

## SPECIAL PROVISIONS

### TERMS AND ACRONYMS USED HEREIN

Procurement Officer	=	DAGS/CSD Administrator or his designee
State	=	State of Hawaii
DAGS/CSD	=	Department of Accounting and General Services, Central Services Division, 729 Kakoi Street, Honolulu, Hawaii 96819
CA	=	Contract Administrator
Bidder or Offeror	=	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
HRS	=	Hawaii Revised Statutes
HAR	=	Hawaii Administrative Rules
HlePRO	=	State of Hawaii eProcurement System
AG	=	Attorney General
GC	=	General Conditions, Form AG-008, Rev. 4/15/2009 issued by the Attorney General (AG)
IFB	=	Invitation for Bids
GET	=	General Excise Tax

### 1.0 SCOPE

The furnishing of Guaranteed Maintenance Service, Water Treatment Services, Chiller Waste Oil Disposal and Chiller Eddy Current Testing of Air Conditioning and Ventilating Equipment at various State Facilities on Oahu, Group I, for the Department of Accounting and General Services, Central Services Division shall be in accordance with these Special Provisions, attached Specifications, and attached AG General Conditions Form AG-008, included by reference and available at: [http://www4.hawaii.gov/bidapps/general\\_terms.cfm](http://www4.hawaii.gov/bidapps/general_terms.cfm).

### 2.0 CONTRACT ADMINISTRATOR

For the purpose of this contract, Mr. Denton Miyamura, Central Services Manager, DAGS-Central Services Division or designee is the Contract Administrator (CA). The telephone number at which he may be reached at is (808) 831-6734.

### 3.0 TERM OF CONTRACT

The term of contract shall be for the twelve (12) month period commencing from the official date on the Notice to Proceed but no earlier than September 1, 2023.

#### **4.0 CONTRACT EXTENSION**

Unless terminated, the contract may be extended without rebidding, upon mutual agreement in writing between the State and the Contractor, prior to the expiration date, for not more than four (4) additional twelve month periods, or parts thereof. Provided, however, the contract price for the extended period shall remain the same or lower than the initial contract price, subject to any price increase allowed by the contract.

The Contractor or the State may terminate any extended contract period at any time upon ninety (90) days prior written notice.

#### **5.0 EXAMINATION OF SERVICE AREAS**

Prospective qualified Offerors should visit the service areas listed on the General Air Conditioning Equipment Report, Group I and thoroughly familiarize themselves with existing conditions and the amount and kind of work to be performed. No additional compensation will be made by reason of any misunderstanding or error regarding conditions at the service areas or the amount and kind of work to be performed.

**Site visitation will be held between June 29, 2023 and June 30, 2023. The complete site visitation schedule will be distributed at the Pre-Bid Conference. Refer to Section 6.0 Pre-Bid Conference below.**

**No additional compensation will be allowed for replacing non-working components. Submission of bid shall be evidence that the Offeror understands and will comply with these specifications if awarded the contract. All equipment whether listed on the General AC Equipment Report – Group I or not, but is a component of the air conditioning system, shall be serviced.**

#### **6.0 PRE-BID CONFERENCE**

Prospective qualified Offerors are invited to attend a pre-bid conference to be held on **June 29/30, 2023 at 9:00 a.m. (HST)** at the **DAGS, Central Services Division, 729 Kakoi Street, Honolulu, Hawaii**. The purpose of this non-mandatory meeting is to address any questions and concerns Offerors may have regarding the procurement process, IFB specifications and the scope of work.

Offerors are advised that anything discussed at the pre-bid conference does not change any part of this solicitation. All changes and/or clarifications to this solicitation shall be done in the form of written addenda.

Submission of a bid in response to this solicitation shall indicate that Offeror understands the scope of services to be provided, and accepts the terms and conditions of the resulting contract, if awarded. 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.

## **7.0 WRITTEN INQUIRIES (QUESTIONS AND ANSWERS)**

Questions (inquiries) regarding this solicitation are due on or before **July 10, 2023**. All questions (inquiries) shall be made using the HlePRO Question and Answer Section.

Answers (responses) to inquiries shall be made by way of HlePRO, Question and Answer Section, on or before **July 19, 2023**.

## **8.0 REQUIREMENTS FOR CONTRACTOR LICENSING CLASSIFICATIONS**

Contractors as a General Engineering Contractor holding an 'A' license and General Building Contractor holding a 'B' license are reminded that due to the Hawaii Supreme Court's January 28, 2002 decision in Okada Trucking Co., Ltd. V. Board of Water Supply, et al., 97 Haw. 450 (2002), they are prohibited from undertaking any work, solely or as part of a larger project, which would require the General Contractor to act as a specialty Contractor in any area in which the General Contractor has no license.

Contractors are solely responsible to review the project requirements, determine the appropriate licenses required, and ensure that they possess and that the subcontractor(s) listed possess the necessary specialty licenses to perform the work for this project.

## **9.0 OFFEROR QUALIFICATIONS AND QUALIFICATION FORM**

**Experience and Qualifications.** The Offeror shall have a minimum of five (5) consecutive years' experience (immediately prior to the bid opening date), in the field of air conditioning and ventilation equipment maintenance and repair service of centrifugal/screw and reciprocating chillers. All offerors must be able to produce documented maintenance and repair experience to substantiate their claim of experience.

**Service Facility.** The Offeror shall have a service facility on the island of Oahu from where they conduct business and will be accessible to telephone calls, complaints or emergency service requests. Answering machines do not qualify and are in default of these requirements. Service facility shall include warehousing of spare parts, refrigerant and materials required for the maintenance and repair of equipment listed in this contract; and from where the journeymen and apprentices are dispatched to perform the work specified in this contract. **Service facility information shall be furnished on the appropriate Qualification Form Part A and Part B.**

**License.** The Offeror shall possess at the time of bid submittal, a valid State of Hawaii contractor C-52 license and the required business and tax licenses in order to conduct business in the State of Hawaii. Both the contractor's license and tax license must be

kept in force during the duration of this contract and for any extensions that may be agreed upon. The DAGS/CSD may request Offeror to submit a valid copy of the contractor C-52 license **within ten (10) working days from the date the request is made.**

**Personnel Qualifications.** Offeror's personnel can be listed only once in the mechanics spaces provided on the appropriate Qualification Form Part A, Guaranteed Maintenance Service of Air Conditioning and Ventilating Equipment and Qualification Form Part B, Water Treatment Service of Air Conditioning Systems.

The Offeror shall have at least three (3) journeymen (union or nonunion) refrigeration/air conditioning mechanics assigned to this contract who are regular employees of the offeror at the time of bid each with a minimum of five (5) years of **centrifugal/screw chiller maintenance and repair experience** at the time of bid, other than centrifugal/screw chillers, on similar types of equipment as indicated in these specifications. **The Offeror shall furnish the above information for centrifugal/screw chiller mechanics on the appropriate Qualification Form Part A.**

The Offeror shall have at least three (3) refrigeration/air conditioning technicians assigned to this contract who are regular employees of the offeror at the time of bid to assist the journeymen refrigeration/air conditioning mechanics perform air conditioning and ventilation equipment maintenance and repair. Each technician shall have a minimum of three (3) consecutive years of **air conditioning and ventilation equipment maintenance and repair experience** at the time of bid. **The Offeror shall furnish the above information for refrigeration/air conditioning mechanics on the appropriate Qualification Form Part A.**

ALL AIR CONDITIONING/REFRIGERATION MECHANICS MUST HAVE A VALID REFRIGERATION UNIVERSAL CERTIFICATION CLASSIFICATION AND **MUST PROVIDE PROOF OF THIS CERTIFICATION AT TIME OF BID.**

All three (3) journeyman refrigeration/air conditioning mechanics, and three (3) all refrigeration/air conditioning technicians assigned to this contract must reside on the Island of Oahu during the duration of this contract. This requirement is necessary to insure adequate emergency and regular maintenance calls.

**ATTENTION:**

**DUE TO POTENTIAL LEAKS OR DISCHARGE OF REFRIGERANT FROM CHILLERS**

All mechanics assigned to work on any chiller shall be trained and certified in the use of a self-contained breathing apparatus at the time of bid submittal.

Falsification of personnel qualifications, inability to perform the work in accordance with these specifications, utilization of unqualified personnel, or **excessively high turnover** of personnel assigned to this project SHALL CONSTITUTE A BREACH OF CONTRACT.

**References.** Offeror will list on the applicable Qualification Form Part A and Part B at least five references in the State of Hawaii, other than the State of Hawaii government, for whom Offeror has performed a total coverage mechanical maintenance service of air conditioning and ventilating equipment and temperature control system on a regular basis, that is similar in nature and volume to services specified herein, that will qualify offeror to perform the project. The State reserves the right to contact the references provided and to reject any bid submitted by a Contractor whose performance on other service contracts similar to this one has been proven unsatisfactory.

**Qualification Form.** Offerors must complete and return all Qualification Forms Part A and Part B must be submitted electronically, as an attachment, through the Hawaii State eProcurement called HlePRO.

If assistance is needed in submitting these pages through the HlePRO, please call (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

Upon request by the State, the Offeror shall have **five (5) working days** to provide additional information/documentation. Failure to do so may result in disqualification of Offeror.

## **10.0 CERTIFICATION OF INDEPENDENT COST DETERMINATION**

By submission of a bid in response to this IFB, Offeror certifies as follows:

- a. The costs in its offer 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.
- b. Unless otherwise required by law, the cost in its offer 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.
- c. No other attempt has been made or will be made by the Offeror to influence any other person or firm to submit or not to submit an offer for the purpose of restricting competition, bid rigging or other unlawful purpose.

## **11.0 BID PREPARATION**

**Offer Form A, Page OFA-1.** Offeror shall submit offer using Offeror'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. Failure to do so may delay proper execution of the contract.

Offeror's authorized signature shall be an original signature in ink. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

**Bid Quotation for Part A – Guaranteed Maintenance Service:** Bid price for Guaranteed Maintenance Service shall include **ALL COSTS** for labor, equipment, parts and materials, refrigerant and recovery of refrigerant using EPA certified recovery equipment, mileage and all applicable taxes (including the current Hawaii General Excise Tax), and any other expenses necessary as required to perform the services as specified in this bid solicitation. In addition, offeror is requested to furnish in the space provided on **Offer Form Page OF-21 the applicable labor rate that will be charged for extra work** (not covered under the scope of work of this IFB) as approved by the CA. This rate shall be the standard hourly rate charged by the offeror and **NOT** an overtime rate, and shall include **ALL** applicable fringe benefits, travel, mileage and all applicable tax costs (including the current Hawaii General Excise Tax).

**Bid Quotation for Part B – Water Treatment Service:** Offeror may subcontract this portion of the work and the Bid Price for Chemical Water Treatment Service shall include **ALL COSTS** for labor, material, equipment, chemicals, maintenance/repair services, laboratory fees, all applicable taxes (including the current Hawaii General Excise Tax), and any other expenses necessary as required to control corrosion, scale, and biological growth as specified for: cooling towers, chilled and condenser water, and chemical-less condenser water systems located at various State building sites as scheduled herein. Work shall be performed in the time frames indicated. Offeror shall furnish price as required by Specifications page S-16, item I.6.

**Bid Quotation for Part C – Chiller Waste Oil Disposal:** Contractor shall perform a **yearly disposal** of hazardous chiller waste oil from single or multiple centrifugal/screw chillers located at various State buildings as scheduled in the IFB. Disposal work shall be performed in accordance with the US-EPA, US-DOT, State and Local Requirements and include, but not limited to, the Disposal Specifications of this bid as a minimum.

Contractor shall be responsible for all labor, parts, materials, collecting/consolidation, packaging, shipping/transportation, disposal, paperwork, all applicable taxes (including the current Hawaii General Excise Tax), and any other costs associated with the hazardous chiller waste oil disposal work.

Disposal work shall be performed at the same time (within one week), after all the annual services and Overhauls have been performed by the Contractor on the single or multiple centrifugal/screw chillers at all locations. Disposal work shall be performed during regular working hours. Contractor shall submit a disposal schedule for State approval not less than **one month** prior to start of disposal work.

Offeror may subcontract this portion of the work and the Bid Price for Chiller Waste Oil Disposal shall include **ALL COSTS** for labor, material, equipment, transportation, disposal, paperwork, all applicable taxes (including the current Hawaii General Excise Tax), and any other expenses necessary to perform Disposal work for hazardous waste oil from the centrifugal/screw chillers as specified in this solicitation.

**Bid Quotation for Part D - Chiller Eddy Current Testing:** Contractor shall perform a one-time eddy current inspection testing on single or multiple centrifugal/screw chillers located at various State buildings as scheduled in this IFB. Eddy current inspection testing shall be performed in accordance with the American Society for Non-destructive Testing-Recommended Practices SNT-TC-1A and include, but not limited to, the Eddy Current Testing Specifications of this bid as a minimum.

Contractor shall be responsible for all labor, material, equipment, all applicable taxes (including the current Hawaii General Excise Tax), and any other costs associated with the eddy current inspection testing work, including weekend work.

Testing shall be performed during the months of January or February of the 3<sup>rd</sup> Supplemental Year contract period. Contractor shall submit a chiller testing schedule for State approval not less than **one month** prior to start of testing. All chillers indicated shall be tested at the same time, one-after-the-other, within one week from and including weekend to weekend, or sooner if possible. Sites with multiple chillers may have only one unit out of service at a time during regular working hours. Sites with only one chiller, or as indicated, shall be inspection tested on weekend.

Offeror may subcontract this portion of the work, and the Bid price for Chiller Eddy Current Testing shall include **ALL COSTS** for labor, parts, materials, all applicable taxes (including the current Hawaii General Excise Tax), and any other expenses necessary to perform Eddy Current Testing work on the centrifugal/screw chillers as specified in this solicitation.

**Bid Quotation for Part E - Estimated Extra Work Service:** Bid price for Estimated Work Service shall reflect Contractor's applicable labor rate that will be charged for any authorized extra work (not covered under the scope of work of this IFB) as approved by the CA.

This rate shall be the standard hourly rate charged by the offeror and **NOT** an overtime rate, and shall include **ALL** applicable fringe benefits, travel, mileage and all applicable tax costs (including the current Hawaii General Excise Tax).

The estimated 400 hours is to be used solely for bid evaluation purposes and not intended to reflect a guaranteed amount or to be included in the contract amount.

**Subcontractors.** Offeror shall list on the appropriate Qualification Form Part B, Water Treatment Service of Air Conditioning Systems, all subcontractors to be used to perform the services specified herein. The DAGS-CSD reserves the right to request additional information about any subcontractor listed. Such information shall be provided **within five (5) working days of the request.**

**Taxpayer Preference.** For evaluation purposes, pursuant to §103D-1008, HRS, the Offeror's tax-exempt price submitted in response to an IFB 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.

**Unit Bid Price.** Prices shall include costs for all labor, equipment, materials, applicable taxes (including the current Hawaii General Excise Tax) and any other expenses incurred to provide services as specified herein.

Offeror shall provide the information regarding wage payment requested on Offer Form B. The information provided shall indicate Offeror has included the applicable public employees' wages into his/her offer to compensate his/her employees for work performed under this contract.

**Offer Guaranty.** An offer security deposit is not required for this solicitation.

**Insurance.** Offeror shall provide insurance information as requested on Offer Form A.

**Wage Certificate.** The Offeror shall complete and submit a Wage Certificate with its Offer, **as an attachment on HlePRO**, by which the Offeror certifies that services required will be performed pursuant to §103-55, HRS. Refer to section 22.0 below for further information.

**Preparation of Offer.** An Offeror may submit only one offer in response to a solicitation. If an Offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an Offeror may submit only one offer for each line item (if any) of a solicitation. If an Offeror submits more than one offer per line item, then all offers for that line item shall be rejected.

## **12.0 SUBMISSION OF OFFER**

Offers shall be received electronically through the Hawaii State eProcurement called HlePRO. Offers received outside of the HlePRO shall be rejected and not be considered for award. To register for HlePRO, please go to <http://hiepro.hawaii.gov>. If you need assistance in registering please call (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

Offeror's electronic response to this solicitation shall be deemed an offer to sell the specified services/construction to the State at the price(s) shown in the response and under the terms and conditions of this solicitation.

**Offerors must complete and submit all:**

**Offer Form A pages**  
**Offer Form B pages**  
**Wage Certificate**  
**Qualification Form A pages**  
**Qualification Form B pages**  
**Contractor's C-52 License**

These document(s) must be submitted electronically, as an attachment, through the HlePRO. Offerors are responsible to ensure all forms requested are attached when submitting an offer. If assistance is needed in submitting these pages through the HlePRO, please call (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.



**Offeror must bid on all items specified on the Offer Form B pages to be considered for award. Failure to do so shall result in rejection of the entire Bid.**

### **13.0 RESPONSIBILITY OF OFFEROR**

Offeror is advised that in order to be awarded a contract under this solicitation, the vendor/contractor/service provider will be required to be compliant with all laws governing entities doing business in the State including the following chapters and pursuant to HRS § 103D-310©:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. Section 103D-310©, Certificate of Good Standing (COGS) for entities doing business in the State.

The State will verify compliance on Hawaii Compliance Express (HCE) for awards \$ 2,500 or greater.

The HCE is an electronic system that allows vendors/contractors/ services providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department of Taxation; Federal Internal Revenue Service; Department of Labor and Industrial Relations; and Department of Commerce and Consumer Affairs.

Vendors/contractors and service providers should register online with Hawaii Compliance Express (HCE) prior to submitting an offer at <http://vendors.ehawaii.gov>. The annual registration fee is \$12.00 payable to Hawaii Information Consortium, LLC (HIC).

If you have any questions, please call:

Hawaii Information Consortium, LLC  
Phone no. 695-4620 or  
Email: [info@ehawaii.gov](mailto:info@ehawaii.gov).

The "Certificate of Vendor Compliance" is accepted for both contracting and final payment.

**Paper documents as proof of compliance are ACCEPTABLE.** Offerors are advised that the following paper compliance documents will be accepted:

Tax Clearance Form A-6;  
Certificate Of Compliance , DLIR Form LIR#27  
Certificate Of Good Standing, DCCA (BREG).

**Timely Submission of Compliance Document.** The “**Certificate of Vendor Compliance**” must be submitted to the DAGS/CSD **within ten (10) working days from the date the request is made.** If the certificate is not submitted on a timely basis, an otherwise responsive offer from a responsible Offeror may not receive the award.

It is recommended that Offerors register with Hawaii Compliance Express (HCE) prior to responding to a solicitation, to ensure timely submittal when requested. Offerors should be aware that it may take thirty (30) working days to establish a compliant status.

**Final Payment Requirements.** Contractors are required to submit a “**Certificate Of Vendor Compliance**” for final payment on the contract.

#### **14.0 AWARD OF CONTRACT**

**Method of Award.** Award, if made, shall be to the responsible Offeror whose offer is responsive with the lowest evaluated **TOTAL SUM BID PRICE (TOTAL OF PARTS A, B, C, D AND E)**. In the event of a tie, the Offeror submitting **lowest total bid price (Parts A-1, B-1 and C-1) for the initial contract period shall be awarded the bid.**

**Offeror must bid on all items listed in order to qualify for award.** Failure to do so shall result in rejection of the entire bid.

**Timely Submission of Certificates.** The qualified Offeror with the lowest responsive offer is required to submit to the DAGS/CSD a “**Certificate of Vendor Compliance**” **within ten (10) working days from the date the request is made.** If the certificate is not submitted on a timely basis, an otherwise responsive offer from a responsible Offeror may not receive the award.

**Final Payment Requirements.** Contractors are required to submit a “**Certificate Of Vendor Compliance**” for final payment on the contract.

**Cancellation of IFB and Rejection of Offers.** Award shall be contingent on the availability of funds. The State reserves the right to cancel this IFB and/or reject any and all offers in whole or in part when it is determined to be in the best interest of the State.

#### **15.0 EXECUTION OF CONTRACT**

The State shall send a formal contract to the successful Offeror for execution. The contract shall be signed by the successful Offeror and **returned to the State within ten (10) working days after receipt by the Offeror.**

If the option(s) to extend is mutually agreed upon, Contractor shall be required to execute a supplement to the contract.

## 16.0 NOTICE TO PROCEED

Work will commence on the official commencement date specified on the Award Notification or Notice to Proceed.

No work is to be undertaken by the Contractor prior to the official commencement date specified on the Award Notification or Notice to Proceed issued by the State upon execution of the contract by both parties.

The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official commencement date.

## 17.0 INVOICING

Contractor shall submit an **original invoice and three (3) copies of the invoice**, which includes the Contract Number to:

Department of Accounting and General Services  
Central Services Division  
729-B Kakoi Street  
Honolulu, Hawaii 96819  
Attn: Denton Miyamura

Invoice shall include an itemized listing of State buildings, dates of service and identification of units serviced. Inspection service reports for each building listed on the invoice shall be attached to the invoice.

Charges for Parts C, D and E shall not be included in any invoices until the work has been performed. **Final payment of all remaining contract funds shall not be approved for payment until the acceptance of all repair/replacement work for discrepancy items.**

Payment shall be made to the Contractor at the contracted price upon certification, by the State, that the Contractor has satisfactorily performed the required services each month.

Invoices billed from a mainland affiliate must be sent to the Contractor's local office for inclusion of the appropriate paperwork, before being submitted to State. Incomplete invoices will be returned to the Contractor without processing.

For Part E, Estimated Extra Work Service, the State will issue a purchase order or a Purchasing Card for this work on an "as-needed-basis". The contract amount will not include the estimated amount under Part E.

For extra work approved by the CA, a separate detailed invoice is required. Invoices shall contain date and description of the work done detailing the hours of labor at the quoted bid price on Part C of the appropriate Offer Form B page; parts and material as allowed under Specification, Section IX, Allowable Costs for Parts, page S-14, (and its associated

control number - if applicable), the amount and purchase order number authorizing the work. Any extra work will be paid for outside of this contract. The Contractor shall include with the original invoice, copies of **fully completed** and **signed** service work sheets, material and subcontractor invoices, and labor time sheets to substantiate parts and service charges to the State. Invoice payments may be delayed or rejected because of missing or incomplete paperwork.

**Final Payment Requirements.** Contractors are required to submit a “**Certificate of Vendor Compliance**” for final payment on the contract.

## **18.0 PAYMENT**

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

## **19.0 PARTIAL PAYMENT**

At the Contractor’s request, the State will process partial payment(s) based on completed a monthly amount of the bid price. In the event, the grounds maintenance services is not satisfactorily completed, the State reserves the right to withhold payment.

## **20.0 LIQUIDATED DAMAGES**

Refer to Section 9 of the General Conditions. Liquidated damages is fixed at the sum of ONE HUNDRED DOLLARS (\$100.00) for each and every calendar day the Contractor delays in the completion of his contract after the required date of said completion.

## **21.0 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS**

If awarded a contract in response to this solicitation, offeror agrees to comply with HRS §11-355, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contracts if the contractors is paid with funds appropriated by a legislative body between the execution of the contract through the completion of the contract.

## 22.0 WAGES, HOURS, AND WORKING CONDITIONS OF EMPLOYEES OF CONTRACTOR PERFORMING SERVICES

All offerors for service contracts shall comply with Section 103-55, Hawaii Revised Statutes, which provides as follows:

Wages, hours, and working conditions of employees of CONTRACTOR supplying services: Before any offeror is entitled to submit any offer for the performance of any contract to supply services in excess of \$25,000 to any governmental agency, offeror shall certify that the services to be performed will be performed under the following conditions:

Wages: The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Compliance with labor laws: All applicable laws of the federal and state governments relating to worker's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

No contract to perform services for any governmental contracting agency in excess of \$25,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of the contract to perform services shall result in cancellation of the contract.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$25,000 to enforce this section.

This section shall apply to all contracts to perform services in excess of \$25,000, including contracts to supply ambulance service and janitorial service.

**Wage Certificate.** The Offeror shall complete and submit a Wage Certificate with its offer, as an attachment, on HlePro.

Offeror shall be further obliged to notify his/her employees performing work under this contract of the provisions of Section 103-55, HRS, and of the current wage rates for public employees performing similar work. The Offeror may meet this obligation by posting a notice to this effect in the Offeror's place of business in an area accessible to all employees, or the Offeror may include such notice with each paycheck of pay envelope furnished to the employee.

To assist the Offeror in determining whether the work of his/her employees are to perform under this contract is similar to work performed by public employees, attached are class specifications for the State positions that grounds maintenance servicing. Effective July 1, 2008 the basic hourly wages paid to these State positions are:

Class

Hourly Rate

Air Conditioning Mechanic I (BC-10)	\$32.27 / hour
Air Conditioning Mechanic II (WS-10)	\$34.16 / hour

Accordingly, Offeror should consider the aforementioned wage rates when preparing his/her quote.

### **23.0 LIABILITY INSURANCE**

The Contractor shall obtain and maintain insurance described below which shall provide coverage against claims arising out of the Contractor's operations under the contracts, whether such operations be by the Contractor itself or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable during the life of this contract.

Worker's Compensation – The Contractor shall obtain worker's compensation insurance for all persons whom they employ in carrying out the work under this contract. This insurance shall be in strict conformity with the requirements of the most current and applicable State of Hawaii Worker's Compensation Insurance law in effect on the date of the execution of this contract and as modified during the duration of the contract.

General Liability – The Contractor shall obtain General Liability insurance with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the Aggregates.

Automobile Liability – The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and hired autos with a combined single limit of not less than \$1,000,000 per occurrence.

The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to 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 the contractor or by a subcontractor or anyone directly or indirectly employed by either of them, or anyone for whose acts any of them may be liable during the life of this contract. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as an additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, Contractor may require subcontractor to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

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

<u>Coverage</u>	<u>Limits</u>
<b>Commercial General Liability (occurrence form)</b>	<b>\$1,000,000 combined single limit per occurrence for bodily injury and property damage \$2,000,000 aggregate per occurrence</b>
<b>Automobile Liability Insurance</b>	<b>\$1,000,000 combined single limit per occurrence</b>

Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clauses:

1. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements.

Prior to issuance of the Notice to Proceed, Award Notification or Purchase Order, **Contractor must provide to DAGS Central Services Division, 729 Kakoi Street, Honolulu, Hawaii 96819 within ten (10) working days from the date the request is made a CERTIFICATE(S) OF INSURANCE** completed by a duly authorized representative of their insurer certifying that the liability coverage(s) is written on an occurrence form.

The certificate of insurance is 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 completed certified copies of all required insurance policies, including endorsements effecting the coverage required at any time.

The Contractor will immediately provide written notice to the Department State of Hawaii, Department of Accounting and General Services, Central Services Division, Purchasing Office, 729 Kakoi Street, Honolulu, Hawaii 96819 should any of the insurance policies evidence on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

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 in this contract for a default of the Contractor.

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 or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

**It is recommended that Offerors apply for the Certificate of Insurance as soon as possible to ensure timely submittal when requested.**

#### **24.0 SERVICE REQUIREMENTS AND CONTRACT MODIFICATIONS**

It is understood and agreed that in addition to the buildings listed herein, Contractor shall be required to furnish services specified herein to any new building or any building not initially listed in this IFB, when such services are required. Contractor shall be notified of such requirements by a contract modification issued by the State.

The State reserves the right to add or delete whole buildings to the contract and will make adjustments by contract modifications.

The State also reserves the right to add or delete individual air conditioning and ventilating units to this contract. When individual units are deleted from the contract, the State will not make adjustments to the contract price; however, the State reserves the right to replace deleted units on a one-for-one basis within a building without an increase in the contract price. **NOTE: The Contractor cannot refuse to accept the additional equipment.** Further, the State reserves the right to add up to five (5) additional units to this contract without an increase in the contract price. Any increase in contract price for additional units in excess of the aforementioned five (5) units shall be negotiated between the Contractor and the State and shall become binding only upon issuance of a contract modification by the State.

An equipment log for this contract will be kept by the CA and shall be used to record additions or deletions. Each entry must be signed by a representative of the Contractor and State. This log will be used to determine time of price adjustment.



## **25.0 WARRANTY**

The Contractor shall submit a written warranty for the replacement of any integral part of equipment listed herein, such as compressors, fan motors, etc., as guaranteed by the factory.

The warranty shall consist of the period covered from the date of installation, make, model number, serial number, and location of equipment (name of building, floor number, etc.) and shall be provided to the State.

There will be some air conditioning units that are covered by manufacturer's and installer's warranties and/or initial maintenance service agreement. The expiration dates of these units will be provided by the State. As the warranties and/or agreements expire, the Contractor shall commence service on these units and shall continue to service them for the remaining period of the contract. The Contractor cannot refuse to accept the additional/replaced equipment. Any increase in the contract price for these units shall be negotiated between the Contractor and the State and shall become binding only upon issuance of a contract modification by the State.

## **26.0 INSPECTION**

All work done and all materials furnished shall be subject to random periodic inspection and approval by the CA so as to ascertain that the services rendered are in accordance with requirements and intentions of the Specifications and Special Provisions. He may require additional information as necessary to maintain a record of the service rendered, and also request that the Contractor accompany him on field inspections to be scheduled periodically.

The Contractor shall furnish the CA one copy of a service check receipt for each unit serviced and a service checklist bearing the signature of the maintenance man and the signature of the designated State employee certifying receipt of services. All service reports, tickets, checklists, etc. must be fully completed and signed as herein before specified and must be submitted with monthly invoices or invoices for purchase orders. Services which cannot be certified by a representative of the State may not be compensated.

## **27.0 RE-EXECUTION OF WORK**

The Contractor shall re-execute any work that fails to conform to the requirements of the contract and shall immediately remedy any defects due to faulty workmanship by the Contractor. Should the Contractor fail to comply, the State reserves the right to engage the services of another company to perform the services and to deduct such costs from monies due to the Contractor.

## **28.0 COMPETENCY OF OFFEROR**

Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.

## **29.0 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.

## **30.0 SERVICE AREAS**

The Contractor shall perform the service at the facility in which the units are located. It is the Contractor's responsibility to examine the location and condition of the equipment.

The State shall notify the Contractor of any subsequent changes of unit locations listed on the Schedule of Equipment and furnish any other pertinent information necessary for the proper execution of the contract.

## **31.0 CLEANUP**

The Contractor shall keep the job site free of debris, litter, refuse, etc. and shall clean all fluids, oils and grease drippings or spills during the daily progress of work. The Contractor shall remove all old replaced malfunctioning parts and equipment from the area upon completion of the work.

## **32.0 REMOVAL OF CONTRACTOR'S EMPLOYEES**

Contractor agrees to remove any of its employees from services rendered and to be rendered to the State, upon request in writing by the Contract Administrator.

### **33.0 SUBCONTRACTORS**

The Contractor shall not contract with any contractor to perform any of the duties listed in this IFB other than those listed on the **appropriate Offer From A and Qualifications Forms**, unless prior written approval is given by DAGS/CSD and the Contract Administrator. The State reserves the right to approve all subcontractors and shall require the primary contractor to replace any subcontractors found to be unacceptable. The primary contractor will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract, and shall be responsible for all services whether or not primary contractor performs them.

### **34.0 PERMITS, LICENSES, AND TAXES**

The Contractor shall procure all permits and licenses, during the term of the contract and any extension, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Failure to procure and maintain valid permits and licenses required by law and these specifications may be cause for the State to terminate the contract.

### **35.0 RIGHTS AND REMEDIES FOR DEFAULT**

In the event the Contractor fails, refuses, or neglects to perform the services in accordance with the requirements of these Special Provisions, the Specifications, and the General Conditions herein, the addition to the recourse stated in Section 13 of 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 moneys due or that may thereafter become due the Contractor, the difference between the price named in the contract and the actual cost thereof to the State. In case any money due the Contractor is insufficient for said purpose, the Contractor shall pay the difference upon demand by the State. The State may utilize all other remedies provided by law.

### **36.0 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.

### **37.0 CANCELLATION OF SOLICITATIONS AND REJECTION OF OFFERS**

The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in §§3-122-95 through 3-122-97, HAR.

### **38.0 CONFIDENTIALITY OF MATERIAL**

All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, chapter 92F, HRS. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to §3-122-58, HAR, in the case of an RFP, or §3-122-30, HAR, in the case of an IFB. The Offeror shall state in its written communication to the Procurement Officer, the reason(s) for designating the material as confidential, for example, trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of opening regardless of any designation to the contrary.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Office of the Attorney General in accordance with chapter 92F, HRS. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror protests under chapter 3-126, HAR. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with §92F-15.5, HRS.

### **39.0 NONDISCRIMINATION**

No person performing work under this Agreement, including any subcontractor, employee, or agency of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

### **40.0 RECORDS RETENTION**

The Contractor and any subcontractors shall maintain the books and records that relate to the Agreement and any cost or pricing data for three (3) years from the date of final payment under the Agreement.

#### **41.0 COMPLIANCE WITH LAWS**

The Contractor at all times shall observe and comply with all federal, State and local laws or ordinances, rules and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, and the conduct of the work. The Contractor shall also comply with all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. Any reference to such laws, ordinances, rules and regulations shall include any amendments thereto.

#### **42.0 INDEMNIFICATION AND DEFENSE**

The Contractor shall defend, indemnify and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, costs, and expense including attorney's fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.

#### **43.0 TERMINATION FOR CONVENIENCE**

The Agency may, when the interests of the State so require, terminate this Contract in whole or in part, for the convenience of the State. The Agency shall give written notice of the termination to the Contractor specifying the part of the Contract terminated and

#### **44.0 ASBESTOS PROHIBITION**

The use of materials or equipment containing asbestos is prohibited under this contract. Contractor warrants that all materials and equipment incorporated in the project are asbestos free.

#### **45.0 GUARANTEE OF WORK**

Except as otherwise specified, all work and equipment shall be guaranteed by the Contractor against defects in materials, equipment or workmanship for one (1) year from the date of beneficial occupancy or final acceptance of the contract whichever is earlier. All guarantee of work shall be transmitted in writing.

#### **46.0 MANUFACTURER'S GUARANTEE**

Whenever a manufacturer's or installer's guarantee on any product hereinafter specified, exceeds one (1) year, this guarantee shall become part of this contract in addition to the Contractor's guarantee.

#### **47.0 FINAL ACCEPTANCE**

The contract will be considered accepted when all work has been fully completed and all required documents have been submitted.

#### **48.0 PROTEST**

Pursuant to HRS § 103D-701, 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 Procurement Officer (PO) Dean Shimomura, Central Services Administrator, 729 Kakoi Street, Honolulu, Hawaii 96819.

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.

Award(s), if any, resulting from this solicitation shall be posted to the State procurement Office (SPO) website: <http://www.hawaii.gov/spo>.