

DEPT. COMM. NO. 72

**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

SCOTT T. NAGO
CHIEF ELECTION OFFICER

February 17, 2010

The Honorable Colleen Hanabusa, President
And the Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

In accordance with Sections 56 of Act 162, Session Laws of Hawaii 2009, which requires the transmission of procurement documents, within five working days of being open to the public, I am transmitting two (2) copies of Addendum E to RFP-10-001-SW, issued February 16, 2010, for your information and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott T. Nago".

SCOTT T. NAGO
Chief Election Officer

STN:AHS:cr
OE-025-10

Enclosure

STATE OF HAWAII
OFFICE OF ELECTIONS
HONOLULU, HAWAII

FEBRUARY 16, 2010

ADDENDUM E

TO

REQUEST FOR PROPOSALS

NO. RFP-10-001-SW

FOR
SEALED OFFERS
FOR
A VOTING EQUIPMENT SYSTEM

I. RESPONSES TO QUESTIONS

The following are questions received by the Office of Elections after the issuance of Addendum D.

Question 1: RFP-10-001-SW, Appendix G, paragraph 1, Special Election Support, states that "The Offeror agrees to provide the State with all hardware components, and Ancillary Services noted in the RFP or any combination thereof, in the event of a Special Election not held in conjunction with the Primary and General Elections during the term of the Final Agreement". Given the anticipated RFP Award Date of March 23, 2010, will the State require the winning bidder to support the May 1st Special Election to fill the 1st Congressional District vacancy? If so, what level of support does the State anticipate?

Answer 1: The winning offeror will not be required to support the "May 1st" special election to fill the vacancy in the office of U.S. Representative.

Question 2: RFP-10-001-SW, Appendix D, paragraph 1, Background, states that the ballot format for the demonstration ballots will be specified by the State. In order for us to begin work on creating the demonstration election data base and ballots, request that you provide us electronic copies of each ballot style that is required to be demonstrated or provide the following election data to create the ballots from:

1. Number of precincts to be demonstrated for each of the required jurisdictions

2. Specify contest names, order of contests, and number of contests per election type
3. Candidates - either real names or designated as Candidate A, B, C, etc.
4. Number of ballot styles for each election
5. Ballot heading for each election
6. Number of polling places and names

This information will be needed as soon as possible to meet your requirement to deliver the demonstration ballots to the State 10 business days prior to the demonstration.

Question 2: The State answers as follows:

1. Number of precincts to be demonstrated for each of the required jurisdictions

Minimally one precinct should be demonstrated for each of the required jurisdictions.

2. Specify contest names, order of contests, and number of contests per election type

Attachment H contains the contest names, order of contests and number of contests per election type

3. Candidates - either real names or designated as Candidate A, B, C, etc.

Either real names, fictional names or Candidate A, B, C, may be used to demonstrate the requirements of the demonstration.

4. Number of ballot styles for each election

Attachment K contains a draft of the number of ballot styles for each election

5. Ballot heading for each election

Addendum A contains copies of the ballots from the primary and general election from 2006 and 2008.

6. Number of polling places and names

Attachment I contains the polling places and names

Vendors are reminded that the information provided in the RFP and Addendums should be sufficient to allow the vendor to create the election data base and ballots they decide to utilize for the demonstration. Vendors are also directed to the changes below to Appendix D involving the amount of demonstration ballots, the time in which to provide them to the Office of Elections, and the length of the demonstration.

Question 3: How many ballots were cast statewide on the ADA devices during the 2008 election?

Answer 3: The Office of Elections does not maintain such information.

Question 4: Did the State of Hawaii use the ballot adjudication features of the central tabulation system during the 2008 election?

Answer 4: The Office of Elections does not understand the question as it is vague and ambiguous as to what is meant by ballot adjudication features.

II. CHANGES TO THE RFP

The answers to the questions above are incorporated into the RFP and hereby amend the RFP. The following additional changes are made to the RFP.

1. Section 1.010 Terms and Acronyms Used in the RFP is amended to include the following:

1.010 TERMS AND ACRONYMS USED IN THIS RFP

Contractor	=	The Offeror which is named in the Notice of Award.
GET	=	General Excise Tax.
AG GC	=	General Conditions issued by the Attorney General, Form AG-008, Rev. 4/15/2009.
HAR	=	Hawaii Administrative Rules.
HRS	=	Hawaii Revised Statutes.
New System	=	The voting equipment and counting system to be selected.
Offeror	=	A qualified entity that submits a proposal in response to the RFP.
OOE	=	Office of Elections.
Procurement Officer	=	The contracting officer for the Office of Elections.
RFP	=	Request for Proposals.
State	=	The State of Hawaii and all agencies, including the County of Hawaii, County of Kauai, County of Maui, and the City and County of Honolulu.

2. Section 1.060 Significant Dates is replaced with the following text:

The significant dates set out below present the State's current best estimate of the anticipated schedule of events. If a component of this schedule, such as the opening date, is delayed, the rest of the schedule will likely be amended with appropriate notice.

The dates below as estimates are not binding on the State. Nevertheless, by submitting its proposal, each Offeror: (a) agrees to complete its performance in compliance with the dates set forth below unless the State expressly agrees to modify any or all dates; and (b) represents and warrants to the State that such Offeror has the ability to comply with the requirements of this solicitation.

Event	Date
Advertisement	8/26/09
Deadline for Questions for Pre-proposal Conference	9/4/09
Pre-proposal Conference	9/11/09
Deadline for Written Questions	2/12/10
Addendum for Responses to Inquiries Received	2/18/10
Proposals Due and Opened	2/26/10 at 12:00 p.m.
Proposal Evaluation (Criteria 1-4)	3/1/10 – 3/3/10
Proposal Evaluation (Criteria 5 – Demonstration)	3/9/10 – 3/11/10
Discussions, if any	3/12/10 – 3/16/10
Best and Final Offers due, if any	3/17/10
Award of Contract	3/23/10
Issue Notice to Proceed	3/23/10

3. Section 4.030 Format and Content, Part 3. Pricing, is amended as follows:

Part 3. Pricing. (This section shall be used in the evaluation of *Section Five* of this RFP.)

Pricing for the New System's for three (3) election cycles (2010, 2012, and 2014). Offeror shall complete Offer Form page OF-2 for this purpose. Refer to Section Seven, Attachment 2, of this RFP, "Appendices and Attachments," for the form.

The Offeror's price, inclusive of any taxes, for the New System shall not exceed the following amounts, for each election cycle:

2010 \$6,100,000

2012	\$5,600,000
2014	\$5,600,000

The Offeror is reminded that any contract is ultimately subject to the availability of funds, and as such if sufficient funds are not available to fully fund the contract beyond the first election cycle, the contract may be cancelled. This provision, however, will not affect either the State's rights or the Contractor's rights under any termination clause of the contract.

The Offeror shall provide a listing of the cost per unit, inclusive of taxes, for each hardware component, software component, ballot, and ancillary good or service associated with the New System. The Offeror is put on notice that this listing may be used as a basis for determining an increase in contract price if additional items are needed, or a reduction in the contract price if a decrease in said items is determined by the Office of Elections in a particular election year.

Offerors are put on notice and informed the State is considering operational efficiencies in terms of the amount of the ballots it requires. As such, the actual contractual price for each election cycle may be less than the proposal price for the New System, if less ballots are required.

Offerors are put on notice and informed the State is always considering other operational efficiencies. As such, the actual contractual price for each election cycle may be less than the proposal price for the New System, if less hardware components, software components, ballots, or ancillary goods or services are required.

Finally, to the extent, the Offeror's proposal includes commercial, off-the-shelf (COTS) software, hardware, computer products, goods, or services that are ready-made and available for sale, lease, or license to the general public or government, the Office of Elections reserves the right to obtain said goods or services from another provider as opposed to the Offeror. To the extent this occurs, the contract price will be reduced by the unit cost listed in the Offeror's proposal for the similar goods and services. The Offeror agrees to utilize said COTS goods and services provided by the Office of Elections.

As this RFP seeks a firm fixed price proposal, subject only to price increases or decreases stated in the RFP, such as for the increase or decrease in hardware components, software components, ancillary services, or ballot printing requirements, the Offeror's price for the new system should not include provisions regarding tying the price to the consumer price index or similar measures. Such references would be inconsistent with a firm fixed price proposal and create difficulties in comparing prices.

Expansion/Reduction

Because the New System shall be capable of additional growth or reduction to meet any increase or decrease in voter rolls or polling places anticipated by OOE during the term of the Contract, this growth or reduction shall be only possible through the acquisition of or reduction of hardware components, software components, ancillary services, or ballots; all election administration and voting data reporting software shall be capable of supporting this growth or reduction without modification.

Reasonableness of Price

The vendor should in writing articulate why its proposed price is reasonable. A non-exhaustive list of possible documentation would be the following: (1) prior price quotations or contract prices for similar services; (2) prices published in catalogues or price lists; and (3) prices available on the open market.

In explaining why the vendor's price is reasonable, consideration should be given by the vendor to any differing terms and conditions for contract prices, catalog prices, prices available on the market, or whatever appropriate documentation is provided by the vendor.

For example, in regards to the provision of prior contract prices, jurisdictions and contracts vary widely in what is required. As such, the vendor may wish to explain what consideration should be given to any differing terms, conditions, or other factors between the prior contracts and the one sought by this solicitation. A non-exhaustive list of possible factors that may impact a comparison of prior contracts is as follows: (1) multi-year lease as opposed to an outright purchase, (2) number of polling places/precincts, (3) percentage of early voting; (4) cost of ballots, (5) number of elections per year, (6) programming, (7) training, (8) transportation and storage, (9) different types of voting devices; (10) bond requirements; (11) insurance requirements; (12) liquidated damages provisions; and (13) other general conditions concerning things such as indemnification and termination.

In order to substantiate statements, vendors may provide copies of actual prior contracts, vendor proposals, solicitations (e.g. RFPs, IFBs, etc.), or other appropriate documentation. A failure to provide appropriate documentation may result in statements being discounted by the State.

The State reserves the right to contact any jurisdiction cited by the vendor for additional information.

Cost or Pricing Data

The present RFP does not require the provision of cost or pricing data, beyond any data specifically requested. To the extent, this RFP is interpreted as soliciting proposals for a contract that would normally require the provision of such data or the issuing of a cost or price analysis, any such requirement has been waived pursuant to HAR § 3-122-124(c).

4. Section 6.040 Contract Administrator is replaced with the following:

6.040 CONTRACT ADMINISTRATOR (CA)

Mr. Scott T. Nago, Interim Chief Election Officer, telephone (808) 453-8683, or his authorized representative is designated the CA and represents the Office of Elections.

5. Section 6.100 Proposal Preparation is amended as follows:

6.100 PROPOSAL PREPARATION

The following conditions apply:

- *Tax Liability.* The Contractor's work to be performed under this RFP is a business activity taxable under ch. 237, HRS, and each Offeror is advised of its liability for the Hawaii General Excise Tax (GET) at the current 4.712% rate or as it may exist at the time of any taxable event. If, however, an Offeror is a person exempt from paying the GET and thus not liable for the taxes on this solicitation, each Offeror shall state its tax exempt status and cite in its proposal the HRS chapter or section allowing the exemption. Any Offeror's such tax liability shall be included in, and made a part of, its proposal contract price. Each Offeror agrees to be solely liable for any and all taxes under this RFP, any Addenda, and the contract and the State shall not have any liability for any tax of any nature.

~~[Offerors are also informed of the tax preference provisions of the procurement code found at HAR Chap. 3-124, Subchap. 7 (Tax Preference) and HRS 103D-1008. Specifically, "a tax preference will be given to taxpaying bidders." "The objective of this preference is to ensure fair competition for bidders paying the applicable Hawaii General excise tax and the applicable Hawaii use tax." HAR 3-124-50.]~~

Offerors seeking information or assistance regarding the tax consequences of this solicitation may wish to contact their tax professional or the State of Hawaii Department of Taxation.

- all costs and expenses that may be incurred for developing a proposal are each Offeror's sole and exclusive responsibility and agrees to accept such costs under all circumstances whether or not any award results from this solicitation and the state of Hawaii will not reimburse any such costs; and
- only copies of Offerors' documents for any proposed modifications to and withdrawal of any proposal may be transmitted via facsimile machines under sections 3-122-108 and 3-122-28, HAR, respectively.


6. Appendix D, paragraph 1, is amended as follows:

1. Background

Offerors will be given [~~eight~~] four hours to make their presentation. Consideration will be given to the efficiency and ease of operation of the user interface.

Offerors shall provide the State with the following at least [~~40~~] 5 business days before the Demonstration:

- [~~4000~~] 250 blank demonstration ballots for a sample Primary Election for the County of Hawaii (ballot format to be specified by the State [marksense technology only]);
- [~~4000~~] 250 blank demonstration ballots for a sample Primary Election for the County of Maui (ballot format to be specified by the State [marksense technology only]);
- [~~4000~~] 250 blank demonstration ballots for a sample General Election for the County of Kauai (ballot format to be specified by the State [marksense technology only]);
- [~~4000~~] 250 blank demonstration ballots for a sample General Election for the City & County of Honolulu (ballot format to be specified by the State [marksense technology only]); and
- [~~4000~~] 250 blank generic demonstration ballots (ballot format to be specified by the State [marksense technology only]).


 Aaron H. Schulaner
 Procurement Officer