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## **For Immediate Release**

### **Calvo's SelectCare Files Protest with the Government of Guam Department of Administration (DOA)**

Hagatna, Guam, September 23, 2019 - Calvo's SelectCare, underwritten by Tokio Marine Pacific Insurance, a Guam insurance company, announced today the filing of a protest pertinent to DOA/HRD-RFP-GHI-20-001 or the GovGuam FY 2020 health insurance plan.

The protest is based on the failure of the negotiating committee to apply the Local Preference Policy as required by Guam procurement laws and regulations, which are cited in the Request for Proposal. The law mandates the application of a local procurement policy in the procurement of services ("Local Preference Policy"). See 5 GCA § 5008.

SelectCare qualifies as a local business under the Local Preference Policy and is thus entitled to the local preference. Last week SelectCare sought clarification from DOA as to whether the Procurement Law, as it relates to local preference, was considered when finalizing the rates for the FY2020 and making the award to Aetna. However, the requested clarifications were not answered by DOA as of this release.

However, based upon the FY20 Aetna rates just published by the Government and the FY20 rates submitted by SelectCare it appears that the Government did not apply the Local Preference Policy to SelectCare's proposal. The Government's failure to apply the Local Preference Policy to SelectCare is a violation of Guam Procurement Law.

The Government must apply the Local Preference Policy in the procurement of services. The Government failed to apply the local preference to SelectCare's proposed rates even though it qualifies as a local business under the Local Preference Policy and Aetna does not. Thus, the Negotiating Committee must withdraw its recommendation of Aetna to the Governor or the Government must cancel the award to Aetna, as the case may be, and apply the Local Preference Policy.

"We are seeking this relief on behalf of the thousands of GovGuam members who have shared their concerns with us, and we look forward to GovGuam implementing the appropriate remedies to this protest and the expeditious resolution of this matter," stated Frank Campillo, SelectCare Plan Administrator.

Campillo added, "There are special provisions in place that ensures that there is no interruption of coverage for the Government employees, retirees, and their families whom we have served for over 18 years."

**About Calvo's SelectCare:**

Calvo's SelectCare, underwritten by Tokio Marine Pacific Insurance, started operations on Guam and the CNMI in September 2000, and subsequently expanded to Palau in 2005. Calvo's SelectCare provides health insurance programs to the Government of Guam employees and retirees, Federal employees and annuitants, and private employers on Guam, the CNMI and Palau. As of June 30, 2019, Calvo's SelectCare insured over 48,000 members in Guam, the CNMI and Palau.

Source: Calvo's SelectCare



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September 23, 2019

**VIA HAND DELIVERY**

Mr. Edward Birn  
Director, Department of Administration  
Chairman, Government of Guam Health Insurance Negotiating Team  
590 S. Marine Corps Drive  
Suite 224  
International Trade Center (ITC) Building  
Tamuning, Guam 96913

Re: **PROTEST  
REQUEST FOR PROPOSAL NO. DOA/HRD-RFP-GHI-20-001**

Dear Mr. Birn:

Tokio Marine Pacific Insurance, Ltd. ("TMPI") and its general and administrative agent, Calvo's Insurance Underwriters, Inc. (collectively "SelectCare"), hereby submit this protest for the failure of the Government of Guam ("Government") to apply the local procurement preference policy pursuant to 5 GCA § 5008 to SelectCare's rates when determining the lowest cost option under the above-referenced RFP. This protest is being submitted pursuant to 5 G.C.A. § 5425 and 2 GARR Div. 4 § 9101.

**NAME AND ADDRESS OF PROTESTOR**

Tokio Marine Pacific Insurance, Ltd.  
250 Route 4, Suite 202  
Hagåtña, Guam 96910

Calvo's Insurance Underwriters, Inc. ("CIU")  
115 Chalan Santo Papa  
Hagåtña, Guam 96910

All communications regarding this protest should be directed to CIU, whose contact person is Frank Campillo. Mr. Campillo can be reached at (671) 479-7959 or fcampillo@calvos.com.

**IDENTIFICATION OF PROCUREMENT**

This protest relates to Government of Guam FY 2020 Health Insurance Program, Procurement No. DOA/HRD-RFP-GHI-20-001 (the "RFP"). To the knowledge of SelectCare, no contract has been awarded under the RFP.



### **BACKGROUND**

On March 27, 2019, the RFP was issued.

On May 3, 2019, SelectCare submitted a proposal in response to the RFP.

On August 13, 2019, the Government sent an email to SelectCare informing it that SelectCare has been selected to proceed to Phase 3 negotiations to commence the week of August 19. On August 19, 2019, SelectCare met with the Government of Guam Health Insurance Negotiating Team ("Negotiating Team").

On August 30, 2019, SelectCare sent an email to the Government seeking confirmation that the Government will apply the local preference policy found at 5 GCA § 5008 to SelectCare's proposal, as required by law since it is a domestic insurance company, to the Government's determination of the lowest cost option. To date, SelectCare has not received a response from the Government.

On September 9, 2019, the Government informed SelectCare that it will not be awarded a group health insurance contract for the upcoming fiscal year 2020 ("FY20"). That same day a press release was issued by the Office of the Governor announcing the Governor's approval of the Government's health insurance plan and that Aetna International<sup>1</sup> ("Aetna") will be the Government's exclusive insurance provider for FY20.

On September 20, 2019, the Government made public its FY20 group health insurance rates under Aetna.

### **REASONS FOR PROTEST**

The Procurement Law mandates the application of a local procurement policy to be applied in the procurement of services ("Local Preference Policy"). See 5 GCA § 5008. TMPI qualifies as a local business under the Local Preference Policy and is thus entitled to the local preference. Based upon the FY20 Aetna rates published by the Government and the FY20 rates submitted by SelectCare as part of the RFP negotiations process, had the Government applied the Local Preference Policy to SelectCare's proposal as required by law it would have been the most economical and beneficial healthcare insurance proposal for government of Guam employees and retirees, and foster children. The Government's failure to apply the Local Preference Policy is a violation of the Procurement Law. The Government must withdraw its intended award or the award (if an award has been made) to Aetna and apply the Local Preference Policy in its determination of the lowest cost option.

The Local Preference Policy as it applies to the procurement of services provides as follows:

All procurement of supplies and services shall be made from among businesses licensed to do business on Guam and that maintain an office or other facility on Guam,

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<sup>11</sup> The Governor's press release refers to the intended awardee as "Aetna International." However, records at the Department of Revenue and Taxation only show "Aetna Life Insurance Company" as being a licensed insurer in Guam, which would not in any event entitle it to the Local Preference.

whenever a business that is willing to be a contractor is:

...

(d) A service business actually in business, doing a substantial portion of its business on Guam, and hiring at least 95% U. S. Citizens, lawfully admitted permanent residents or nationals of the United States, or persons who are lawfully admitted to the United States to work, based on their citizenship in any of the nations previously comprising the Trust Territory of the Pacific Islands.

Procurement of supplies and services from off Guam may be made if no business for such supplies or services may be found on Guam or if the total cost F.O.B. job site, unloaded, of procurement from off island is no greater than eighty-five percent (85%) of the total cost F.O.B. job site, unloaded, of the same supplies or services when procured from a business licensed to do business on Guam that maintains an office or other facility on Guam and that is one of the above-designated businesses entitled to preference.

TMPI and its managing agent, Calvo's Insurance, qualify as a local business entitled to the local preference. TMPI is licensed as a domestic insurer to do business in Guam, maintains an office in Guam, it is actually in business doing a substantial portion of its business in Guam, and 95% of its employees are U.S. citizens or lawfully admitted permanent residents.

Further, upon information and belief Aetna does not qualify as a local business entitled to the Local Preference because it does not do a substantial portion of its business in Guam.

Because TMPI is entitled to the local preference, the Government is permitted to award its group health insurance plan ("GHIP") to Aetna only if the Government's total cost based on Aetna's rates are not greater than eighty-five percent (85%) of SelectCare's proposed rates. In other words, if the total cost to the Government based on SelectCare's proposed rates is not more than 15% greater than the Government's total cost based on Aetna's rates, then the Government must select SelectCare as the lowest cost option. Based on SelectCare's comparison of Aetna and SelectCare's proposed rates, SelectCare's proposed rates, in the aggregate, are not more than 15% greater than Aetna's rates. Thus, applying the Local Preference Policy should have resulted in SelectCare being chosen as the lowest cost option. The Government's failure to apply the Local Preference Policy is a violation of the Procurement Law.

### **CONCLUSION**

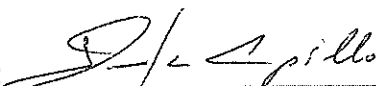
The Guam Procurement Law provides that the Government must apply the Local Preference Policy in the procurement of services. The Government failed to apply the local preference to SelectCare's proposed rates even though TMPI qualifies as a local business under the Local Preference Policy and Aetna does not. Applying the Local Preference Policy means that SelectCare's proposed rates are the lowest cost option. The Government's failure to apply the Local Preference Policy is a violation of the Procurement Law and the Negotiating Committee must withdraw its recommendation of Aetna to the Governor or the Government must cancel the award to Aetna, as the case may be, and apply the Local Preference Policy.

Pursuant to 2 GARR Div. 4 § 9101(e), this procurement must be stayed until resolution of this protest.


We look forward to your expeditious response.

*Senseramente,*

Calvo's Insurance Underwriter's, Inc.  
General Agent for Tokio Marine Pacific Insurance, Ltd.

By:   
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Frank Campillo  
Plan Administrator

Concurred:  
Tokio Marine Pacific Insurance, Ltd.

By:   
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Name: TOMOHIRO HAGA  
Title: President and CEO

Cc: