



# STATE PROCUREMENT OFFICE NOTICE & REQUEST FOR SOLE SOURCE

1. TO: Chief Procurement Officer
2. FROM: Russ K. Saito, Comptroller, Dept. of Acct. & Gen. Services  
Department/Division/Agency

STATE PROCUREMENT OFFICE  
STATE OF HAWAII

09 DEC -9 03:59

Pursuant to §103D-306, HRS, and Subchapter 9, Chapter 3-122, HAR, the Department requests sole source approval to purchase the following:

3. Description of goods, services, or construction:  
Chilled water supply for use in air conditioning systems from the Honolulu Seawater Air Conditioning's (HSWAC) downtown Honolulu chilled water system within the Capital District. This system can potentially provide service to various State buildings that use chilled water in their air conditioning systems.

Refer to attached letter of transmittal from Terry E. Thomason dated September 22, 2009 re: "Unsolicited Proposal - Chilled Water Service for Air Conditioning Systems."

<p>4. Vendor Name: Honolulu Seawater Air Conditioning, LLC</p> <p>Address: 7 Waterfront Plaza, Suite 407 500 Ala Moana Blvd. Honolulu, Hawaii 96813</p>	<p>5. Price: \$ <u>T.B.D.</u></p>
<p>6. Term of Contract: (mm/dd/yyyy) From: <u>around 2014/2015</u> To: <u>2040 approx.</u></p>	<p>7. Prior Sole Source Ref No. _____</p>

8. Feature: The good, service, or construction has the following unique features, characteristics, or capabilities: The HSWAC proposes to provide a unique service of great value and utility to the State in the form of chilled water for air conditioning system on a district wide basis within the Capital District from a single renewable source.

Please note that this sole source request in no way represents acceptance by the State of the price or any other contract terms and conditions proposed by HSWAC "unsolicited proposal."

9. Essential features. How the unique features, characteristics, or capabilities are essential for the agency to accomplish its work:  
The HSWAC service in the Capital District will be the only source of chilled water that will potentially will be less costly, for 24 hour operation, if necessary than the electrically driven chiller systems presently in place.

This notice and request for sole source in no way represents acceptance by the State of the price or any other contract terms and conditions proposed by HSWAC "unsolicited proposal."

Any procurement resulting from this sole source approval will be subject to successful development and installation of an operational system; acceptable terms and conditions; and acceptable cost pricing to the State.

11. Alternate source. The following other possible sources for the good, service, or construction were investigated but do not meet our needs because:

Besides the electrically driven chiller systems, there are other potential sources or developers of chilled water systems in the world. However, none have proposed to develop a chilled water system that will provide district wide chilled water to the Capital District. This sole source request is not to develop the chilled water system as the State is not procuring the development/construction of this system. This sole source request is to receive service from the provision, by HSWAC, of district wide chilled water for the entire Capital District, subject to acceptable terms, conditions, and pricing to the State.

12. Direct any inquiries to:

Department: Dept. of Acct. & Gen. Services

Contact Name/Title: Mr. Ernest Y. W. Lau

13. Phone Number:

586-0526

Fax Number:

586-0521

Expenditure may be processed with a purchase order/p-Card: Yes No If no, a contract must be executed and funds certified.

Agency shall ensure adherence to applicable administrative and statutory requirements, including HAR Chapter 3-122, Subchapter 15, Cost or Pricing Data, if required.

14. I certify that the information provided above is to the best of my knowledge, true, correct and that the goods, services, or construction are available through only one source.

  
Department Head Signature

12/9/09  
Date

Reserved for SPO Use Only

15. Date Notice Posted: 12-10-09

Submit written objections to this notice to issue a sole source contract within seven calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer  
State Procurement Office  
P.O. Box 119  
Honolulu, Hawaii 96810-0119

16. Chief Procurement Officer's comments:

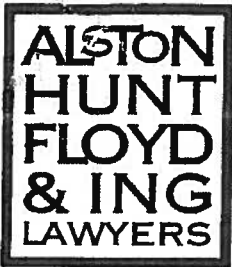
Request is disapproved as no response has been provided in response to requested information.

17.

APPROVED  DISAPPROVED  NO ACTION REQUIRED

  
Chief Procurement Officer

7/6/2010  
Date

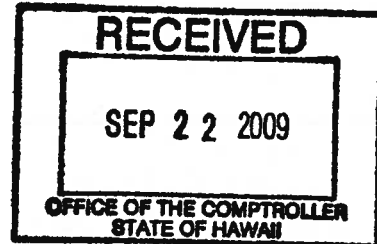


Attorneys at Law - A Law Corporation

September 22, 2009

**HAND DELIVERY**

Mr. Russ Saito  
Office of the Comptroller  
1155 Punchbowl Street, Room 412  
Honolulu, Hawaii 96813



Re: Letter of Transmittal – Unsolicited Proposal – Chilled Water Service for Air Conditioning Systems

Dear Mr. Saito:

Thank you for your call today. Our understanding is that your department would be overseeing the processing of Honolulu Seawater Air Conditioning, LLC's ("HSWAC") unsolicited proposal.

**Terry E. Thomason**  
E-mail:  
TThomason@ahfi.com

Please see the enclosed materials we discussed in the September 4, 2009 meeting with representatives of the State Procurement Office, the Dept. of Business, Economic Development and Tourism, and your office. The materials include the following:

1. Our June 15, 2009 letter to Mr. Ted Liu;
2. HSWAC's unsolicited proposal (Tab A); and
3. A summary of relevant procurement law governing unsolicited proposals (Tab B).

If you have any questions, please contact me at 441-6242 or my associate, Elizabeth Haws Connally, at 441-6170.

American Savings Bank Tower  
18th Floor  
1001 Bishop Street  
Honolulu, Hawai'i 96813  
Phone: (808) 524-1800  
Fax: (808) 524-4591

Carter Professional Center  
Suite C21  
65-1230 Mamalaha Highway  
Kamuela, Hawai'i 96743  
Phone: (808) 885-6762  
Fax: (808) 885-6011

One Main Plaza  
Suite 521  
2200 Main Street  
Wailuku, Hawai'i 96793  
Phone: (808) 244-1160  
Fax: (808) 442-0794

www.ahfi.com

Very truly yours,

Terry E. Thomason

TET:mmhb  
Enclosure

cc: Honolulu Seawater Air Conditioning, LLC



Attorneys at Law - A Law Corporation

June 15, 2009

Via Hand Delivery

Mr. Ted Liu  
Director  
Dept. of Business, Economic Development and Tourism  
No. 1 Capitol District Bldg.  
250 S. Hotel Street  
Honolulu, Hawaii 96813

Re: Unsolicited Proposal – Chilled Water Service For Air Conditioning Systems

Dear Mr. Liu:

On behalf of our client, Honolulu Seawater Air Conditioning, LLC ("HSWAC"), we submit for your consideration the attached unsolicited proposal (at Tab A). In the proposal, HSWAC offers to provide the State chilled water for air conditioning systems.

HSWAC's proposal offers unique services of great value and utility to the State. If you accept HSWAC's proposal, the resulting contract will:

- Without any cost to the State, immediately create at least 475 new construction industry jobs for the installation and maintenance of HSWAC chilled water system;
- Reduce State energy costs by eliminating the need for electrically driven chiller systems presently in place in State Buildings;
- Preserve potable water presently consumed in the State's electrically driven chiller systems;
- Meet fully the State's needs for cooling of State buildings for the next 30 years; and

**Terry E. Thomason**  
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TThomason@ahfi.com

**Elizabeth Haws Connally**  
E-mail:  
EHaws@ahfi.com

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Mr. Ted Liu  
Director  
June 15, 2009  
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- Comply with all environmental law and procurement law requirements.

The proposed contract will also afford the State cost benefits that are not usually present in contracts such as this. HSWAC's proposal will create a true public-private partnership that will protect the State from development cost risks. HSWAC's offer ensures the State incurs no cost obligations until HSWAC actually delivers chilled water to State facilities. In return for a long-term service contract relationship, HSWAC will assume all infrastructure development cost risks.

In accordance with your guidance to us, HSWAC is committed to complying with your expectation that the proposal be addressed in full compliance with procurement law. To meet this requirement, we prepared the Procurement Law Summary ("Summary") attached at Tab B. The Summary outlines the legal authority and generally accepted procurement procedures under which government agencies routinely receive, review and accept unsolicited proposals as binding contracts such as the proposal HSWAC submits here. The Summary also addresses specific aspects of the proposal we anticipate you will need to review in your consideration of the HSWAC proposal.

We believe the Summary will be a useful reference for you in performing your Head of Purchasing Agency duties in considering HSWAC's proposal. However, the Summary is crafted specifically for use by your legal counsel and your procurement staff professionals. The Summary includes legal citations to and quotations of relevant procurement rules that govern formation of contracts in response to unsolicited proposals.

We trust that the Summary will promote a shared understanding of the legal rules governing consideration of HSWAC's proposal. A common grasp of the applicable rules and procurement principles will assist both parties and avoid any misunderstandings. It will also afford you confidence that the steps taken in considering the HSWAC proposal are in full compliance with the law.

We are prepared to meet with your legal counsel and staff to address any questions or concerns they may have. Please direct them to call us at our office to arrange any discussions you determine necessary to achieve a full understanding of the proposal and ensure compliance with legal requirements.

Mr. Ted Liu  
Director  
June 15, 2009  
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In conclusion, we submit that you will find HSWAC's proposal conforms to all Hawaii State procurement rules and requirements. It also offers significant benefits to the State. Under the circumstances, HSWAC asks that the State accept HSWAC's proposal using the procurement procedures and considerations outlined in the Procurement Law Summary at Tab B.

Please call us if you have any further questions.

Sincerely,



Terry E. Thomason  
Elizabeth Haws Connally

TET:EAH:mmhb

Enclosures:

- TAB A - Unsolicited Proposal for Delivery of Chilled Water for Air Conditioning Systems
- TAB B - Procurement Law Summary