - Account number, Object Category and contract amount reflected under Certification of Funds block?
  - Are funds certified by Authorizing Official? (ref. Ch. 14, 4GCA – Certifying Officers)
  - Upon BBMR's completion of its review and approval, all contracts shall then be submitted to the Attorney General's Office for its disposition pursuant to its Procurement Circular 03-001
- **Contract Review Checklist (BBMR-CR-4) form must be completed and attached to Contract**

The following forms and documents can be found on BBMR's Website: <http://bbmr.guam.gov>

- **Contract Review Checklist (BBMR-CR-4)**
- **Certification of Funds (BBMR Form CFF)**
- **Executive Order No. 2012-01**

**NOTE: This SOP is subject to change by the Bureau of Budget & Management Research**