

HAWAII STATE DEPARTMENT OF EDUCATION
PROCUREMENT AND CONTRACTS BRANCH

DECEMBER 22, 2022

ADDENDUM A

TO

INVITATION FOR BIDS

IFB D23-049

TO

PROVIDE APC BATTERY UNITS, BATTERY REPLACEMENT AND DISPOSAL FOR THE
HAWAII STATE DEPARTMENT OF EDUCATION'S ENTERPRISE INFRASTRUCTURE
SYSTEMS BRANCH DATA CENTERS

Revision to the Offer Page:

The revised OFFER PAGE, OF-2, is hereby attached and incorporated into IFB D23-049.

Deletion of the Wage Certificate:

WAGE CERTIFICATE has been deleted in its entirety.

Revision to the Specifications:

SPECIFICATIONS, Scope of Work, located on S-2 has been deleted in its entirety. The revised Specifications on S-2 and S-3 are hereby attached and incorporated into IFB D23-049.

Revision to the Special Conditions:

The revised SPECIAL CONDITIONS are hereby attached and incorporated into IFB D23-049:

1. SPECIAL CONDITIONS, Contract Period, located on SC-1 has been deleted in its entirety and replaced;

2. SPECIAL CONDITIONS, Offeror Qualifications, b) C-13 License, located on SC-2 has been deleted in its entirety and replaced;
3. SPECIAL CONDITIONS, Wage Certificate, located on SC-4 has been deleted in its entirety;
4. SPECIAL CONDITIONS, Wage Certificate, located on SC-8 has been deleted in its entirety; and
5. SPECIAL CONDITIONS, Contract Price Adjustments, located on SC-9 has been deleted in its entirety.

Revision to the Exhibit A:

The revised EXHIBIT A is hereby attached and incorporated into IFB D23-049.

The following offer is hereby submitted:

Item Number	Description	Unit Bid Price
1	Provide APC Symmetra PX 9Ah Model SYBTU2-PLP battery Units, Battery Replacement and Disposal at Queen Liliuokalani Campus.	\$ -
2	Provide APC Symmetra PX 9Ah Model SYBTU2-PLP battery Units, Battery Replacement and Disposal at Hookele data center.	\$ -
Total Sum Bid Price (Items 1 and 2)		\$ -

*Offeror shall bid on all items to qualify for award. See Special Conditions #13 Bid Price.

Offeror: _____

2. GENERAL SPECIFICATIONS

All equipment furnished shall be new, in perfect condition, of first quality as to workmanship and materials used, and designed specifically to provide its intended service and function.

Delivery shall be made to Hawaii State Department of Education Queen Liliuokalani Campus and Hookele data center. **Installation of new equipment by a qualified Schneider Electric certified technician, removal and disposal of the present equipment shall be required.**

All main equipment furnished shall minimally include, operation manuals, installation manuals and other informational literature as specified and/or as described in the manufacturer's published specifications and literature for such equipment.

All equipment offered shall be currently in production. Equipment shall contain only manufacturer's factory approved parts so as not to void any manufacturer's warranties.

The equipment offered shall meet all applicable federal, state and local electrical, fire, and safety codes.

All equipment provided shall be manufactured to meet the latest version of applicable standards for their use.

The equipment delivered shall be free from defects that may render them unfit for use. The CONTRACTOR shall immediately remove damaged or rejected equipment from the site and replace them with equipment of the required quality.

Failure to replace or to remove any rejected equipment shall not relieve the CONTRACTOR from the responsibility imposed by the contract. No payment, whether partial or final, shall be construed to be an acceptance of defective work.

The STATE may, at any time and by written order, stop specific equipment not conforming to these specifications. The stop order shall not relieve the CONTRACTOR of the obligation to complete the contract within the contract time limits, nor shall it in any way terminate, cancel or abrogate the contractor or any part thereof.

3. SCOPE OF SERVICES

The CONTRACTOR shall provide APC Symmetra PX 9Ah Model SYBTU2-PLP battery units, installation, removal and disposal of the batteries.

3.1. GENERAL

3.1.1. The CONTRACTOR shall keep the job site free of debris, litter, refuse, etc. The CONTRACTOR shall remove all tools, used parts, equipment, excess material and packaging from the service area upon completion of the work and legally dispose of used parts, whether hazardous or not, in accordance with EPA and/or other government regulations including providing written records, as required. The CONTRACTOR shall support and protect the STATE legally and financially with regard to these regulations.

3.1.2. CONTRACTOR shall exercise caution during the progress of maintenance and repair work to prevent damage to any of the building structures. CONTRACTOR shall restore all damages, caused by the CONTRACTOR's negligence, at the CONTRACTOR's own expense, when/as requested by the STATE.

3.2. BATTERY SHIPMENT AND DELIVERY

- 3.2.1.** At least one (1) week prior to delivery, the CONTRACTOR shall contact the CA, or designated representative to coordinate specific delivery arrangements. Representatives from both the CONTRACTOR and STATE shall be present at the delivery site for visual inspection.
- 3.2.2.** The CONTRACTOR shall deliver, set in place, remove, and dispose of all pallets, crating material and packing debris. CONTRACTOR will not be allowed to use the STATE refuse dumpsters for disposal.

3.3. BATTERY REMOVAL AND DISPOSAL

- 3.3.1.** The CONTRACTOR shall remove and dispose of the old batteries being replaced. CONTRACTOR shall have old batteries properly disposed in accordance with the City and County of Honolulu battery disposal rules and regulations.

3.4. NEW BATTERY INSTALLATION

- 3.4.1.** Work shall be performed during standard business hours (i.e. 7:45 a.m. through 4:30 p.m. Monday through Friday, excluding state holidays), to be agreed upon between the STATE and CONTRACTOR. Dates and times shall be coordinated between the STATE and CONTRACTOR. Battery replacement services for both data centers are tentatively scheduled to begin March 13, 2023 and shall be completed by March 20, 2023.
- 3.4.2.** The CONTRACTOR shall be responsible for on-site inspection and system integration. The CONTRACTOR shall correct any deficiencies and shall be responsible for all batteries until the system has been installed, integrated and accepted by the authorized STATE personnel.
- 3.4.3.** The CONTRACTOR shall install new batteries, without interrupting critical operations.

3.5. SYSTEM RESET, CONFIGURATION AND TEST

- 3.5.1.** The CONTRACTOR shall ensure entire UPS system testing is complete, in proper working order, and battery banks are in-line to equipment load.
- 3.5.2.** The CONTRACTOR shall update the system with the new battery information and shall verify the battery system is functioning to manufacturer's specifications.

4. WARRANTY

The CONTRACTOR shall provide manufacturer's standard warranty one (1)-year for all batteries. If any defects or malfunctioning of the batteries is found within the warranty period, the CONTRACTOR shall provide replacement batteries at no charge to the STATE.

The CONTRACTOR shall respond to notifications by the STATE for any defects or malfunctions. Response time is defined as elapsed time between notification by the STATE and the time the CONTRACTOR arrives at the STATE location. The CONTRACTOR shall have an on-site response time of eight (8) hours.

SPECIAL CONDITIONS

GENERAL INFORMATION

1. Addenda and Interpretations

Discrepancies, omissions, or questions related to this solicitation shall be communicated in writing to the STATE, Department of Education, Procurement and Contracts Branch (PCB) via facsimile at (808) 675-0133 or e-mail to rodney.ben@k12.hi.us for interpretation and must be received no later than seven (7) calendar days prior to the date fixed for the close of bids.

Interpretation(s) if any and any supplemental instructions will be in the form of written addenda that will be made available to all HlePRO registered Offerors prior to the date fixed for the close of bids. Failure of any Offeror to receive any such addenda or interpretations shall not relieve the Offeror of any obligation under this solicitation. All addenda issued shall be incorporated into the resulting contract.

2. Scope

Work under this agreement shall consist of providing APC Battery Units, Battery Replacement and Disposal for the Hawaii State Department of Education's Enterprise Infrastructure Systems Branch Data Centers and shall be in accordance with these Special Conditions, the attached Specifications, and the General Conditions AG-008 (latest revision).

3. Contract Administrator

For purposes of this contract, Dean Horiuchi, Program Manager or his successor, is designated Contract Administrator (CA). He can be contacted by telephone at (808) 307-7701, via facsimile at (808) 307-7705, or via e-mail at dean.horiuchi@k12.hi.us.

The CA is responsible for:

1. the terms, conditions, quantities, specifications, scope of services, other contract terms, and all decisions relating to the contract;
2. monitoring the CONTRACTOR's work, documenting that CONTRACTOR maintains the required insurance coverage (if applicable), resolving contract disputes and discrepancies, evaluating the work of the CONTRACTOR, assuring the services or goods are delivered as required in the contract, and processing payment for services rendered; and
3. notifying STATE, Department of Education, PCB in the event of change in scope of work, change in the performance period, increase or decrease in total compensation, and/or changes in any other contract terms.

Notwithstanding the responsibilities set forth hereinabove, any coordination of services falling outside those articulated above shall remain with the head of the purchasing agency, as set forth in the attached General Conditions (see General Conditions, paragraph 1, entitled "Coordination of Services by the STATE.").

The CA has designated Dean Sakai as Point-of-Contact (POC) for this contract. As such, the POC should be the initial contact on all matters related to this contract. He can be contacted by telephone at (808) 307-7701, via facsimile at (808) 307-7705, or via e-mail at dean.sakai@k12.hi.us.

4. Contract Period

This contract shall commence upon full execution of the contract and shall end on February 29, 2024, subject to availability of funds as specified in the General Conditions.

OFFEROR INFORMATION

5. Offeror's Authority to Bid

The STATE will not participate in determinations regarding an Offeror's authority to sell a product or perform a service. If there are any questions or doubts regarding an Offeror's right or ability to obtain and sell a product or to render a service, the Offeror should resolve those issues prior to submitting a bid. If the Offeror's offer meets specifications and is acceptable and the bid price submitted is the lowest bid, the contract will be awarded to that Offeror.

6. Offeror Qualifications

In addition to meeting legal and any other requirements of this solicitation, Offeror must meet these qualifications to be considered for award.

a) Authorized Distributor or Reseller

At the time of bidding and throughout the contract period, Offeror shall be an authorized distributor or reseller of APC Symmetra PX 9Ah battery units. As evidence of this, Offeror shall provide documentation from the manufacturer which verifies Offeror's status as an authorized distributor or reseller. Documentation shall be provided with Exhibit A

b) C-13 License

At the time of bidding and throughout the contract period, Offeror shall have a current Hawaii State CONTRACTOR'S Specialty License, Sub classification C-13, as issued by the Department of Commerce and Consumer Affairs, to verify Offeror is familiar with the State of Hawaii electrical codes and practices and shall provide the license number on Exhibit A. CONTRACTOR's license shall be kept in force during the duration of this contract and for any extension that may be agreed upon.

c) Certification

At the time of bidding and throughout the contract period, Offeror shall have a Schneider Electric Partner Certification and meet all requirements to provide battery replacement and disposal. Offeror shall provide a copy of the Schneider Electric Partner certification with Exhibit A.

d) Office Location

Offeror shall have an office on the island of Oahu from where business is conducted and from where the company is accessible to telephone calls during normal business hours, 7:45 a.m. to 4:30 p.m. Hawaii Standard Time (HST), for complaints or requests that need immediate attention. An answering service is not acceptable.

Offeror shall be capable of providing APC battery units, battery replacement and disposal for the STATE. Therefore, at the time of bidding and during the contract period, Offeror shall maintain a Hawaii-based facility and business capability of its own or through a third party.

e) Personnel

Offeror shall designate at least one (1) employee as the STATE point of contact (POC) for this contract. This individual shall be based in Hawaii and available during regular business hours, 7:45 a.m. to 4:30 p.m. HST, Monday through Friday excluding holidays, and shall be capable of answering questions, resolving problems, and providing sales, ordering, and follow-up assistance.

Failure on the Offeror's part to meet these requirements may result in rejection of bid. These requirements must remain in effect during the entire contract period. Failure to maintain these requirements may result in cancellation of award.

7. References

Offeror shall provide the names of at least three (3) companies or governmental agencies to whom Offeror was or is providing APC battery units, battery replacement and disposal and who can attest to the quality level and reliability of all aspects of Offeror's work and service. References shall be provided on Exhibit A. Exhibit A shall be provided within three (3) business days from STATE's request. The STATE reserves the right to contact these references to verify Offeror's quality level and reliability.

8. Site Inspection

Prior to submittal of a bid, Offeror may inspect the project site to become thoroughly familiar with existing conditions, rules and regulations, and the extent and nature of work to be performed.

Offeror inspection is not mandatory; however, bid submission shall be evidence that the Offeror understands the scope of the project and shall comply with all requirements stated herein, if awarded the contract. Offerors must contact the CA to arrange for an inspection visit. No additional compensation, subsequent to bid opening, shall be allowed by reason of any misunderstanding or error regarding site conditions or work to be performed.

9. Responsibility of Offerors

Offeror is advised that if awarded a contract under this solicitation, Offeror must furnish proof of compliance with the requirements of §103D-310(c), HRS as a pre-requisite to receiving a contract:

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Workers' Compensation Law;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and
6. Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.

Offeror should refer to the "Contract Execution" provision for further information regarding the above-mentioned requirements.

BID PREPARATION

10. Offer Page OF-1. Offeror is requested to submit the bid under the company's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable, and to indicate exact legal name in the appropriate space on Offer Page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the hard copy Offer Page OF-1 shall be an **original signature in ink**. Ink signatures are not required for electronic submission of a bid on HlePRO. The submission of the bid on HlePRO shall indicate the Offeror's intent to be bound.

11. Taxable Transaction. Unless the HRS exempts a person from paying the applicable general excise tax, work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii-based companies are advised that the gross receipts derived from this contract are subject to the general excise tax imposed by Chapter 237, HRS, at the current rate and, where applicable, to tangible property imported into the State of Hawaii for resale, subject to the applicable use tax imposed by Chapter 238, HRS.

Information on the Hawaii State Taxes administered by the Department of Taxation is available online at <http://tax.hawaii.gov>.

12. Tax Exempt Transaction. If, however, an Offeror is a person exempt by the HRS from paying the general excise tax and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

For evaluation purposes, pursuant to §103D-1008, HRS, a tax-exempt bid submitted in response to a solicitation shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

13. Bid Price. Unit Bid Price shall include labor, equipment, materials, transportation, overhead, profit, all applicable taxes and any other incidental and operational expenses incurred in the performance of all obligations hereunder. Unit Bid Price shall be the all-inclusive cost to the STATE and no other charges will be honored. Offeror shall bid on all items to qualify for award.

14. Authorized Distributor or Reseller. Offeror is requested to provide documentation from the manufacturer which verifies Offeror's status as an authorized distributor or reseller. The documentation shall be attached to Exhibit A and shall be provided to the STATE within three (3) business days from STATE's request.

15. Offeror Information. Offeror shall provide information regarding its certification, office location, and STATE's point-of-contact, on Exhibit A. Exhibit A shall be provided to the STATE within three (3) business days from the STATE'S request.

16. C-13 License. C-13 License number shall be provided on Exhibit A. Offeror shall also submit a copy of the license with Exhibit A. Exhibit A shall be provided to the STATE within three (3) business days from the STATE's request.

17. References. Offeror shall list on Exhibit A at least three (3) companies or government agencies to whom Offeror was or is providing APC battery units, battery replacement and disposal and who can attest to the quality level and reliability of all aspects of Offeror's work and service. References shall be provided on Exhibit A. Exhibit A shall be provided within three (3) business days from STATE's request. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

18. Liability Insurance. Work included under this agreement requires the provision of liability and property damage insurance, to remain in full force and effect during the life of this contract. Offeror shall refer to *Liability Insurance* clause for additional information regarding this requirement. Accordingly, Offeror should consider these insurance requirements when preparing this bid.

19. Offer Guaranty. An offer guaranty (bid bond) is not required for this IFB.

20. Restrictive Specifications. Specifications for the item have been researched and found to meet all necessary requirements and set a standard of quality. In accordance with §3-122-13, HAR, the Office has obtained approval to purchase this item using restrictive or brand name specification. It is the STATE, Department of Education's intention to restrict Offerors to only the manufacturer named; other manufacturer's products are not acceptable.

BID SUBMITTAL

21. Submission of Bid

Offers will be received through the State of Hawaii eProcurement System (HlePRO) Public Procurement Notices Website at <https://hiepro.ehawaii.gov/welcome.html> no later than the date and time stated on the HlePRO.

Submission of a bid shall constitute an incontrovertible representation by the Offeror of compliance with every requirement of this IFB, and that the IFB documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work.

Before submitting a bid, each Offeror must:

1. examine the solicitation documents thoroughly for defects and questionable or objectionable material. Solicitation documents include this IFB, any attachments, plans referred to herein, and any other relevant documentation. Comments must be submitted in writing and received by the STATE, Department of Education, PCB no later than seven (7) calendar days prior to the date fixed for the close of bids. This will allow for issuance of addenda, if necessary.
2. become familiar with State, local, and federal laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work.

All bids shall be made through the HlePRO (<https://hiepro.ehawaii.gov/welcome.html>) on the solicitation document(s) available on the HlePRO. Offers shall be completed in accordance with the solicitation instructions, and addenda, if any.

The Specifications, Special Conditions, General Conditions and other documents referenced in or attached to the offer shall be considered a part of the offer submitted, whether or not attached to the offer at the time of submission. Such documents shall not be altered in any way; any alterations so made by the Offeror may result in rejection of the offer.

Offers will be received only until the hour and date set for the close of bids. Unless otherwise stated, Offeror shall submit only one (1) offer. If more than one offer is submitted, all offers shall be rejected for that item.

Hard copies of ALL ORIGINAL OFFER PAGES AND ANY OTHER APPLICABLE DOCUMENTS AS STATED IN THE SOLICITATION must also be received by the Hawaii State Department of Education, Procurement and Contracts Branch, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797, within five (5) working days after the bid closing date.

22. Confidential Information

If an Offeror believes that any portion of his proposal contains information that should be withheld as confidential, then the STATE, Department of Education, PCB should be so advised in writing.

Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the bid, be clearly marked, and shall be readily separable from the bid in order to facilitate eventual public inspection of the non-confidential portion of the bid.

Pursuant to Section 3-122-58, Hawaii Administrative Rules (HAR), the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with Chapter 92F, Hawaii Revised Statutes (HRS). If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with Section 92F-42(12), HRS.

23. Certification of Independent Cost Determination

By submitting a bid in response to this solicitation, Offeror certifies as follows:

1. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.

2. Unless otherwise required by law, the costs which have been quoted in this IFB have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.
3. No other attempt has been made or will be made by the Offeror to indicate any other person or firm to submit or not to submit for the purpose of restricting competition.

24. Acceptance of Bid

Acceptance of bid, if any, will be made within sixty (60) calendar days after the close of bids and the prices quoted by the Offeror shall remain firm for the sixty day period.

BID EVALUATION

25. Disqualification of Offers

Any one or more of the following causes will be considered as sufficient for disqualification of the offer:

1. Hard copy offer not signed by an authorized individual.
2. More than one offer from an individual, firm, corporation or joint venture under the same or different names.
3. Evidence of collusion among Offerors or prices obviously unbalanced, lack of responsibility and cooperation as shown by past work, being in arrears on existing contracts with the State of Hawaii, or defaulting on previous contract(s).
4. Lack of proper equipment and/or sufficient experience to perform the work contemplated.
5. Offer received after specified deadline for close of offers.
6. Evidence of any noncompliance with any applicable law, any unauthorized additions or deletions, of submission of conditional offer, incomplete offer, or irregularities of any kind which may make the offer incomplete, indefinite, or ambiguous as to its meaning.

26. Method of Award

Award, if made, shall be to the responsive, responsible Offeror submitting the lowest estimated Total Sum Bid Price for Items 1 and 2. However, if the Total Sum Bid Price of the qualified low offer exceeds allotted funds, the STATE shall have the option to delete location(s) to allow award to be made within the allotted funds. Offeror must bid on all items to qualify for award.

27. Protest

Pursuant to §103D-701, HRS and §3-126, HAR, "Legal and Contractual Remedies", an actual or prospective offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Hawaii State Department of Education's Chief Procurement Officer, c/o the Procurement Office at the Waipahu Civic Center, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797.

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award(s), if any, resulting from this solicitation shall be posted on the HlePRO and shall be posted on the Hawaii Awards and Notices Data System (HANDS) website at <https://hands.ehawaii.gov/hands/awards>.

CONTRACT EXECUTION

28. Contract Award

CONTRACTOR receiving award(s) of \$25,000 or more shall be required to enter into a formal written contract. Performance bonds are not required for this IFB. Upon execution of contract, the STATE, Department of Education will issue a fully executed copy to the CONTRACTOR. No work will be undertaken by the CONTRACTOR prior to the commencement date specified on the contract. The STATE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to official starting date.

29. Responsibility of CONTRACTOR

CONTRACTOR shall furnish proof of compliance with these requirements of §3-122-112, HAR:

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Workers' Compensation Law;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and
6. One of the following:
 1. Be registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business"); or
 2. Be registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

The CONTRACTOR may demonstrate compliance by submitting an original consolidated CERTIFICATE OF VENDOR COMPLIANCE as issued by the State Procurement Office via the online system, "Hawaii Compliance Express." Detailed information about the system and regarding this online application process can be viewed at: <http://vendors.ehawaii.gov>.

30. Hawaii Compliance Express.

A *Certificate of Vendor Compliance* may be obtained through the Hawaii Compliance Express (HCE). This service allows CONTRACTORS to register online through a simple wizard interface at <http://vendors.ehawaii.gov>. The *Certificate of Vendor Compliance* provides current compliance status as of the issuance date, satisfies requirements of Chapter 103D-310(c), HRS, and is therefore acceptable for contracting purposes. CONTRACTORS that elect to use HCE services are required to pay an annual fee of (at least) twelve dollars (\$12.00) to the Hawaii Information Consortium, LLC dba NIC Hawaii (NIC).

31. Timely Submission of All Certificates

The above certificates should be applied for and submitted to the STATE, Department of Education, PCB as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

32. Failure to Execute Contract

Normally, award shall be made within sixty (60) calendar days after the close of bids but in no case will award be made until all necessary investigations are made. After award is made, failure on the CONTRACTOR's part to execute a contract as required within ten (10) calendar days (or such further time as the Superintendent may allow) after the Offeror has received the contract for execution shall be just cause for the annulment of the award. The Superintendent reserves the right to cancel or reject this solicitation or all offers in whole or in part when it is in the best interest of the STATE or to award the

SPECIAL CONDITIONS

ADDENDUM A

IFB D23-049

SC-7

33. Availability of Funds

If the contract calls for performance or payment in more than one fiscal year (July 1 to June 30), the CFO may certify only that portion of the total funds allocated to satisfy the STATE's obligations for payments in the current fiscal year. In that event, the STATE will not be liable for the unpaid balance beyond the end of the current fiscal year, and availability of funds in excess of the amount certified shall be contingent upon future appropriations or special fund revenues. All partially-funded contracts shall be enforceable only to the extent that funds are certified as available. The STATE agrees to notify the CONTRACTOR of such non-allocation at the earliest possible time. The STATE shall not be penalized in the event this provision is exercised. This provision is not meant to permit the STATE to terminate the contract in order to acquire similar equipment from a third party.

The CONTRACTOR shall maintain in full force and effect, during the life of this contract, liability and property damage insurance. This insurance shall protect the CONTRACTOR and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by a subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as additional insured.

The following minimum insurance coverage(s) and limit(s) shall be provided by the CONTRACTOR, including its subcontractor(s) where appropriate:

- General liability and automobile liability policies required by this contract, including a subcontractor's policy, shall contain the following clause:

- SC-8

- 2) "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements. Each insurance policy shall be written by 1) an insurance company licensed to do business in the State of Hawaii, or 2) if not licensed by the State of Hawaii, an insurance company which meets §431:8-301, Hawaii Revised Statutes.

Upon CONTRACTOR's execution of the contract, the CONTRACTOR agrees to deposit with the STATE certificate(s) of insurance necessary to satisfy the STATE that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the STATE during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the STATE, CONTRACTOR shall be responsible for furnishing a copy of the policy(ies).

Failure of the CONTRACTOR to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the STATE to exercise any or all of the remedies provided herein.

The procuring of such required insurance shall not be construed to limit CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy(ies) of insurance, CONTRACTOR shall be obligated for the full and total amount of any damage, injury, or loss caused by the CONTRACTOR, its employees, officers, or agents, in connection with this Contract.

CONTRACTOR shall notify the STATE, via written notice within twenty-four (24) hours should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

35. Workmanship

All work shall be executed in a professional manner, and shall present a neat appearance when completed. All work done shall be subject to inspection and approval of the Contract Administrator; all services rendered shall be in accordance with these specifications and provisions.

PERFORMANCE OF CONTRACT

36. Authority of the STATE, Department of Education

The STATE, Department of Education shall decide all questions which may arise as to the work performed, as to the manner of such performance, as to the interpretation of any term, condition or provision, as to the applicability and interpretation of any law, rule or regulation, policies and procedures, as to compensation, or additional reason to service, and as to any other matter which may arise under the contract. The decision of the STATE, Department of Education in such matters shall be final provided that decision is not in violation of law and not arbitrary, capricious or characterized by abuse of discretion.

37. Relief Available to STATE

In addition to all rights and remedies available to the STATE provided in this Contract or otherwise provided under law, if the CONTRACTOR is in non-compliance with contract requirements, the STATE may:

1. Suspend Payments – Temporarily withhold or disallow all or part of the billing cost/payments pending correction of a deficiency or a non-submission of a required deliverable by the CONTRACTOR;

2. Suspend Referrals – Suspend referrals to the CONTRACTOR should the CONTRACTOR fail to comply with any of the requirements or other term(s) or condition(s) of this Contract and, further, the STATE may maintain the suspension of referrals until such time as the deficiency or non-compliance is corrected and the CONTRACTOR's corrective actions are determined to be acceptable by the STATE; and
3. Seek Reimbursement – Seek reimbursement from the CONTRACTOR or withhold future payments for any funds paid to the CONTRACTOR subsequent to a determination that such was unauthorized, fraudulently obtained, or inappropriately billed.
4. Seek Market Value – In the event the CONTRACTOR fails, refuses or neglects to perform the services in accordance with the requirements of these Special Conditions, the Scope of Services or the General Conditions, the STATE reserves the right to purchase, in the open market, a corresponding quantity of the services specified herein and to deduct from any monies due or that may thereafter become due to the CONTRACTOR, the difference between the price named in the contract and the actual cost to the STATE. In case any money due the CONTRACTOR is insufficient for said purpose, the CONTRACTOR shall pay the difference upon demand from the STATE. The STATE may also utilize all other remedies provided by law.

38. Confidentiality Obligations

In the course of performing under this agreement, the CONTRACTOR will receive, be exposed to or acquire confidential information, which may include but not be limited to, names, addresses, telephone numbers, birthdates, social security numbers, medical information, and other employment information, written or oral, fixed in hard copy or contained in any computer database or computer readable form (hereinafter referred to as "Confidential Information"). The CONTRACTOR, including its employees, agents, representatives, and assigns (i) shall not disclose to any third party any Confidential Information, except as specifically permitted by the STATE, (ii) shall only permit use of such Confidential Information by employees, agents, representatives, and assigns having a need to know in connection with performance under this agreement, and (iii) shall advise each of their employees, agents, representatives, and assigns of their obligations to keep such Confidential Information confidential in compliance with all relevant state and federal laws.

CONTRACTOR, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The CONTRACTOR shall provide the STATE with a list of individuals (by name and position) (hereinafter referred to as "Authorized Handlers") who are authorized to handle the Confidential Information. Authorized Handlers shall ensure the security of the Confidential Information. Only Authorized Handlers shall have access to the Confidential Information, which will be kept on password protected computers with the hard copy documents kept in a locked file cabinet. CONTRACTOR shall ensure that procedures exist to prohibit access to the Confidential Information by anyone other than an Authorized Handler.

CONTRACTOR may not share data received under this agreement with any other entity without the prior written approval of the STATE.

CONTRACTOR will be responsible for safeguarding the confidentiality of all personal records it receives from the STATE and shall safeguard and protect such documents from unauthorized use, handling, or viewing. CONTRACTOR shall be liable to the STATE and the employee of the STATE, Department of Education whose records the CONTRACTOR receives custody of under this Contract for records protection for any unpermitted release, viewing, or loss of such records. CONTRACTOR shall assume liability responsibility for records protection and for the inappropriate or unlawful release of Confidential Information. CONTRACTOR shall return all documents containing Confidential Information upon completion of the services CONTRACTOR is contracted to provide under this agreement.

39. Exclusion of Specific Workers

The STATE reserves the right to require the CONTRACTOR to remove an employee, agent, subcontractor or volunteer (Worker) from performing work under this contract. The Contract Administrator shall notify the CONTRACTOR in writing and this exclusion of a specific Worker(s) shall take effect as indicated on the notice. The CONTRACTOR may appeal this decision to the Contract Administrator, in writing within ten (10) working days of receipt of the notice. Removal of the employee, agent, subcontractor or volunteer shall remain in effect pending the outcome of the appeal. This provision shall not infringe upon the right of the CONTRACTOR to employ the removed individual, but shall apply to any work requiring interaction with the STATE, its employees or students.

40. Records Retention

Should the CONTRACTOR be aware of or be made aware of any dispute, disagreement, or request relating to the files, books, or records prior to their destruction, the CONTRACTOR shall retain the files, books, and records until said dispute, disagreement, or request has been fully resolved, including any potential lawsuits or appeals. Said files, books, and records may thereafter be destroyed upon obtaining the agreement of the STATE.

PAYMENT

41. Invoicing

CONTRACTOR shall submit original invoice to the following address:

Hawaii State Department of Education
OITS/EISB
3633 Waiālae Avenue, Bldg D
Honolulu, HI 96816
Attention: Dean Sakai

Invoice should reference both the contract number and the solicitation number.

42. Payment

Section 103-10, HRS, provides that the STATE shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the STATE may reject any bid submitted with a condition requiring payment within a shorter period. Further, the STATE may reject any bid submitted with a condition requiring interest payments greater than that allowed by §103-10, HRS, as amended.

The STATE will not recognize any requirement established by the CONTRACTOR and communicated to the STATE after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute.

The **final payment** on the contract shall be for services rendered during the billing period just prior to the contract anniversary date.

The following shall accompany the final payment invoice:

1. A valid (not over 2 months old) and **original Tax Clearance Certificate (TCC)** must accompany the final payment invoice. In accordance with Section 103-53, HRS, all CONTRACTORS must provide a TCC from the State of Hawaii Department of Taxation and the U.S. Internal Revenue Service as a prerequisite to receipt of final payment.
2. The *Certification of Compliance for Final Payment* (DOE Form-22) with an original signature of an authorized representative of the CONTRACTOR.

3. In lieu of the above, CONTRACTOR may submit an original *Certificate of Vendor Compliance* as issued by the State Procurement Office via an online system, also referred to as "Hawaii Compliance Express". Details regarding this online application process can be viewed at: <http://vendors.ehawaii.gov/hce/>.

APPROVALS

43. State's General Conditions

The Special Conditions shall serve to supplement the General Conditions; both documents remain part of the contract with full force and effect. In the case of a conflict between the General Conditions and Special Conditions, the Special Conditions shall control to the extent necessary to resolve the conflict.

44. Approvals

Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

Offeror: _____

EXHIBIT A

OFFEROR INFORMATION

Offeror shall provide the Exhibit A, including attachments if applicable, within three (3) business days from STATE's request.

A. AUTHORIZED DISTRIBUTOR OR RESELLER

At the time of bidding and throughout the contract period, Offeror shall be an authorized distributor or reseller of APC Symmetra PX 9Ah battery unit. As evidence of this, Offeror shall provide documentation from the manufacturer which verifies Offeror's status as an authorized distributor or reseller.

Authorized Distributor or reseller
documentation attached. ☐ Yes

B. C-13 LICENSE

At the time of bidding and throughout the contract period, Offeror shall have a current Hawaii State CONTRACTOR'S Specialty License, Sub classification C-13, as issued by the Department of Commerce and Consumer Affairs, to verify Offeror is familiar with the State of Hawaii electrical codes and practices. CONTRACTOR's license shall be kept in force during the duration of this contract and for any extension(s) that may be agreed upon.

C-13 License number _____

C. CERTIFICATION

At the time of bidding and throughout the contract period, Offeror shall have a Schneider Electric Partner Certification and meet all requirements to provide battery replacement and disposal. Offeror shall provide a copy of the Schneider Electric Partner certification.

Schneider Electric Partner certification
attached. ☐ Yes

Offeror: _____

D. OFFICE LOCATION

Offeror shall have an office on the island of Oahu from where business is conducted and from where the company is accessible to telephone calls during normal business hours, 7:45 a.m. to 4:30 p.m. HST, for complaints or requests that need immediate attention. An answering service is not acceptable.

Company Name _____

Address Line 1 _____

Address Line 2 _____

Office Telephone Number _____

E. PERSONNEL

Offeror shall designate at least one (1) employee as the STATE point of contact (POC) for this contract. This individual shall be based in Hawaii and available during regular business hours, 7:45 a.m. to 4:30 p.m. HST, Monday through Friday excluding holidays, and shall be capable of answering questions, resolving problems, and providing sales, ordering, and follow-up assistance.

POC Name _____

Office Telephone Number _____

Cell Number _____

Fax Number _____

Email _____

Offeror: _____

F. REFERENCES

Offeror shall provide the names of at least three (3) companies or governmental agencies to whom Offeror was or is providing APC battery units, battery replacement and disposal and who can attest to the quality level and reliability of all aspects of Offeror's work and service. The STATE reserves the right to contact these references to verify Offeror's quality level and reliability.

Reference 1

POC Name

Address Line 1

Address Line 2

Business Phone Number

Email Address

Reference 2

POC Name

Address Line 1

Address Line 2

Business Phone Number

Email Address

Reference 3

POC Name

Address Line 1

Address Line 2

Business Phone Number

Email Address