

**Policies and Procedures for the Competitive Solicitation,
Selection, Award, and Operation of Lease Agreements
at the**

**A.B. WON PAT INTERNATIONAL
AIRPORT GUAM**



ATURIDAT PUETTON BATKON AIREN
GUAHAN ENTENASIONAT

Duly and regularly adopted by the Board of Directors of the Antonio B. Won Pat International Airport Authority, Guam through Board Resolution Number 26-23 at the Special Board Meeting on the 8th day of January 2026.

January 8, 2026

**ANTONIO B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM
AIRPORT LEASE POLICY**

TABLE OF CONTENTS

ARTICLE 1. GENERAL PROVISIONS
ARTICLE 2. COMPLIANCE
ARTICLE 3. AIRLINE AGREEMENTS
ARTICLE 4. OTHER LEASES
ARTICLE 5. LEGAL AND CONTRACTUAL CHANGES
ARTICLE 6. ETHICAL STANDARDS

ARTICLE 1

GENERAL PROVISIONS

Section 1.01 Purpose. The Government of Guam, through the Antonio B. Won Pat International Authority, Guam (“GIAA” or “Authority”), owns and operates the Antonio B. Won Pat International Airport, Guam. The purpose of this Airport Lease Policy is to provide standard policies and procedures governing the solicitation, selection, award, and operation of Airport Leases, as may be amended from time to time, and in conformity with industry practices and procedures. This purpose includes distinguishing between different categories of Airport Leases, and the basis for corresponding differences in policy approach.

Section 1.02 Policy It is the policy of GIAA to promote efficiency and achieve the needs and best interests of GIAA in the award of Airport Leases by:

- (a) Developing sound policies and practices to achieve GIAA’s financial self-sustaining mandate;
- (b) Providing for public confidence in the procedures followed in the award of Airport Leases;
- (c) Exercising fair and equitable of all Persons who compete for Airport Leases;
- (d) Fostering effective broad-based competition within the free-enterprise system;
- (e) Providing safeguards for the maintenance of a solicitation procedures of quality and integrity.

Section 1.03 Objectives

The primary objectives of GIAA in entering into lease agreements are:

- (a) Maximize revenue generation to GIAA without creating an undue financial burden on those contracting with GIAA.
- (b) Minimize the cost and expenses incurred by GIAA in operating and maintaining the Airport.
- (c) Maintain a fee and rental structure that will make GIAA as financially self-sustaining as possible.
- (d) Provide the highest quality and broadest range of services to Airport users.
- (e) Enhance the growth and development of the Airport as a regional aviation center.
- (f) Preserve investments in the Airport and the level of service provided by GIAA and its Airlines, Concessionaires, and others.
- (g) Facilitate orderly development of the Airport.
- (h) Ensure provisions of consistent quality of services provided at the Airport.

- (i) Ensure compliance with applicable laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application and acceptance of federal funds.

Section 1.04 Classification of Leases

For purposes of this policy, Airport leases are classified in these categories:

- (a) **Airline Agreements.** The Airline Agreements provide for the use and occupancy of Airport facilities by certificated air carriers operating at the Airport. These agreements include lease of space, and rentals and fees to use the airfield and terminal building for airline operations.
- (b) **Other Leases.** The Other Leases are primarily leases for various property and buildings not directly associated with accommodating airline passengers, but important for GIAA revenue development.

Section 1.05 Methods of Solicitation & Contracting

The types of leases vary, and the business considerations associated with individual leases within each category may vary, which is reflected in the policy approach to soliciting and administering Airport Leases. The general methods of soliciting and awarding contracts are:

- (a) **Request for Proposals**—the process of using an RFP to obtain competitive proposals, in the case where it is appropriate for multiple factors--such as qualifications, operating plan, and proposed fee—to be considered for selection.
- (b) **Application for Lease**—the process of considering an Application for a Lease, and negotiating the potential award, in the case where a competitive solicitation is not necessary or appropriate.

The policy basis for the appropriate use of each method of soliciting and awarding contracts, in relation to the different types of Airport businesses and tenants, is explained respectively in Article 3 Airline Leases and Article 4 Other Leases.

Section 1.06 Scope of Policy

This Airport Lease Policy separately addresses each category of lease—Airline Agreements and Other Leases—in accordance with the different characteristics and requirements for each type. GIAA has a separate policy document concerning Concession Agreements.

Section 1.07 Requirement of Good Faith

This Airport Lease Policy requires all parties involved in the solicitation, negotiation, performance, or administration of Airport Leases to act in good faith.

Section 1.08 Definitions

Definitions of key terms used in this Airport Lease Policy are provided in the Definitions Appendix.

ARTICLE 2 COMPLIANCE WITH FEDERAL REQUIREMENTS

Section 2.01 Compliance with Federal Requirements

All Airport Leases shall be compliant with all federal law and regulations that are applicable to GIAA, and to the extent that such federal laws or regulations conflict with this Airport Lease Policy, the mandates of such federal laws or regulations shall prevail. Federal laws and FAA regulations that refer specifically to airport lease arrangements are generally consistent with GIAA's policy approach in terms of fair and equitable treatment and financially self-sustainability,

and GIAA'S policy is generally consistent with the industry practices that have been proven compliant with federal requirements.

ARTICLE 3 AIRLINE AGREEMENTS

Section 3.01 General

Airline Agreements are different from other forms of leases and are accordingly addressed separately for purposes of policy.

- (a) **Conditions Unique to Air Transportation and Airline Agreements.** Accommodating the Air Transportation provided by certificated air carriers ("Airlines") is the core mission of the Airport.
 - (1) **Airport Sponsor Obligation.** As the certificated operator of an FAA-regulated public-use airport (Airport Sponsor) and the only such facility in Guam, GIAA is obligated to accommodate air carriers choosing or desiring to conduct Air Transportation operations at the Airport.
 - (2) **Air Service is Not Contracted.** Airlines are free to increase or decrease service levels (frequency of service, origin-destination pairs, and aircraft type), and enter and exit markets, at their own discretion. As a result, airport operators such as GIAA must maintain standing Airline Agreements for whomever is offering Air Transportation at any given time.
 - (3) **Revenue to GIAA is Based on Activity.** Airlines determine their own service levels, and the Airline Agreements specify the rentals and fees to be paid based on the activity of each Airline, which will vary by Airline. Airlines do not bid or propose a specific amount of revenue to GIAA, but instead agree to pay for facilities they use based on their actual level of activity. GIAA manages the resulting aggregate generation of Airline revenue in relation to annual budgets and financial requirements. This means that, rather than a single solicitation bid or negotiation, the business arrangement involves and requires a practice of ongoing management and coordination.
- (b) **Conditions Specific to Airline Agreements.** Airline Agreements are more comprehensive than other typical Airport leases, because they must cover:
 - i) **Aircraft Operations.** The use of the airfield for aircraft operations, including compliance with all relevant FAA requirements and standards.
 - ii) **Passenger Facilitation.** Airlines are responsible for processing Airport passengers, and ensuring passenger safety and security.
 - iii) **Facility Development, Use, and Occupancy.** Airlines, through their aircraft and passenger activities, are the primary drivers of the development, use, and occupancy of the core airfield and terminal facilities at the Airport.
 - iv) **Rentals and Fees.** Airline Agreements include a comprehensive set of rentals and fees to provide a fair and equitable cost recovery and revenue generation from a broad variety of facilities and activities, and a combination of exclusive use and joint use spaces.
- (c) **Financial Significance of Airline Agreements.** The development of Airport facilities is primarily in response to the Air Transportation requirements of airlines and their passengers. As a result, the Airline Agreements provide critical financial support for the Airport:

- (1) **Airfield Cost Recovery.** Airlines pay landing fees under the Airline Agreement to provide for the cost of developing and operating the airfield
- (2) **Terminal Cost Recovery.** Together with revenue from Concession Agreements, the Airline Agreements provide for the cost of developing and operating the Terminal Building and associated landside facilities.
- (3) **Airport Revenue Bond Debt Service Coverage.** While not the only source of revenue at the Airport, the Airline Agreements provide the foundation for revenue required to demonstrate revenue bond debt service coverage and support periodic issuance of bonds to fund capital improvements.
- (d) **Solicitation/Contracting Methods.** Because under federal regulations GIAA as Airport Sponsor is required to make the airport available to Airlines desiring to provide Air Transportation, the Airline Agreements are negotiated from time-to-time with any and all Airlines using the Airport, and not secured using a competitive solicitation process that selects some providers and excludes others. This is further explained in Section 3.02 Contracting Method and Agreement Formation.

Section 3.02 Contracting Method & Agreement Formation

GIAA policy is to have standard and substantially similar Airline Agreements in place and available at any given time, for Airlines currently providing or desiring to provide Air Transportation at the Airport.

- (a) **Contracting Method—Application for Lease.** Because under federal policy GIAA is required to make the airport available to any Airlines desiring to provide service, the Airline Agreements are negotiated from time-to-time with Airlines using the Airport, using the Application for Lease method, and not secured using a competitive solicitation process.
 - (1) **Signatory Airlines.** Signatory Airlines are the Airlines that have executed substantially similar agreements with GIAA covering the use and occupancy of facilities at the Airport, collectively resulting in a standard Airline Agreement.
 - (2) **Nonsignatory Airlines.** Nonsignatory Airlines are the Airlines that serve the Airport but have chosen to not apply for or execute an Airline Agreement.
- (b) **Contracting Process—Application for Lease.** Airline Agreements are negotiated between GIAA and Airlines serving the Airport such that there is always a standard Airline Agreement in place. Airlines can apply to become a Signatory Airline by participating in the negotiation and executing the resulting Airline Agreement. Airlines can also apply at any time to become a Signatory Airline by executing the standard Airline Agreement that is currently in place.
 - (1) **Airline Agreements in Place.** At any given time, GIAA shall have standard and substantially similar Airline Agreements in place for Airlines currently serving the Airport.
 - (2) **Advance Planning.** Sufficiently prior to expiration of the term of Airline Agreements currently in place, GIAA shall engage in discussions with Airlines regarding the new Airline Agreement that will be required to establish a new and uninterrupted term, and establish a plan for negotiating and agreeing on a new Airline Agreement. This advance planning process shall be used to identify which Airlines are interested to apply to continue as or to become Signatory Airlines.

- (3) **Negotiations.** Based on advance planning discussions with Airlines, the Executive Manager shall direct the drafting of a proposed new Airline Agreement for a proposed new term, and initiate a process of meetings, discussions, and negotiations with the Airlines interested in remaining or becoming Signatory Airlines.
 - (4) **Lease Execution.** At the conclusion of negotiations, Airlines wishing to apply for Signatory Airline status will be offered the new standard Airline Agreement, customized as appropriate for the anticipated space occupancy of each individual Airline. Airlines that subsequently execute the Airline Agreement will be Signatory Airlines for the new lease term.
- (c) **Agreements.** Key provisions to be included in standard Airline Agreements are:
- (1) **Term.** The term (duration) of the agreement can be negotiated between GIAA and Airlines, and is subject to any limits in Guam law.
 - (2) **Rights and Privileges.** The specific rights to use Airport facilities for Airline operations.
 - (3) **Premises.** Description of exclusive use and joint use space. Each individual Airline has a unique leasehold of exclusive use space.
 - (4) **Capital Improvements.** Description of the process for discussing and approving capital improvements, the cost of which will be included in airline rents and fees.
 - (5) **Rents and Fees (Rates and Charges).** Description of the various rents and fees, and the methodology for annual adjustments.
 - (6) **Subordination to Bond Indenture.** General requirement that the Airline Agreement is subordinate to the Bond Indenture with regard to GIAA use of Airport revenue, but not dictating the business terms negotiated between GIAA and Airlines.
 - (7) **Maintenance Obligations.** The respective obligations of GIAA and Airlines to maintain Airport facilities.
 - (8) **Other.** Other terms typically included in an airline lease, such as: security deposits, insurance requirements, and dispute resolution.

Section 3.03 Airline Rates & Charges

Federal policy requires that airline rates and charges are fair and nondiscriminatory, with reasonably transparent rates and charges methodology, but does not prescribe the precise methodology. GIAA may periodically revisit or renegotiate the rates and charges methodology in the Airline Agreements, but within the context of ensuring that Airline revenues, together with all other revenues generated at the Airport, are sufficient to pay GIAA's annual operating expenses and debt service, and meet the Rate Covenant of the Bond Indenture.

Section 3.04 Signatory Airline Preferences are Not Discriminatory

Signatory Airlines are Airlines that have executed substantially similar Airline Agreements. Nonsignatory Airlines are Airlines that have not executed the Airline Agreement, but are still allowed to operate at the Airport under general rules, regulations, and tariff rates. GIAA benefits from the financial stability afforded by Signatory Airlines with executed Airline Agreements, so it is reasonable that, in exchange, the Signatory Airlines receive consideration of certain preferences, such as discounted rental and fee rates, preferential facility access, and consultation rights. This is typical of U.S. airport-airline agreements, and is not considered discriminatory.

Section 3.05 New Signatory Airlines

From time-to-time, new Airlines may begin service at the Airport and desire to become a Signatory Airline, or an existing Nonsignatory Airline may desire to transition to Signatory Airline status.

GIAA will use the Application for Lease method. The applicant Airline will be offered the then-existing standard Airline Agreement.

Section 3.06 Other

- (a) **Regular Coordination is Required.** Because
- (b) of the importance of the Airline Agreements in defining the conditions and requirements for the operations of Airlines at the Airport, GIAA shall maintain a process of regular coordination with Airlines, which will include opportunities to improve processes and approaches for the benefit of both GIAA and the Airlines.
- (c) **Interim Amendments are Permitted.** The Airline Agreements have fixed terms, and new or refreshed Agreements are negotiated as needed for each term cycle. In the interim, before the expiration of term, there may be reasons to mutually agree on certain amendments to the Airline Agreements to reflect changes in current circumstances or reflect an otherwise mutually agreed reason to modify one or more clauses. Such interim amendments are permitted, if mutually agreed between GIAA and Airlines.
- (d) **Customization is Permitted.** Customization of standard Airline Agreements for individual Airlines is permitted to appropriately reflect unique conditions such as space occupancy and utilization, as long as GIAA determines that the Airline Agreements remain substantially similar, without more favorable treatment, particularly in the application of rentals and fees.
- (e) **Extensions are Permitted.** Temporary extensions of Airline Agreements are permitted to provide for time required to conclude negotiations on a new Airline Agreement, to avoid any interruptions to Airline operations and revenue generation.

ARTICLE 4 OTHER LEASES

Section 4.01 General

Other Leases are leases of Airport Property to Persons not engaged in Air Transportation or Concession activity. These Other Leases may be for land, buildings, or both.

- (a) **Other Leases are Important.** Other Leases are important in providing sources of non-airline revenue and supporting the financially self-sustaining mandate of GIAA.
- (b) **Other Leases are Distinct.** Other Leases are distinct because, unlike Airline Agreements and Concession Agreements, they are available for a potentially wide variety of uses—not the specialized and restricted categories of providing Air Transportation and selling goods and services to users of the Airport. In addition:
 - (1) Concessionaires must compete during a periodic official solicitation period to be selected for the restricted and commercially valuable privilege to sell goods and services to users of the Airport, and otherwise are not eligible to apply for or conduct Concession activity at the Airport. Other Leases can be awarded at any time that there is available Airport Property for any suitable purpose.
 - (2) Concessionaires must offer substantial Concession Fees for the privilege of operating a Concession. For most Other Leases, GIAA will use an approach of fair market rental value, in accordance with FAA policy, and price will not be the determinative factor.
 - (3) Thus, the solicitation and award process for Other Leases is not as competitively significant as it is for Concession Agreements.

- (c) **The Policy for Other Leases is More Flexible.** Because of the distinctions of Other Leases from Concession Agreements, the policy for Other Leases is more flexible, providing GIAA the ability to continuously explore non-airline revenue development while still adhering to overall Airport Lease Policy objectives of fair, transparent, and nondiscriminatory business practices. This includes:
 - (1) Any acceptable solicitation and contracting method is available to use for Other Leases. The Executive Manager shall determine the most appropriate method in writing, based on the particular circumstances of the opportunity.
 - (2) Given the potential range of circumstances and opportunities that cannot be fully anticipated in advance, the Executive Manager shall have discretion in evaluating each potential new Other Lease, as it shall arise.

Section 4.02 Solicitation/Contracting Methods & Lease Formation

GIAA may use either of two methods of soliciting and contracting, depending on a written determination by the Executive Manager of which is more appropriate for the specific Other Lease opportunity.

- (a) Request for Proposals
- (b) Application for Lease

Section 4.03 Request for Proposals (RFP)

The method of Request for Proposals (RFP) is used to solicit competitive proposals that allows GIAA to evaluate proposals based on a variety of factors, including experience, business concept, proposed investments, and other relevant criteria.

- (a) **Determination of Use.** The Executive Manager may determine that the RFP method is in the best interests of GIAA, as compared to the Application for Lease method described in Section 4.04, in any one or more of the following circumstances:
 - (1) Prior to receiving any interest, GIAA decides to initiate an RFP process to obtain proposals for one or more parcels or units of Airport Property
 - (2) There are multiple Persons that have expressed interest in writing in the same parcel or unit of Airport Property;
 - (3) It is determined by the Executive Manager in writing, that a competitive RFP process is likely to result in a more favorable business outcome for GIAA, as compared to accepting an Application for Lease, and therefore warrants the additional management and administrative effort associated with the RFP process.
- (b) **Consideration of Alternatives.** For each potential Lease opportunity, the Executive Manager shall consider the advantages and disadvantages of the RFP method and the Application for Lease method, and determine which method is in GIAA's best interest and meets the policy objectives of fair treatment and fostering competition. Factors used in evaluation include:
 - (1) Anticipated competitive demand, and the likelihood of achieving a significantly more advantageous business outcome using the RFP process
 - (2) Cost savings and efficiency of direct negotiation in the Application for Lease process, compared to the requirements of the RFP process.
- (c) **Initiation of Process.** Unlike Concessions, Other Leases are not awarded during pre-determined procurement cycles. Instead, Other Leases are procured when interest is developed, in the form of either:

- (1) **GIAA Interest.** GIAA may decide to advertise the availability of one or more properties for lease. At this time the Executive Manager shall determine in writing if GIAA will simply collect Applications for Lease, or instead use a more formal RFP process.
- (2) **Potential Tenant Interest.** A potential tenant may approach GIAA and express interest in leasing Airport Property. Considering the specific circumstances, which will be unique to each instance, the Executive Manager shall determine if it is more appropriate to use the RFP process or the Application for Lease process.
- (d) **RFP Development.** When the Executive Manager determines that the RFP process is appropriate for a potential Other Lease, the Executive Manager shall direct the development of an RFP document that shall include relevant information, at a minimum:
 - (1) **Description of the Process.** The schedule for steps in the process.
 - (2) **Requirements of the Submittal.** Information that must be included in any Proposal that is submitted.
 - (3) **Description of the Property.** A description of the property to be the subject of the proposed Lease, including location, size, and any existing buildings.
 - (4) **Key Business Terms.** May include anticipated term (duration) of lease; permitted uses; required investments or other responsibilities; anticipated basis for rental rate.
 - (5) **Sample Agreement or Agreement Terms.**
 - (6) **Evaluation Criteria.** The factors to be used in evaluating proposals, and some qualitative or quantitative indication of relative importance.
- (e) **Process.** The RFP process shall include these steps:
 - (1) **Public Notice and Pre-Proposal Conferences.** Public notice is required, and in GIAA's best interest to generate interest in the proposed Lease opportunity. Pre-proposal conferences may be used if the Executive Manager determines useful and appropriate.
 - (2) **Proposal Evaluation.** The Executive Manager will direct an effort to evaluate and rank any proposals that are received, using the evaluation factors from the RFP.
 - (3) **Selection.** The Executive Manager shall select the highest-ranked Proposer from the evaluation process.
 - (4) **Negotiation and Award.** The Executive Manager and/or a designee shall negotiate an Agreement with the highest-ranked Proposer.
- (f) **Leases.** GIAA shall include a sample lease or sample lease terms in the RFP, which then forms the basis for the lease to be negotiated with the selected Proposer. Key terms include:
 - (1) **Premises.** A description of the premises.
 - (2) **Use of Premises.** Permitted uses, and obligations to comply with laws, rules, and regulations.
 - (3) **Term.** Duration of lease term.
 - (4) **Rent.** Monthly rent, and any other considerations specific to the individual lease.
 - (5) **Other.** Other standard terms of GIAA leases.

Section 4.04 Application for Lease

The method of Application for Lease is used to negotiate a lease with a prospective tenant interested in a specific parcel or unit of Airport Property. This is not a competitive selection process, but the same evaluation factors used in an RFP process—including experience, business concept, proposed investments, and other relevant criteria—may be used by the Executive Manager to determine if it is appropriate to continue through the process, to reject the application without proceeding further, or to transition to the RFP process.

- (a) **Determination of Use.** The Executive Manager may determine that the Application for Lease method is in the best interests of GIAA, as compared to the RFP method described in Section 4.03, in cases where:
 - (1) GIAA has advertised or made public that certain property parcels and/or units are available for interested Applicants.
 - i) If a single Application is received, the Executive Manager shall evaluate the Application, and determine the merits of proceeding through the lease negotiation process.
 - ii) If more than one Application is received for the same property parcel or unit, the Executive Manager shall determine if it is possible to clearly identify the preferred Applicant, to offer leases to all Applicants, or if instead it is appropriate to use an RFP process to determine the best qualified Applicant.
 - (2) GIAA has received an unsolicited Application for Lease, from a person interested in a specific property parcel or unit. The Executive Manager shall evaluate the Application, and determine if it is in GIAA's best interests to proceed to lease negotiation with the Applicant, or instead transition to the RFP process described in Section 5.04 Request for Proposals.
- (b) **Consideration of Alternatives.** For each potential Lease opportunity, whether initiated by GIAA or initiated by an Applicant, the Executive Manager shall consider the advantages and disadvantages of the RFP method and the Application for Lease method, and determine which method is in GIAA's best interest and meets the policy objectives of fair treatment and fostering competition.
- (c) **Initiation of Process.** Unlike Concessions, Other Leases are not awarded during pre-determined procurement cycles. Instead, Other Leases are procured when interest is developed, in the form of either:
 - (1) **GIAA Interest.** GIAA may decide to advertise the availability of one or more properties for lease. At this time the Executive Manager shall determine if GIAA will simply collect Applications for Lease, or instead use a more formal RFP process.
 - (2) **Potential Tenant Interest.** A potential tenant may approach GIAA and express interest in leasing Airport Property. Considering the specific circumstances, which will be unique to each instance, the Executive Manager shall determine if it is more appropriate to use the RFP process or the Application for Lease process.
- (d) **Application for Lease.** When it is determined that the Application for Lease process is most appropriate for a potential Other Lease, the Executive Manager shall proceed through the below process.
- (e) **Process.** The Application for Lease process shall include these steps:
 - (1) **Receipt of Application.** In cases either initiated by GIAA or initiated by an Applicant, GIAA receives an Application for Lease for a specific parcel or unit of property.
 - (2) **Evaluation of Application.** The Executive Manager will direct an effort to evaluate the Application:
 - i) First, to determine if it is in GIAA's best interests to proceed with lease negotiation, and
 - ii) Second, to determine if it is in GIAA's best interest to proceed with lease negotiation under the Application for Lease process, or instead transition an RFP.
 - (3) **Negotiation and Award.** The Executive Manager and/or a designee shall negotiate a lease with the Applicant, using standard lease terms.

- (f) **Leases.** GIAA shall maintain a standard sample lease or sample lease terms, which then forms the basis for the lease to be negotiated with the selected Applicant. Key terms include:
- (1) **Premises.** A description of the premises.
 - (2) **Use of Premises.** Permitted uses, and obligations to comply with laws, rules, and regulations.
 - (3) **Term.** Duration of lease term.
 - (4) **Rent.** Monthly rent, and any other considerations specific to the individual lease.
 - (5) **Other.** Other standard terms of GIAA leases.

Section 4.05 Lease Term

The duration of lease term may or may be stated in the RFP or notice of availability of property, or this may be reserved for negotiation with the selected Proposer or Applicant. In any event, the duration of term is subject to limits in Guam law.

Section 4.06 Master Developer

In addition to leasing individual parcels and buildings, GIAA may consider leasing an amount of Airport Property to a master developer, who would improve the property and sublease to others, as is routinely done at U.S. airports.

- (a) **Initiated by GIAA.** GIAA may decide to pursue a master developer arrangement, in which case GIAA would initiate the RFP process described in Section 4.03 Request for Proposals.
- (b) **Initiated by Applicant.** A master developer as Applicant may propose, unsolicited, to lease Airport Property. In this case, the Executive Manager shall direct an evaluation the same as described in Section 4.04 Application for Lease, to determine if it is in GIAA's best interest to proceed with the Application for Lease process, or instead initiate an RFP process.

Section 4.07 Airport Planning

Ongoing Airport planning exercises, including periodic Master Plan Updates, should be used by GIAA to identify Airport Property that is available for non-airline revenue development using Other Leases.

Section 4.08 GIAA Investment

In some cases, it may be in GIAA's best interest to invest in improvements to enable a new Other Lease. For general Airport infrastructure, such as roads and utilities, or site preparation, this would likely be considered part of overall Airport development. For any investments more specific to the proposed tenant, such as assistance with building improvements, the Executive Manager shall determine that this investment is appropriately reflected in the lease rental terms and the financial benefit to GIAA, so as not to produce any actual or apparent unduly favorable treatment and/or terms materially below fair market value.

ARTICLE 5 LEGAL AND CONTRACTUAL REMEDIES

An RFP for any Other Lease issued under Article 4 of these Policies may be protested in the same manner as a protest made under the Concession Policies and Procedures, which may be amended from time to time.

ARTICLE 6 ETHICAL STANDARDS

6.01. Definitions of Terms Used in this Article.

- (a) *Bona Fide Employee* means an individual employed by a prospective proposer or Lessee and subject to the prospective proposer's or Lessee's supervision and control as to the time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain a Lease Agreement. In determining whether a bona fide employment relationship exists, the following factors should be considered:
 - (1) whether the employment is continuous;
 - (2) whether the person is subject to the supervision and control of the prospective offeror or proposer;
 - (3) whether the size of any contingent fee is reasonable in relation to the services performed;
 - (4) whether the method of payment of the contingent fee is customary in the trade; and
 - (5) whether the person is employed solely by the prospective offeror or proposer.
- (b) *Bona Fide Established Commercial Selling Agency* means a Person that neither exerts nor proposes to exert improper influence to solicit or obtain a Lease Agreement. In determining whether a Person is a Bona Fide Established Commercial Selling Business, the following factors should be considered:
 - (1) whether the Person is one which has either been active for a considerable period of time or is presently a going concern and is likely to continue as such;
 - (2) whether the Person uses its own name and is characterized by the customary indicia of the conduct of a regular business;
 - (3) the degree to which the Person's activities are directed toward the solicitation of Lease Agreements;
 - (4) whether the size of any contingent fee is reasonable in relation to the services performed; and
 - (5) whether the method of payment to the contingent fee is customary in the trade.

6.02. Purpose and Policy.

- (a) **Purpose.** This Article prescribes the standards of conduct for Government Employees in general and establishes specific standards of conduct for non-government employees with regard to Solicitations for Lease Agreements at GIAA.
- (b) **Policy.** Public employment is a public trust. It is the policy of GIAA to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by GIAA. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service. Government Employees must discharge their duties impartially so as to assure fair competitive access to Solicitations by responsible proposers. Moreover, Government Employees should conduct themselves in such a manner as to foster public confidence in the integrity of the Solicitation process. To achieve the purpose of and uphold the policies of this Article, it is essential that those seeking lease opportunities at

GIAA also observe the ethical standards prescribed herein.

6.03. General Ethical Standard for Non-Government Employees.

- (a) **No Influence.** Any effort to influence any Government Employee to breach the standards of ethical conduct set forth in this Article or 4 GCA Chapter 15 is also a breach of ethical standards.
- (b) **Required Declaration.** Every proposer or prospective Lessee shall submit a declaration regarding the ethical standard not to influence Government Employees. Such declaration shall be in a form established by GIAA.
- (c) **Required Clause.** The following clause shall be conspicuously set forth in every Solicitation and Lease Agreement:

REPRESENTATION REGARDING ETHICAL
STANDARD NOT TO INFLUENCE GOVERNMENT EMPLOYEES

Proposer or Lessee represents that it has not knowingly influenced and promises that it will not knowingly influence a Government Employee to breach any of the ethical standards set forth in Article 6 of the GIAA Leasing Policies and Procedures or 4 GCA Chapter 15 (Standard of Conduct for Elected Officers, Appointed Officers, and Public Employees of the Government Of Guam).

6.04. Criminal Sanctions. To the extent that violations of the ethical standards of conduct set forth in this Article constitute violations of Title 9 GCA (Crimes and Corrections), they shall be punishable as provided therein. Such sanctions shall be in addition to the civil remedies set forth in this Article.

6.05. Ethical Standard – Government Employee Conflicts of Interest.

- (a) **(Conflict of Interest.** It shall be a breach of ethical standards for any Government Employee to participate directly or indirectly in a Solicitation when the Government Employee knows that:
 - (1) the Government Employee or any member of the Government Employee's Immediate Family has a Financial Interest pertaining to the Solicitation;
 - (2) a Business in which the Government Employee, or any member of the Government Employee's Immediate Family has a Financial Interest, has a Financial Interest pertaining to the Solicitation; or
 - (3) any Person with whom the Government Employee or any member of the Government Employee's Immediate Family is negotiating or has an arrangement concerning prospective employment has a Financial Interest in the Solicitation.
- (b) **Financial Interest in a Blind Trust.** Where a Government Employee or any member of the Government Employee's Immediate Family holds a Financial Interest in a Blind Trust, the Government Employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that Financial Interest, provided that disclosure of the existence of the Blind Trust has been made to the Civil Service Commission.
- (c) **Discovery of Actual or Potential Conflict of Interest, Disqualification, and Waiver.** Upon discovery of an actual or potential conflict of interest, a Government Employee shall

promptly file a written statement of disqualification with the Executive Manager and shall withdraw from further participation in the Solicitation. The Government Employee may, at the same time, apply to the Civil Service Commission pursuant to 5 GCA 5676(b) for an advisory opinion as to what further participation, if any, the employee may have in the Solicitation.

- (d) **Notice.** Notice of this prohibition shall be provided in accordance with regulations promulgated by the Civil Service Commission.
- (e) **Application for a Waiver of Prohibition Against Conflict of Interest.**
 - (1) Application for Waiver. (Reserved).
 - (2) Grant or Denial of Waiver. The Civil Service Commission, may grant a Government Employee and/or the Lessee a waiver of the conflict of interest prohibition where the interests of the GIAA so require or when the ethical conflict is insubstantial or remote.

Prior to granting or denying a waiver, the Civil Service Commission shall make such investigation as it may deem appropriate and which is not in violation of the Government Employee's or the Proposer's or Lessee's rights, privileges, and immunities. Factors to be considered by the Civil Service Commission when determining whether to grant a waiver shall include:

 - (i) the degree of involvement of the Government Employee or Lessee;
 - (ii) the size and character of the Financial Interest of the Government Employee or a member of such employee's Immediate Family or a Proposer or Lessee which relates to the particular Solicitation;
 - (iii) the likelihood of the appearance of impropriety;
 - (iv) the availability of prospective proposers with which a Lease Agreement would not present a conflict; and
 - (v) the extent to which GIAA's interests will be affected by a waiver.

6.06. Reserved

6.07. Ethical Standard – Gratuities and Kickbacks.

- (a) **Gratuities.** It shall be a breach of ethical standards for any person to offer, give, or agree to give any Government Employee or former Government Employee, or for any Government Employee or former Government 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 Solicitation, influencing the content of any Solicitation 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 Lease Agreement, 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 Lessee or Proposer or higher tier subcontractor or any person associated therewith, as an inducement of the award of a subcontract or order.
- (c) **Contract Clause.** The prohibition against gratuities and kickbacks prescribed in this Section shall be conspicuously set forth in every Lease Agreement and solicitation therefor.
- (d) **Favors to the Government of Guam.** For purposes of this subsection, a favor is anything, including raffle tickets, or more than de minimis value and whether intended for the personal enjoyment of the receiver or for the department or organization in which they are

employed or for any person, association, club or organization associated therewith or sponsored thereby. It shall be a breach of ethical standards for any person who is or may become a Lessee, a subcontractor under a Lease Agreement to the Lessee, or any person associated therewith, to offer, give or agree to give any Government Employee or agent of the government of Guam or for any Government Employee or agent of the government of Guam to solicit or accept from any such person or entity or agent thereof a favor or gratuity on behalf of the government of Guam whether or not such favor or gratuity may be considered a reimbursable expense of the government of Guam, during the pendency of any Solicitation.

(e) **Intentionally Omitted.**

(f) **Gratuities Prohibition.**

(1) Breach. It is a breach of § 6107(a) (Gratuities and Kickbacks - Gratuities) of these Policies and Procedures:

- (i) for any Person to offer, give, or agree to give any Government Employee or former Government Employee a gratuity of offer of employment; or
- (ii) for any Government Employee or former Government Employee to solicit, demand, accept, or agree to accept a gratuity or an offer of employment; provided that the gratuity or offer of employment is in relation to a particular matter in accordance with § 6107(f)(2) of these Policies and Procedures, and pertains to any Lease Agreement, subcontract, or Solicitation or proposal therefor.

(2) Relationship of Gratuity. In addition, the gratuity or offer of employment must be made in relation to any proceeding or application, request for a ruling, determination, claim or controversy, or other particular matter, to constitute a breach, and in connection with any:

- (i) decision;
- (ii) approval;
- (iii) disapproval;
- (iv) recommendation;
- (v) preparation of any part of a Solicitation;
- (vi) action to influence the content of any Solicitation;
- (vii) rendering of advice;
- (viii) investigation;
- (ix) auditing; or
- (x) other advisory capacity.

(3) Family. This prohibition extends to the giving of gratuities to anyone on the Government Employee's or former Government Employee's behalf such as a member of the Government Employee's or former Government Employee's Immediate Family.

(g) **When Prohibition Against Gratuities not Applicable.** Section 6107(a) (Gratuities and Kickbacks-Gratuities) of these Policies and Procedures does not prohibit:

- (1) the solicitation or acceptance of anything of monetary value from a friend, parent, spouse, child, or other close relative when the circumstances make it clear that the motivation for the transaction is unrelated to any Solicitation or Solicitation requirement with GIAA and is based upon a personal or family relationship;
- (2) the participation in the activities of, or the acceptance of an award for, a meritorious public contribution or achievement from a charitable, religious, professional, social, or fraternal organization, or from a non-profit educational, recreational, public service, or

- civic organization;
- (3) acceptance only on current customary terms of finance of a loan from a bank or other financial institution for proper and usual activities of Government Employees, such as home mortgage loans; or
 - (4) acceptance of unsolicited advertising products or promotional material, such as pens, pencils, note pads, calendars, and other items under nominal value as described in § 1106(cc) (Definitions-Gratuity) of these Policies and Procedures.
- (h) **Payment of a Kickback.** The prohibition against kickbacks set forth in § 6107(b)11206(2) (Gratuities and Kickbacks-Kickbacks) of these Policies and Procedures applies whether a kickback is made prior to or after the award of a Lease Agreement.
- (i) **Contract Clause.** The following clause shall be conspicuously set forth in every Lease Agreement and Solicitation therefor:

REPRESENTATION REGARDING GRATUITIES AND KICKBACKS

The Proposer or Lessee represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities and kickbacks set forth in § 6107 (Gratuities and Kickbacks) of the GIAA Leasing Policies and Procedures.

6.08. Contingent Fees.

- (a) **Prohibition Against Contingent Fees.**
- (1) 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 a Lease Agreement 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 a Lease.
 - (2) Representation of Lessee. Every Person, before being awarded a Lease Agreement, shall represent, in writing, that such Person has not retained anyone in violation of Subsection (1) of this Section. Failure to do so constitute a breach of ethical standards.
 - (3) Contract Clause. The representation prescribed in Subsection (2) of this Section shall be conspicuously set forth in every Lease Agreement and Solicitation therefor.
- (b) **Intentionally Omitted.**
- (c) **Influence Peddling.** The prohibition in § 6108(a)(1) (Prohibition Against Contingent Fees-Contingent Fees) of these Policies and Procedures covers influence peddling and particularly that which might occur when a former Government Employee is hired on contingent basis by a business seeking a Lease Agreement.
- (d) **Relationship of Commercial Selling Agency to the Prospective Lessee.** The relationship between a Bona Fide Established Commercial Selling Agency and the prospective Lessee should be characterized by the following:
- (1) the fees charged by the commercial selling agency are commensurate with the nature and extent of the business's services actually rendered to the prospective Lessee;
 - (2) the commercial selling agency has adequate knowledge of the prospective Lessee which it represents to judge whether the prospective Lessee may be able to meet GIAA's requirements; and
 - (3) the relationship between the commercial selling agency and the prospective Lessee is or is contemplated to be continuing.

- (e) **Improper Influence.** A business employee or commercial selling agency should be conclusively presumed not to be bona fide if GIAA determines that improper influence has been or is being used to secure a Lease Agreement.
- (f) **Solicitation Clause.** Every Solicitation for a Lease Agreement shall conspicuously set forth the following provision to be completed and submitted with every prospective Lessee's proposal:
PROSPECTIVE Lessee's REPRESENTATION REGARDING CONTINGENT FEES
 The prospective Lessee represents as a part of its proposal that it has/has not (circle applicable word or words) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this Lease Agreement.
- (g) **Information on Contingent Fees.** Any prospective Lessee who has completed the clause set forth in § 6108(f) (Solicitation Clause) in the affirmative and is the apparently successful proposer shall submit the following information:
- (1) the full name and business address of the business or person retained, and the type of business organization;
 - (2) the relationship of the business or person to the prospective Lessee;
 - (3) the terms of the retention agreement or copy of such agreement;
 - (4) if such person is a business employee: (i) the duration of employment; (ii) whether that employee is on the Lessee's payroll for purposes of social security and federal or local income tax withholding; (iii) whether that employee represents other businesses and, if so, the names and addresses of such businesses;
 - (5) whether the business or person represents the prospective Lessee on: (1) both government and commercial business; (2) only government business; or (3) only the present Lease Agreement;
 - (6) the extent of the duties of the business or person; and
 - (7) the duration the business or person has been engaged in a particular type of work and has performed this type of work for the Lessee.
- (h) **Contract Clause.** The following clause shall be conspicuously set forth in every Lease Agreement and Solicitation therefor:
REPRESENTATION REGARDING CONTINGENT FEES
 The Lessee represents that it has not retained a Person to solicit or secure a Lease Agreement 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 a Lease Agreement.

6.09. Employment Prohibitions and Restrictions.

- (a) **Restrictions on Employment of Present and Former Government Employees.**
- (1) Restrictions on Former Government Employees in Matters Connected with Their Former Duties.
 - (i) Permanent Disqualification of Former Government Employee Personally Involved in a Particular Matter. It shall be a breach of ethical standards for any former Government Employee knowingly to act as a principal, or as an agent for anyone other than GIAA, in connection with any:
 1. judicial or other proceeding, application, request for ruling, or other determination;
 2. Lease Agreement;

3. claim; or
 4. charge or controversy; in which the former Government Employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise while a Government Employee, where GIAA is a party or has a direct and substantial interest.
- (ii) One year representation restriction regarding matters for which a former Government Employee was officially responsible. It shall be a breach of ethical standards for any former Government Employee, within after cessation of the former employee's official responsibility, knowingly to act as principal, or as an agent for anyone other than GIAA, in connection with any:
1. judicial or other proceeding, application, request for a ruling, or other determination;
 2. Lease Agreement;
 3. claim; or
 4. charge or controversy; in matters which were within the former Government Employee's official responsibility, where GIAA is a party or has a direct or substantial interest.
- (2) Disqualification of Business When a Government Employee has a Financial Interest. It shall be a breach of ethical standards for a business in which a Government Employee has a Financial Interest knowingly to act as a principal, or as an agent for anyone other than GIAA, in connection with any:
- (i) judicial or other proceeding, application, request for a ruling, or other determination;
 - (ii) Lease Agreement;
 - (iii) claim; or
 - (iv) charge or controversy; in which the Government Employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the Government Employee's official responsibility, where GIAA is a party or has a direct and substantial interest.
- (3) Selling to GIAA After Termination of Employment is Prohibited. It shall be a breach of ethical standards for any former Government Employee, unless the former Government Employee's last annual salary did not exceed \$12,000, to engage in selling to the GIAA for ninety (90) days following the date employment ceased. The term Sell as used herein means signing a proposal or Lease Agreement; negotiating a Lease Agreement; contracting any employee for the purpose of obtaining, negotiating, or discussing changes in a Solicitation or other terms of a Lease Agreement; settling disputes concerning performance of a Lease Agreement; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual Lease Agreement, therefore, is subsequently negotiated by another person; provided, however, that this Section is not intended to preclude a former Government Employee from accepting employment with private industry solely because the former Government Employee's employer is a Lessee with GIAA nor shall a former Government Employee be precluded from serving as a consultant to GIAA.

(b) Contemporaneous Employment Prohibition. (Reserved).

(c) Permanent Disqualification of Former Government Employee.

(1) Personal and Substantial Participation. For the Government Employee to have “participated personally and substantially” in a matter, such employee's involvement must have been more than merely ministerial in nature. Factors to be considered in determining personal and substantial participation of a former government employee while a government employee shall include but are not limited to:

- (i) the former Government Employee's degree of involvement in the particular matter;
- (ii) the degree of involvement of the former employee with a subordinate who had substantial participation in the matter;
- (iii) the effect or appearance of the involvement of the former government employee; and
- (iv) the relative time spent on the particular matter by the former government employee.

(2) Matter must be a Particular Matter Involving Identifiable Parties. The activities listed in § 6109(a)(1)(i) (Restrictions on Employment of Present and Former Employees-Permanent Disqualification of Former Employee Personally Involved in a Particular Matter) of these Policies and Procedures generally describe matters in which issues are defined and parties are identified, such as specific proceedings affecting the legal rights of parties, or isolated transactions or related sets of transactions between identifiable parties. Matters of general application, such as regulation and policy formulation, are not intended to be covered under those activities listed under § 6109(a)(1)(i). Therefore, only a particular matter involving an identifiable party or parties is subject to the permanent prohibition set forth under § 6109(a)(1)(i).

(3) The Same particular matter must be involved. The prohibition set forth in § 6109(a)(1)(i) (Restrictions of Employment of Present and Former Employees-Disqualification of Former Employee Personally Involved in a Particular Matter) of these Policies and Procedures applies only with regard to those same particular matters in which the former Government Employee participated personally and substantially while a government employee. In determining whether two particular matters are the same, the following factors should be considered:

- (i) the factual basis of the matters;
- (ii) the relationship of the issues involved in each matter;
- (iii) the identity of the parties involved in each matter; and
- (iv) the continued existence of an important GIAA interest.

(d) One year restriction for a former Government Employee.

(1) Official responsibility.

(i) Intentionally Omitted.

(ii) Scope. The scope of a Government Employee's Official Responsibility is determined by the territory's statutes, regulations, executive orders, case law, or job descriptions, or may result from the lawful delegation of another Government Employee's duties.

(iii) Requirement That Matters Have Been Actually Pending. In order for a matter to have been within a former Government Employee's Official Responsibility, it must have in fact been assigned to or under consideration by persons under the former

Government Employee's Official Responsibility.

- (2) One year restriction. The one-year restriction set forth in § 6109(a)(1) (Restrictions on Employment of Present and Former Employees-Restrictions on Former Employees in Matters Connected with Their Former Duties) of these Policies and Procedures is measured from the time the former Government Employee's Official Responsibility ended in a particular matter.

(e) Disqualification of a Business.

- (1) Personal and Substantial Participation. Personal and substantial participation is discussed in § 6109(c)(1) (Permanent Disqualification of Former Government Employee-Personal and Substantial Participation) of this Article.
- (2) Official Responsibility. Official Responsibility is discussed in § 6109(d)(1) (One Year Restriction for a Former Government Employee- Official Responsibility) of this Article.
- (3) Determination of Business Knowledge. In ascertaining whether a business has knowledge that a Government Employee has a Financial Interest in that business for the purpose of applying the prohibition in § 6109(a)(2) (Restrictions on Employment of Present and Former Employees-Disqualification of a Business When an Employee Has a Financial Interest) of these Policies and Procedures, the factors to be considered should include the following:
 - (i) the size of the business;
 - (ii) the percentage of ownership in the business by the Government Employee;
 - (iii) the nature of the dealings of the Government Employee with the business regarding such employee's Financial Interest; and
 - (iv) such other evidence as may be relevant and material.

(f) Prohibition Against Selling to the Territory.

- (1) Prohibition; Applicability. Section 6109(a)(3) (Restrictions on Employment of Present and Former Employees-Selling to the Territory After Termination of Employment is Prohibited) of these Policies and Procedures, prohibits a former Government Employee whose annual salary exceeded \$12,000 from selling or attempting to sell to GIAA within ninety (90) days following the date employment ceases. This prohibition applies with regard to any Government Employee who used to be employed.
- (2) Sell Defined. Section 6109(a)(3) (Restrictions on Employment of Present and Former Employees-Selling to GIAA After Termination of Employment is Prohibited) of these Policies and Procedures, defines sell for the purpose of prohibiting selling to GIAA to mean:
 - (i) signing a proposal or Lease Agreement;
 - (ii) negotiating a Lease Agreement;
 - (iii) contracting any employee for the purpose of obtaining, negotiating, or discussing changes in a Solicitation or other terms of a Lease Agreement;
 - (iv) settling disputes concerning performance of a Lease Agreement; and
 - (v) any other liaison activity with a view toward the ultimate consummation of a sale although the actual Lease Agreement, therefore, is subsequently negotiated by another person. Requests for information are not included within the term "Sell."

- (g) Employment with a Lessee.** The ninety (90) days prohibition against selling contained in 6.09(f) of these Policies and Procedures shall not prohibit a former Government Employee from obtaining employment with a Lessee, but such employee shall not Sell to GIAA as

defined in 6.09(f)(2) (Prohibition Against Selling to the Territory-Sell Defined.)

6.10. Use of Confidential Information.

It shall be a breach of ethical standards for any Government Employee or former Government Employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

6.11. Civil and Administrative Remedies Against Employees Who Breach Ethical Standards. (Reserved).

6.12. Civil and Administrative Remedies Against Non-Employees who Breach Ethical Standards.

- (a) **Existing Remedies Not Impaired.** Civil and administrative remedies against non-employees which are in existence on the effective date of these Policies and Procedures shall not be impaired.
- (b) **Supplemental Remedies.** In addition to existing remedies for breach of the ethical standards of this Article, GIAA, in connection with non-employees, may impose any one or more of the following: (a) written warnings or reprimands; (b) termination of transactions; and (c) debarment or suspension from being a Lessee under a Lease Agreement.
- (c) **Right to Recover from Non-Employee Value Transferred in Breach of Ethical Standards.** The value of anything transferred in breach of the ethical standards of this Article by a non-employee shall be recovered by GIAA.
- (d) **Right of the Territory to Debar or Suspend.** Debarment or suspension may be imposed by GIAA in accordance with these Leasing Policies and Procedures (Authority to Debar or Suspend) for breach of the ethical standards of this Article, provided that such action may not be taken without the concurrence of the Attorney General.
- (e) **Due Process.** All procedures under this Section shall be in accordance with these Leasing Policies.

6.13. Recovery of Value Transferred or Received in Breach of Ethical Standards.

- (a) **General Provisions.** The value of anything transferred or received in breach of the ethical standards of this Article by a Government Employee or non-employee may be recovered from both the employee and non-employee.

Recovery of Kickbacks by the Territory. Upon a showing that a subcontractor made a kickback to a Lessee or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the territory and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

APPENDIX/REFERENCE--DEFINITIONS

§ 1106. Definitions. Terms used in this Airport Lease Policy have the following meaning ascribed to them unless the context in which they are used requires a different meaning, or unless a different definition is prescribed for a particular chapter in these Regulations.

- (a) *Air Transportation* shall mean the carriage for hire of persons, baggage, property, cargo, and mail by aircraft.
- (b) *Airline* means a certificated air carrier providing Air Transportation to and from the Airport.
- (c) *Airline Agreement* means the Agreement that provides for the use and occupancy of Airport facilities by certificated air carriers operating at the Airport.
- (d) *Airport* shall mean the Antonio B. Won Pat International Airport.
- (e) *Airport Layout Plan* or *ALP* shall mean a plan that shows boundaries and proposed additions to all areas owned or controlled by GIAA for airport purposes, approved by the FAA and made a part hereof, as the same may be amended from time to time.
- (f) *Airport Property* shall mean all real property of GIAA as shown in the Airport Layout Plan.
- (g) *Airport Purpose* shall mean any action or undertaking by GIAA reasonably relating to the operation, maintenance, expansion and development and preservation of the Airport for air commerce.
- (h) *Application for Lease* means the process to consider an application to lease Airport Property.
- (i) *Blind Trust* shall mean an independently managed trust in which the GIAA Employee beneficiary has no management rights and in which the GIAA Employee beneficiary is not given notice of alterations in, or other dispositions of, the property subject to the trust.
- (j) *Board of Directors* shall mean the duly appointed Board of Directors of GIAA acting collectively in the manner prescribed by law.
- (k) *Confidential Information* shall mean any information which is available to a GIAA Employee only because of the employee's status as an employee of GIAA and is not a matter of public knowledge or available to the public on request.
- (l) *Conspicuously* shall mean written in such special or distinctive format, print or manner that a reasonable person against whom it is to operate ought to have noticed it.
- (m) *Contract Modification* shall mean any written alteration, modification, amendment, or restatement of any provisions of an Agreement accomplished by mutual action of the parties to the contract.
- (n) *Concession(s) and Concession Privileges* shall mean the right given to a Person by GIAA to use a specific portion of Airport Property for the purpose of selling certain goods or providing certain services to users of the Airport to generate revenues, other than operating an Air Transportation business.
- (o) *Data* shall mean recorded information, regardless of form or characteristic.
- (p) *Designee* shall mean a duly authorized representative of a person holding a superior position.
- (q) *Direct or Indirect Participation* shall mean involvement through decision, approval, disapproval, recommendation, preparation of any part of a Solicitation, influencing the content of any terms or conditions of a Solicitation or Agreement, rendering of advice, investigation, auditing or in any other advisory capacity.

- (r) *Discussions*, as used in the Solicitation process, means an exchange of information or other manner of negotiation during which the Proposer and GIAA may alter or otherwise change the conditions and terms of a proposed Agreement. Discussions may be conducted in connection with Request for Proposals. *Executive Manager* shall mean the duly appointed Executive Manager of GIAA, as designated as such by the Board of Directors.
- (s) *FAA* shall mean the Federal Aviation Administration, U.S. Department of Transportation, or any federal agencies succeeding to its jurisdiction.
- (t) *FAR* shall mean the Federal Aviation Regulations as published by the FAA.
- (u) *Financial Interest* shall mean:
 - (1) ownership of any interest or involvement in any relationship from which, or as a result of which, a Person within the past year has received, or is presently or in the future entitled to receive, more than Two Thousand Five Hundred Dollars (\$2,500) per year, or its equivalent;
 - (2) ownership or an interest in any property or any business; or
 - (3) a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
- (v) *GAR* shall mean the Guam Administrative Rules and Regulations, as may be amended from time to time.
- (w) *GIAA* shall mean the Antonio B. Won Pat International Airport Authority, Guam, a public corporation and autonomous instrumentality of the Government of Guam.
- (x) *GIAA Employee* means:
 - (1) an individual elected to territorial office;
 - (2) a member of the GIAA Board of Directors;
 - (3) An individual, whether appointed or selected through a personnel selection procedure, receiving a salary, wages, or other compensation from GIAA; and
 - (4) a non-compensated or minimally compensated individual who is performing personal services for GIAA.
 - (5) The term *GIAA Employee* does not include a Person who, as an independent contractor, performs professional, scientific, technical, or advisory service for GIAA and who receives a fee, honorarium, or similar consideration for the services performed.
- (y) *Governmental Body* shall mean any department, commission, council, board, bureau, committee, institution, agency, government corporation, authority or other establishment or official of the Executive Branch of the Government of Guam, except for Guam Community College, the University of Guam, the Department of Education, and the Guam Memorial Hospital Authority.
- (z) *Gratuity* shall mean a payment, loan, subscription, advance, deposit of money, services, or anything of more than Nominal Value, present or promised, unless consideration of substantially equal or greater value is received. Gratuity may include any tangible and intangible benefit in the nature of gifts, favors, entertainment, discounts, passes, transportation, accommodation, hospitality, or offers of employment more than Nominal Value.
- (aa) *Immediate Family* shall mean a spouse, children, parents, brothers and sisters.
- (bb) *Main Terminal Building* shall mean that portion of Airport Property identified as such in the ALP.
- (cc) *May* denotes the permissive.
- (dd) *Nominal Value* means actual worth or actual cost, whichever is greater, which does not

exceed \$25 individually or cumulatively.

- (ee) *Nonsignatory Airline* means a certificated air carrier providing Air Transportation to and from the Airport that has not executed the GIAA Airline Agreement.
- (ff) *Official Responsibility* shall mean direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct territorial action.
- (gg) *Other Lease* means a lease other than an Airline Agreement or a Concession Agreement.
- (hh) *Person* shall mean an individual, corporation, limited liability company, partnership sole proprietorship, joint venture, union, committee, club, other organization or group of individuals acting as an entity. Person includes a trustee, receiver, assignee or similar representative.
- (ii) *Proposer* means a Person who has actually submitted a proposal in response to a RFP, unless the context indicates otherwise.
- (jj) *Prospective proposer* shall mean a Person who will actually submit a proposal in response to a RFP.
- (kk) *Request for Proposals* or *RFP* shall mean all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals.
- (ll) *Responsible Proposer* shall mean a Person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (mm) *Shall* denotes the imperative.
- (nn) *Signatory Airlines* shall mean a certificated air carrier providing Air Transportation to and from the Airport that have executed substantially similar agreements with GIAA covering the use and occupancy of facilities at the Airport.
- (oo) *Solicitation* means a Request for Proposals issued by GIAA for the purpose of soliciting proposals for a lease opportunity of Airport Property.