

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	=	Hawaii State eProcurement System
AG	=	Attorney General
GC	=	103D General Conditions
IFB	=	Invitation for Bids
GET	=	General Excise Tax

1.0 SCOPE

The furnishing of Tree Trimming at various Public Libraries on the island of Oahu shall be in accordance with these Special Provisions, attached Specifications, and 103D General Conditions.

2.0 CONTRACT ADMINISTRATOR

For the purpose of this contract, Mr. Gerald Shioji, Central Services Manager, DAGS/CSD, or designee is the Contract Administrator (CA). The telephone number at which he/she may be reached at is (808) 831-6733.

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 May 1, 2026 to April 30, 2027.

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 QUANTITY OF TREES AND TRIMMINGS PER YEAR

The quantities of trees to be trimmed, the type of trees and the scheduled trim dates are estimates. No guarantee to purchase services for the exact number of trees or the number of trimmings is intended or implied. The DAGS/CSD reserves the right to increase or reduce the number of trees and the type of trees to be trimmed at the prices quoted and to modify the scheduled trim dates.

6.0 SITE INSPECTION

Prior to submission of an offer, Offeror shall inspect the Job Site to become thoroughly familiar with existing conditions and the amount and type of work to be performed. Submission of an offer shall be evidence that the Offeror understands the scope of work and the Contract requirements and agrees to comply with all Contract requirements including these Special Provisions. 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.

7.0 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.

8.0 OFFEROR QUALIFICATION

Experience.

1. Offeror must have a minimum of ten (10) consecutive years of experience (immediately prior to bid opening date) in tree trimming services. Offeror shall indicate its number of years of experience on Offer Form A.
2. Offeror must have experience working with State of Hawaii Agencies. Offeror shall indicate it on Offer Form A.
3. Offeror must have history in providing a response to all calls made within two (2) hours of the initial call and be on site within a twenty-four (24) hour period.

License. The Offeror shall possess at the time of bid submittal, a valid State of Hawaii contractor C27 and/or C-27-B tree trimming 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. Offeror shall provide the license number on the Offer Form A and provide a valid copy of the contractor C-27 and/or C-27-B license. Award will not be made to any Offeror failing to meet this qualification requirement.

Certified Arborist. Offeror shall have an Arborist, must possess five (5) years of work experience, on staff, who is certified by the International Society of Arboriculture (ISA), whose certification is current at the time of bid opening and during the term of the contract (and any agreed upon extension), to directly supervise, at all times, the tree trimming work specified herein. Offeror shall identify its Arborist on the Offer Form A, his/her membership number and membership expiration date. Offeror shall also provide a photocopy of the ISA certification indicating the expiration date of the certification.

Office/Services Facility Location. Offeror shall have a **permanent office and service facility** on the **island of Oahu** from which to conduct business. And shall provide the information on Offer Form A. An answering service is acceptable provided a response is made within two (2) hours of the initial call.

Equipment, Vehicles and Personnel. Offeror shall have the necessary equipment, vehicles and number of employees to perform and complete the work specified herein within the period specified, all in accordance with the requirements of this IFB. Offeror shall provide the information requested on the Offer Form A regarding personnel, vehicles and inventory of equipment to perform the work specified in this IFB.

The DAGS/CSD will use this information to determine whether Offeror has adequate personnel, vehicles and equipment to perform the work specified in this IFB within the contract time allowed.

Award will not be made to any Offeror failing to meet ALL of the above qualifications. Failure to meet these qualifications requirements shall result in rejection of the bid. Further, satisfaction of these requirements must be maintained by the Contractor during the entire contract period.

9.0 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.

10.0 BID PREPARATION

Offer Form A. 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.

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.

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 21.0 below for further information.

References. Offeror shall list companies or government agencies on the Offer Form A for whom tree trimming services were or are being provided. The State reserves the right to contact the references. The State reserves the right to reject any Offeror who has performed unsatisfactorily on other jobs of a nature similar to those required by this IFB.

Employee. Offeror shall list on the Offer Form A all employees to be employed, if awarded a contract and the type of work each employee will be performing (e.g. Tree Trimmer-Truck Driver, Tree Trimmer). If the Offeror classifies any of his/her employees as other than the position descriptions specified on the Form. Offeror shall provide a description of the position and explain why it does not fall into one of the specified categories. (See Attachment I for Tree Trimmer and Tree Trimmer-Truck Driver Classifications).

Equipment and Vehicles. Offeror shall list on the Offer form A the equipment and vehicles to be used during the performance of the work specified.

On-Going Contract. Offeror shall list on the Offer Form A, all on-going contracts the Offeror is involved in at the time of offer submittal.

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.

11.0 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 the following documents:

**Offer Form A
Offer Form B
Wage Certificate
W-9 Request for Taxpayer Identification Number and Certification
C-27 and/or C-27B License
Arborist Certificate**

as an attachment, through the HlePRO.

Offerors are responsible to ensure all forms requested are attached when submitting an offer.

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

12.0 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(c):

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(c), 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 payable to the 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.

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 may be accepted:

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

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 takes 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.

13.0 AWARD OF CONTRACT

Method of Award. Award, if made, shall be to the responsible Offeror whose offer is responsive with the lowest Total Sum Bid Price.

The quantities of trees to be trimmed, the type of trees and the scheduled trim dates are estimates for the period specified. No guarantee to purchase services for the exact number of trees or the number of trimmings is intended or implied. The DAGS/CSD reserves the right to increase or decrease the number of trees and the type of trees to be trimmed at the prices quoted and to modify the scheduled trim dates.

Offeror must bid on all items on the Offer Form B. Failure to do so will result in rejection of the entire bid.

In case of error in the TOTAL SUM BID PRICE, the unit price per tree shall govern.

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.

14.0 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.

15.0 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.

16.0 INVOICING

Contractor shall submit an **original invoice**, which includes the Contract Number to:

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

Attn: Mr. Gerald Shioji

Invoice must include an itemized listing of State buildings, number of trees trimmed per building, unit price per tree and dates of trimmings.

Extra Work. For extra work authorized and approved by the CA, a separate detailed invoice is required. The invoice shall contain the date of work, description of the work done (i.e. number of trees trimmed and type of trees), facility name and amount. Any extra work will be paid for outside of this contract either by a purchase order or a purchasing card.

17.0 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.

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

18.0 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.

19.0 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 per location per violation the Contractor delays in the completion of his contract after the required date of said completion.

20.0 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 or county

government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body, between the execution of the contract through the completion of the contract.

21.0 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. ***For contracts performed by laborers and mechanics, that at the time of their employment, the Offeror will give a copy of the wage rate schedules to each laborer and mechanic employed under this contract; the Offeror is not required to provide a copy when there is a collective bargaining agreement.***

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.

Wage Certificate. The Offeror shall complete and submit a Wage Certificate by which the Offeror certifies that services required will be performed pursuant to Section 103-55, HRS.

Wage Certificate must be submitted as an attachment on HlePRO.

The 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 in the 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, 2024 the basic hourly wages paid to these State positions are:

<u>Class</u>	<u>Hourly Rate</u>
Tree Trimmer (BC07)	\$29.30
Tree Trimmer-Truck Driver (BC05)	\$27.09

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

Other requirements for contracts for services performed by laborers and mechanics:

The governmental contracting agency may withhold from the Contractor so much of the accrued payments as the governmental contracting agency may consider necessary to pay the laborers and mechanics employed by the Contractor or any subcontractor on the job site, the difference between the required wages and the wages received and not refunded by the employees.

The Contractor shall submit weekly, a certified copy of all payrolls to the governmental contracting agency for review. The Contractor shall be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, the wage rates contained therein are not less than the applicable rates, and the classifications set forth for each laborer or mechanic conform with the work the laborer or mechanic performed. Any certification discrepancy found by the governmental contracting agency shall be reported to the Contractor and the agency director to effect compliance.

Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the Contractor and the Contractor's subcontractors, if any, during the work and preserved for a period of three years thereafter. The records shall contain the name of each employee, the employee's correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. The Contractor shall make payroll records available for examination within ten days from the date of a written request by a governmental contracting agency or any authorized representatives thereof.

The governmental contracting agency shall:

- (1) Pay or cause to be paid, within sixty days of a determination made by the contracting agency, directly to laborers and mechanics, from any accrued payment withheld under the terms of the contract, any wages or overtime compensation found to be due to laborers or mechanics under the terms of the contract subject to this section; and

(2) Order any Contractor to pay, within sixty days of a determination made by the contracting agency, any wages or overtime compensation that the Contractor, or any of the Contractor's subcontractors, should have paid to any laborer or mechanic under any contract subject to this section.

No contract to perform services for any government 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.

22.0 CONTRACT PRICE ADJUSTMENT PURSUANT TO SECTION 103-55, HRS

All requests for contract price adjustments shall be in writing and shall be addressed and submitted to the Contract Administrator in accordance with the following conditions.

The Contractor may request for increase in contract price. The increase requested must result in increase in wages to Contractor's employees performing the work herein, including any increase in costs for benefits required by law that are automatically, increased as a result of increased wages, such as federal old age benefit, workers compensation, temporary disability insurance, unemployment insurance, and prepaid public health insurance.

The Contractor's request for increase must meet the following criteria:

1. At the time of a request, Contractor must provide documentation to show that it is in compliance with Section 103-55, HRS, i.e., its employees are being paid no less than the known wage of the State position listed herein. Documentation shall include the employees' payroll records and a statement that the employees are being utilized for this contract.
2. At the time of bidding, the Contractor must have specified on the appropriate Offer Form B the percentage of the unit bid price that represents labor costs. If the Contractor fails to specify the percentage, the Contractor's request for increase will not be considered.
3. Request for increase must be made in writing to the DAGS/CSD, Contract Administrator on a timely basis.
 - a. The request for an increase for a supplemental period of the contract

must be made prior to the start of the supplement.

- b. The Price Adjustment will apply only to the upcoming supplemental period and not retroactive to the effective date of the State wage increase. Contractor shall call the Contract Administrator to obtain the current wage information.

If the Contractor meets the above criteria in its request for contract price increase, the following formula shall be used to calculate the increase:

$$I = (A * X) (B)$$

Whereby, I = increase in unit bid price;

A = unit bid price;

X = percentage of unit price representing labor costs;

B = percentage increase in wages of State employees

After the contract modification for the increase is issued by the State, but before payment of an increase is made on the portion of the current contract period already performed, Contractor shall provide proof to the State that its employees were given the wage increase.

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

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 and/or Award Notification, **Contractor must provide to DAGS Central Services Division, 729-B 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 copy 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-B 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 CONTRACT MODIFICATION

It is understood and agreed that in addition to the facilities listed herein, Contractor shall be required to furnish tree trimmings services herein to any new facilities not initially listed in this IFB when such services are required. Any increase in contract price for additional facilities shall be negotiated between the Contractor and the DAGS/CSD and shall be come binding only upon issuance of a contract modification issued by the DAGS/CSD.

The DAGS/CSD also reserves the right to increase or decrease the number of trees at the prices quoted and the Contractor shall be notified of such requirements by a contract modification issued by the DAGS/CSD.

25.0 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.

26.0 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.

27.0 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.

28.0 SUBCONTRACTORS

The Contractor **shall not** contract any contractor to perform any of the duties listed in this IFB. The Contractor shall provide all services utilizing its own employees.

29.0 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.

30.0 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.

31.0 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.

32.0 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.

33.0 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.

34.0 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.

35.0 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.

36.0 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.

37.0 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.

38.0 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 when termination becomes effective.

39.0 FINAL ACCEPTANCE

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

40.0 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 James Kurata, 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>.