



Department of Finance
Division of Procurement and Supply

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MEMORANDUM

DATE: August. 30, 2016

TO: All Department and Activity Heads

THRU: Larrisa C. Larson 

Secretary of Finance

FROM: Director, Procurement and Supply

SUBJECT: Compliance with NMIAC Section 70-30.3-725

Effective immediately, please include reference to the provisions set-forth in NMIAC Section 70-30.3-725 and 730 in all ITB/RFP and solicitations for quotes. Copies of the provisions are attached for quick reference.


Herman S. Sablan

HS: vml

NORTHERN MARIANA ISLANDS
ADMINISTRATIVE CODE

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 23 Com. Reg. 17855 (May 24, 2001); Amdts Proposed 23 Com. Reg. 17640 (Feb. 23, 2001); Amdts Adopted 12 Com. Reg. 7436 (Oct. 15, 1990); Amdts Proposed 12 Com. Reg. 7274 (Sept. 15, 1990); Adopted 7 Com. Reg. 3736 (July 22, 1985); Proposed 7 Com. Reg. 3646 (May 21, 1985).

Commission Comment: In subsection (b), the commission changed "standard" to "standards" to correct a manifest error.

§ 70-30.3-715 Employee Disclosure Requirements

(a) Disclosure of benefit received from contract. Any employee who has, or obtains any benefit from, any government contract with a business in which the employee has a financial interest shall report such benefit to the P&S Director.

(b) Failure to disclose benefit received. Any employee who knows or should have known of such benefit and fails to report such benefit is in breach of these ethical standards.

History: Amdts Adopted 23 Com. Reg. 17855 (May 24, 2001); Amdts Proposed 23 Com. Reg. 17640 (Feb. 23, 2001); Amdts Adopted 12 Com. Reg. 7436 (Oct. 15, 1990); Amdts Proposed 12 Com. Reg. 7274 (Sept. 15, 1990); Adopted 7 Com. Reg. 3736 (July 22, 1985); Proposed 7 Com. Reg. 3646 (May 21, 1985).

Commission Comment: The 2001 amendments amended subsection (a).

§ 70-30.3-720 Employee Conflict of Interest

(a) Conflict of interest. It is a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that:

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

(2) Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(b) Discovery of actual or potential conflict of interest, disqualification and waiver. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file with the P&S Director a written statement of disqualification and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the Public Auditor for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 23 Com. Reg. 17855 (May 24, 2001); Amdts Proposed 23 Com. Reg. 17640 (Feb. 23, 2001); Amdts Adopted 12 Com. Reg. 7436 (Oct. 15, 1990); Amdts Proposed 12 Com. Reg. 7274 (Sept. 15, 1990); Adopted 7 Com. Reg. 3736 (July 22, 1985); Proposed 7 Com. Reg. 3646 (May 21, 1985).

Commission Comment: The 1990 amendments deleted former subsection (a)(2). The 2001 amendments amended subsection (b).

§ 70-30.3-725 Gratuities and Kickbacks

(a) Gratuities. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.

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

History: Amdts Adopted 23 Com. Reg. 17855 (May 24, 2001); Amdts Proposed 23 Com. Reg. 17640 (Feb. 23, 2001); Amdts Adopted 12 Com. Reg. 7436 (Oct. 15, 1990); Amdts Proposed 12 Com. Reg. 7274 (Sept. 15, 1990); Adopted 7 Com. Reg. 3736 (July 22, 1985); Proposed 7 Com. Reg. 3646 (May 21, 1985).

§ 70-30.3-730 Prohibition Against Contingent Fees

(a) Contingent fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure government contracts upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(b) Representation of contractor. Every person, before being awarded a government contract, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of ethical standards.

Standard Office Procedures for Processing ITB and RFP

➤ **ITB on Purchase of vehicles (new or used) not exceeding 8 passengers:**

1. Memorandum of request for ITB to purchase a vehicle and attach the vehicle specifications.
2. Fill out the justification form (sample attached) and attach with the memorandum of request.

➤ **ITB on Lease of vehicles (new or used) not exceeding 8 passengers:**

1. Memorandum of request for ITB to lease a vehicle, state the duration of the lease and attach the vehicle specifications.
2. Fill out the justification form (sample attached) and attach with the memorandum of request.

➤ **ITB on Purchase of a copier machine:**

1. Memorandum of request to the Director of Procurement and Supply.
2. Attach the specifications.

➤ **ITB on Lease of a copier machine:**

1. Memorandum of request to the Director of Procurement and Supply and also state the duration of the lease.
2. Attach the specifications.

➤ **ITB and RFP on other projects:**

1. Memorandum of request to the Director of P&S.
2. Attach the specifications or scope of work.
3. E-mail specifications or scope of work on a word format to procurement@cnmidof.net
4. Process a Purchase Order for either Marianas Variety (\$93.00) or Saipan Tribune (\$114.00) to cover the 3 times advertisement. P&S will not process your request without a purchase order.

➤ **Request for Proposal:**

1. Memorandum of request/attached scope of work or specifications.
2. Process a Purchase Order for either Marianas Variety (\$93.00) or Saipan Tribune (\$114.00) to cover the 3 times advertisement.
3. E-mail draft RFP to procurement@cnmidof.net for review by Director Sablan. Once RFP is approved, P&S Administrative Branch will finalize all pertinent dates upon receipt of a copy of the purchase order. P&S will e-mail back the RFP documents for the expenditure authority's approval. Department must send back the signed copy for final signature of Director Sablan.
4. **ONLY on an RFP**, a justification pursuant to NMIAC Section 70-30.3-210 must be submitted with the RFP request (sample enclosed).

➤ **ITB for Lease of Office Space Rental:**

1. Memorandum of request and state the duration of the lease.
2. Attach the specifications.

➤ **ITB Selection after bid opening:**

1. The requesting agency must review the bid documents and make a determination and **submit their selection letter** along with the contract to the Director of P&S for his final review and approval.
2. Attach only the winning bidder's bid, a copy of the bid opening summary sheet with the contract.
3. If the requesting agency finds that the low bidder is non-responsive, they have to state their reason(s) why this bidder is to be rejected - **NMIAC Section 70-30.3-205 (k)(1)**. If the Director of P&S concurs with the requesting agencies findings, an approval must be secured and then the second low bidder will be awarded a contract.
4. P&S will prepare the intent to award/non-award and rejection letters to all the participating bidders.

➤ **RFP selection after bid opening:**

Please note that in an RFP we must never EVER disclose any information until a contract has been awarded/completed.

1. The requesting agency must form a review committee to conduct the evaluation of all proposers involved in the RFP.
2. The evaluation and ratings must be signed by the committees involved in the evaluation of the RFP.
3. Attach all evaluation forms and ratings with the selection notice to the P&S Director for his review and approval.
4. After approval by the P&S Director, P&S will issue the intent to award only to the winning proposer.
5. The requesting agency will prepare the contract to the winning proposer; attach a copy of their proposal to the contract package. P&S will notify the unsuccessful proposer after the completion of the contract.