REQUEST FOR PROPOSAL
Job No. 26-06
Energy Savings Performance Contracting

Department of Water
County of Kaua‘i

Sealed Offers
Will be received up to 3:00pm (HST) on
Monday, August 24, 2026

Delivered to
Department of Water, County of Kaua‘i
4398 Pua Loke Street
Līhu‘e, Hawai‘i 96766

Direct questions relating to this solicitation to
Ryan Smith, Attn: Christine Erorita via
www.publicpurchase.com

Approved:

07/24/26

Chief Procurement Officer   Date

Table of Contents

SECTION ONE

INTRODUCTION, TERMS, AND ACRONYMS, KEY DATES

1.1 INTRODUCTION

In accordance with HRS 36-41, the Department of Water, County of Kauaʻi (DOW) is requesting proposals from qualified Vendors (verified under *SPO Vendor List contract No. 25-01*) for an Energy Savings Performance Contract (ESPC), hereinafter referred to as "PROJECT".

In 2025, DOW spent approximately $3.5 million on electricity, consuming around 10 million kWh. With aging infrastructure, high energy costs, and limited renewable deployment, DOW faces growing operational challenges across its nine independent water systems. To address these issues, DOW is pursuing an ESPC to finance necessary infrastructure upgrades. This initiative is separate from the RFP issued by the County of Kauaʻi and will focus exclusively on DOW facilities - including but not limited to treatment plants, pumping stations, and administrative sites. All Kauaʻi County Department of Water facilities are included in the ESPC scope.

PROJECT OBJECTIVES

The Kauaʻi County Department of Water (DOW) is initiating an Energy Savings Performance Contract (ESPC) to modernize its water infrastructure, reduce energy and water costs, and enhance operational resilience. The DOW's objectives are focused on improving the efficiency, reliability, longevity and sustainability of its water systems.

The primary objectives of the DOW ESPC initiative are:

1. **Energy Efficiency & Operational Cost Reduction**

2. **Infrastructure Modernization**

3. **Service Reliability & Compliance**

4. **Water Conservation & Loss Reduction**

5. **Renewable Energy & Resilience**

To achieve these objectives, the following implementation steps will be undertaken:

1. Conduct a Project Approach to identify potential Facility Improvement Measures (FIMs).

2. Develop a comprehensive project scope and financing plan.

3. Perform Investment Grade Audits (IGAs) to validate savings projections and finalize the list of ECMs and WCMs.

4. Design and implement approved improvements, ensuring compliance with all applicable codes and standards.

5. Commission all installed systems and conduct Measurement & Verification (M&V) to ensure guaranteed savings are achieved.

6. Provide training, maintenance support, and full documentation for all new systems and equipment.

7. Develop a visual dashboard to track project progress and savings for internal and public transparency

EXPECTED PUBLIC BENEFITS

- Improved water service reliability and emergency preparedness.
- Stabilized water rates in the future through reduced operational costs.
- Enhanced environmental stewardship via reduced energy use and water loss.
- Modernized infrastructure that supports long-term sustainability and community resilience.

1.2 CANCELLATION

This RFP may be cancelled and any or all proposals rejected in whole or in part, without liability to the DOW when it is determined to be in the best interest of the DOW.

1.3 RFP SCHEDULE AND SIGNIFICANT DATES

The schedule represents the DOW's best estimate of the schedule that will be followed. All times are Hawaiʻi Standard Time (HST). Any change to the RFP Schedule and Significant Dates shall be reflected in and issued in an addendum.

Issue RFP (Legal Notice)	Monday, July 27, 2026
Site Visit and Conference	Monday, August 3, 2026 at 8:30am
Deadline for Written Inquiries	Monday, August 10, 2026 by 4:30pm
Response to Written Inquiries	Monday, August 17, 2026
Proposal Due Date	Monday, August 24, 2026 by 3:00pm
Notice of Award	September 2026

1.4 QUESTIONS AND ANSWERS PRIOR TO BID OPENING

All questions shall be submitted by the due date specified in Section 1.3, RFP Schedule and Significant Dates, as amended. The DOW will respond to questions through Addenda to this RFP up to and including the date specified in Section 1.3, *RFP Schedule and Significant Dates*, as amended. All documentation shall be uploaded at www.publicpurchase.com and opened at the DOW, County of Kauaʻi, 4398 Pua Loke Street, Līhuʻe, Hawaiʻi 96766 ("DOW Admin Office").

1.5 KEY TERMS AND ACRONYMS

Key terms used within this RFP are defined as follows:

Energy Baseline - A calculation of the energy (for purposes of this RFP, electrical demand, measured in kilowatts will be considered a type of energy) that would have been consumed in existing facilities if the energy conservation measures had not been installed.

Energy Savings - A reduction in energy consumption or electrical demand resulting from the Project's energy conservation measures. Energy savings shall be determined according to the methods described in IMPVP Measurement & Verification Protocols.

Energy Conservation Measure (ECM) - The installation of new equipment, modification or alteration of existing County equipment and systems, or revised operations and procedures to reduce energy consumption.

Energy Savings Performance Contract (ESPC) - An agreement for the provision of energy services and equipment, including but not limited to building or facility energy conservation enhancing retrofits, water saving technology retrofits, electric vehicle charging infrastructure, and alternate energy technologies, in which a private sector person or company agrees to finance, design, construct, install, maintain, operate, or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a facility or electric vehicle charging system in exchange for a portion of the cost savings, lease payments, or specified revenues, and the level of payments is made contingent upon the verified energy savings, energy production, avoided maintenance, avoided equipment replacement, avoided vehicle maintenance or fuel costs associated with the implementation of a vehicle fleet energy efficiency program pursuant to HRS 36-42, or any combination of the foregoing bases. Energy conservation retrofits also include energy saved off-site by water or other utility conservation enhancing retrofits.

Substantial Completion Date - The date on which the Contractor warrants by written notice that the ECMs are substantially complete, are operating in accordance with the Energy Study Report and producing savings equal to, or greater than, the Guaranteed Savings.

Water Conservation Measure (WCM) - The installation of new equipment, modification or alteration of existing County equipment and systems, or revised operations and procedures to reduce water consumption.

Facility Improvement Measure (FIM) - The installation of new equipment, modification or alteration of existing County equipment and systems, or revised operations and procedures to reduce any operational cost. This is inclusive of any ECM or WCM as aforementioned.

Water Savings - A reduction in water consumption or loss, resulting from the Project's water conservation measures. Water savings shall be determined according to the methods described in IMPVP Measurement & Verification Protocols.

SECTION TWO

BACKGROUND AND SCOPE OF WORK

2.1 BACKGROUND

The DOW is a water utility whose mission is to provide safe, affordable, sufficient drinking water through wise management of our resources with excellent customer service for the people of Kaua‘i.

The DOW is initiating an Energy Savings Performance Contract to modernize its water infrastructure, reduce energy and water costs, and enhance operational resilience. The DOW’s objectives are focused on improving the efficiency, reliability, longevity and sustainability of its water systems.

2.2 TERMS OF CONTRACT

In accordance with HRS 36-41 (4.) “*The term of any energy performance contract entered into pursuant to this section shall not exceed twenty years.*”.

2.3 SCOPE OF WORK

1) Project Approach

As a response to this RFP, all Offerors will develop a Project Approach for an ESPC with proposed ECMs and WCMs for at least the following three facilities: 1. Pua Loke Baseyard & Admin Buildings, 2. Kapaia Surface Water Treatment Plant, and 3. Kilohana Wells A, B, F & I MCC, Permanent Generator. The Offeror shall reference APPENDIX A: COUNTY FACILITY ENERGY AND WATER USAGE DATA, for contextual understanding of each of the selected facility’s demand.

The Offeror is required to complete ATTACHMENT A: OFFEROR’S PROPOSAL, PART 1.4 – PROJECT APPROACH.

The Offeror will include recommendations for retrofits and upgrades which the DOW will review and select the Offeror they deem presents the best value. Once the RFP is awarded – the next step will be to develop an Investment Grade Audit (IGA) as described in the following section.

All steps moving forward pertain to the selected ESCO.

2) Investment Grade Audit

Based on responses to the RFP, the DOW will select the best qualified ESCO to negotiate a consultant services agreement for an IGA that will result in a set of proposed

FIMs.

The IGAs shall identify all feasible FIMs, load management, and renewable energy resource options with benefits exceeding costs over the contract term. The study shall document existing conditions, including hours of use; inventory of energy and water consuming equipment or systems; and energy and water consuming equipment operating conditions or loads. The IGAs shall document an energy and water baseline and proposed methods to measure and verify Energy and Water Savings. A written report on all findings as described in this section shall be furnished.

The ESCO shall submit the IGAs within 180 calendar days of the Notice to Proceed to the County DOW for review and acceptance. Following the review and acceptance of the reports, the DOW shall decide whether to proceed on to the next phase of this project for the design and installation of any FIMs. Should the DOW choose to proceed, the ESCO will prepare a Guaranteed Energy and Water Savings Agreement (GEWSA) proposal and an Energy Savings Performance Contract. Once the County accepts, creates, and executes the GEWSA, a Notice To Proceed (NTP) will be provided and the Contractor may initiate the design and construction services in which we forecast performance of the construction services described in Attachment A shall be completed within two (2) years from the date indicated in the Notice to Proceed.

The IGA will include:

a. An executive summary:
   - i. Introduction
   - ii. Current energy use in kWh, kW, and $
   - iii. Projected future energy use in kWh, kW, and $
   - iv. Current water use in gallons per day (gal/day) or gallons per year (gal/yr) and $
   - v. Projected future water use in gal/day or gal/yr and $
   - vi. List of ECMs and WCMs including:
     - a. Measure
     - b. Annual energy savings in kWh, kW, and $
     - c. Annual water savings in gallon/yr or gal/day and $
     - d. Design and installation cost
     - e. Life cycle cost
   - vii. Conclusion

b. General Facility Information (individual sections for each facility):
   - i. Type of facility, its uses and physical conditions
   - ii. Hours of operation
   - iii. Size of facility including total area and air conditioned space
   - iv. Description of existing building energy using systems and equipment including type, size, age and condition
   - v. Baseline energy and water consumption and utility rates
   - vi. Approximate area in square feet for renewable energy measures

vii. Standards of service and comfort observed (e.g. light levels and temperatures)

c. Energy/Water Conservation Measure(s)/Investment(s) Proposed (individual sections for each E/WCM):

i. Detailed measure description of proposed improvements
ii. Scope of work
iii. Annual energy consumption in kWh and dollars
iv. Annual water consumption in kgal
v. Customer demand in kW
vi. Annual energy and water savings (and calculations)
vii. Annual cost savings (and calculations)
viii. Installation cost
ix. Maintenance cost
x. Life cycle cost
xi. Payback vs Minimum Equipment Investment Option
xii. Document assumptions on current and proposed equipment operating conditions
xiii. Equipment specifications, including manufacturer or type
xiv. Drawings
xv. Project Schedule
   a. Design Development
   b. Construction Documents for Review
   c. Permits
   d. Equipment/Material Acquisition
   e. Mobilization
   f. Installation
   g. Startup/testing
   h. Final Inspection and Approval
   i. Post installation Submittals
   j. Training
xvi. Commissioning procedure
xvii. Identify any utility interruptions needed and any other facility support, which may be required during installation
xviii. Capital dollars investment savings

d. IGA shall also include the following:

i. <u>Equipment</u>
   a. List of all equipment to be installed by ESCO
   b. Equipment warranties
ii. <u>Savings</u>
   a. Energy saving guarantee
   b. Water saving guarantee
   c. Savings measurement & calculation formulae: methodology to adjust baseline

d. Include data, assumptions, calculations and methodology, computer simulation reports, cost data and other relevant documents.

iii. Schedules

a. Preliminary construction and installation schedule per facility

iv. Maintenance

a. ESCOs maintenance responsibilities
b. Agency's maintenance responsibilities
c. Facilities maintenance checklist
d. ESCO's training responsibilities

v. Finances

a. Compensation to ESCO
b. Financing schedule, including payment milestones
c. Proposed final project cost & proposed final project cash flow analysis
d. Cost of maintenance and any repairs/replacements
e. Proof of performance and payment bonding capability

e. Energy Baseline and Water Baseline and Savings Measurement: CONTRACTOR shall establish and document:

i. An Energy Baseline for proposed ECMs;
ii. A Water Baseline for proposed WCMs;
iii. The method the parties will use to measure key performance indicators for project performance and determine energy and water savings after proposed ECMs and WCMs have been installed;
iv. M&V method to verify installed ECM and WCM compliance with IPMVP M&V Guidelines
v. The methods the parties will use to review and periodically make adjustments to the Energy Baseline and Water Baseline, if any;
vi. The method of determining, monitoring, and tracking energy and water savings annually throughout the contract term.

3) Terms & Schedule of Work

Project Approach shall be completed within 30 days from release of the RFP.
IGA services shall be completed within 180 days from issuance of NTP.
Financing shall be secured within 90 days from acceptance of IGA.
The work outlined in the IGA shall be completed within 2 Years of NTP.

Maintenance work and M&V Services described in the scope of work shall begin after all of the FIMs have been implemented and accepted by the DOW.

Should the DOW choose to enter an ESPC, it is not to exceed 20 years, pursuant to

HRS Chapter 36-41.

4) Energy Savings Performance Contract

The DOW shall have the option to negotiate an ESPC with the selected ESCO that performed the IGA.

If the Offeror is unable to develop a project that meets the County DOW's stipulated investment criteria, there is no charge for the audit [1.]. However, the IGA contract includes a "walk-away fee" to cover the Offeror's design costs should the owner elect not to proceed with a project that does in fact meet the investment criteria [2.]. If the proposed project meets the County DOW's investment criteria and the County DOW moves forward, the cost of the design work can be rolled into the overall project cost.

1. This stipulation is included to disincentivize the Offeror from inflating savings estimates or underestimating costs in the preliminary assessment stage.
2. This stipulation is included to assure the selected ESCO that they will be fairly compensated so long as they can deliver a project that meets the County DOW's investment criteria.

5) Energy Conservation Measures and Water Conservation Measures Design and Construction.

ESCO shall commence designing the approved FIMs after the execution of the GEWSA and issuance of the NTP. ESCO is responsible for obtaining all permits necessary to complete projects. The ECM design plans shall be in conformance and compliance with applicable codes and regulations adopted by the County DOW as administered by the County of Kauaʻi Public Works Department Building Division, and is responsible for all applications, permits, approvals and fees. The selected ESCO must comply with Kauaʻi Island Utility Cooperative interconnection requirements and rules, and is responsible for applications, reviews, modifications and approvals and permits.

ESCO shall submit design drawings to the County DOW for review and approval at 90% and final design stages. ESCO shall submit equipment selection and shop drawings to the County DOW for review and approval prior to beginning ECM and WCM installation.

County DOW reserves the right to review and approve or reject any selected equipment or modifications proposed. Only prior reviewed and approved equipment and modifications will be permitted. Reviews and feedback shall be conducted by County DOW in a timely manner.

The ESCO shall prepare and submit ECM and WCM installation schedule to the County DOW for review and approval prior to beginning ECM and WCM installation. The selected ESCO will be required to work with current building management and maintenance personnel, to coordinate construction and provide appropriate training in the operation of all retrofits. The installation schedule shall minimize disruption to normal operations and shall not affect operation of the systems. If system interruption is unavoidable, the ESCO shall provide alternate means of operating the system and shall notify the County DOW as soon as reasonably possible of the interruption and alternate means of operating the system. All costs shall be borne by the ESCO.

The ESCO shall be responsible for quality control during the installation of all ECMs and WCMs. The ESCO shall inspect and test all work performed to ensure compliance with Contract requirements. The ESCO shall maintain records of inspections and tests, including any conducted by, or for, a utility or other regulatory agencies, and a copy of such records shall be provided to the County DOW.

The ESCO shall complete ECM and WCM installation according to the schedule in the GEWSA.

6) ECM and WCM Locations and Access.

The DOW shall furnish mutually satisfactory space for the ECMs and WCMs. The County DOW shall grant the ESCO access to system locations at such times as are reasonably requested by the Contractor and acceptable to the DOW, as needed to enable the ESCO to carry out its obligations under the Contract.

7) Reviews and Approvals.

The DOW shall review and approve all (or notify ESCO of changes needed for approval to occur) ESCO-submitted materials during the IGA and ESPC project (e.g., IGA, engineering calculations, design analysis, ECM and WCM equipment, ECM and WCM installation plans) within 60 calendar days of receipt by the DOW unless a different period is explicitly stated within this RFP. If the materials are approved, the DOW shall so indicate in writing. If the materials are not approved, the DOW shall so indicate by written notice listing exceptions to the materials for correction by the ESCO.

8) Disposal.

The selected ESCO will be required to, at its own cost, responsibly dispose of, recycle, or repurpose (as appropriate) any equipment and their associated packaging materials installed, and all replaced or demolished materials or equipment, as part of the ESPC that reaches the end of its life during the term of the ESPC, or beyond the term of the ESPC if ownership of that equipment has not been transferred to the County DOW of Kaua‘i.

9) Hazardous Materials.

Hazardous Materials shall include, without limitation, substances defined or classified as “hazardous substances”, “hazardous waste”, or “toxic substances” under Federal, State of Hawai‘i, or local law, statute, regulation, or ordinance (collectively “Hazardous Materials”). ESCO shall fully comply with all Federal, State of Hawai‘i, and local laws, statutes, regulations, and ordinances in effect or which shall come into effect during the term of the contract regarding the generation, use, storage, handling, transportation, and disposal of Hazardous Materials. ASBESTOS AND LEAD MAY BE PRESENT IN THE PROJECT'S BUILDINGS. PROPOSERS ARE RESPONSIBLE FOR DETERMINING WHAT ACTIONS, IF ANY, WILL BE REQUIRED WITH RESPECT TO ASBESTOS OR ANY OTHER HAZARDOUS MATERIALS TO COMPLETE THE WORK UNDER THIS CONTRACT. CLAIMS FOR ADDITIONAL WORK WILL NOT BE ALLOWED ON ACCOUNT OF HAZARDOUS MATERIALS.

ESCO shall exercise due diligence in identifying any unsafe working conditions and/or the presence of hazardous materials and shall set forth its findings with respect to Hazardous Materials and procedures for abating or containing such conditions and materials in the IGA.

10) Restoration.

The selected ESCO shall be responsible for the restoration of existing areas. All existing areas disturbed or damaged due to construction or ingress and egress to the site shall be repaired to match the existing areas. Restoration and maintenance of all affected areas shall be the Contractor's responsibility, including areas beyond construction limits.

11) Energy and Water Tracking.

ESCO shall provide DOW a licensed copy of the energy and water tracking software (if any) that Contractor will use to determine energy and water savings over the term of the contract. The software, if used, shall meet the requirements of IPMVP M&V Guidelines for. ESCO may consider using Tableau as the County DOW currently tracks and displays electricity usage using this platform.

12) Notice of Completion.

The ESCO shall notify the DOW in writing when the ECMs and WCMs are installed and substantially complete by submitting a Notice of Substantial Completion and a written request for inspection. The request shall identify the location, description of ECMs and WCMs, planned testing of ECMs and WCMs to verify performance, and recommended dates for inspection. Whenever possible, both DOW and ESCO representatives will simultaneously inspect ECMs and WCMs to facilitate mutual agreement on satisfactory contract performance. The DOW shall provide written notification to ESCO of the scheduled date and time for DOW inspection within 10 days of receipt of inspection request.

13) Repair of ECMs and WCMs.

Maintenance Work and Training: Maintenance work includes periodic equipment inspections, tests, and calibrations, preventive maintenance tasks, and corrective actions required to sustain and restore energy system operational status to achieve all facility and energy conservation performance requirements of this contract. Installed

ECMs and WCMs shall include all ESCO installed equipment and those portions of County DOW equipment, which have been modified or are necessary to achieve proposed ECM performance. If the maintenance work is similar to an existing maintenance work requirement and does not adversely affect DOW resources, the ESCO may request the DOW to perform maintenance work on ESCO installed equipment. If the DOW accepts ECM and WCM maintenance responsibility, the DOW reserves the right to provide the maintenance work in accordance with its own schedule. The ESCO may propose to assume responsibility for maintenance on equipment in order to achieve proposed ECM and WCM performance. If the ESCO has taken over repair as well as maintenance of equipment as part of an approved ESPC, that ECM and WCM shall include a definition of repair responsibility. If the performance of ESCO ECMs and WCMs is dependent on certain County DOW-owned facilities, systems, or equipment the ESCO may indicate specific requirements for County DOW maintenance practices in the IGA. The DOW will perform such required maintenance practices provided that they are described in full in the IGA and the ESCO has provided any training needed to enable DOW personnel to perform maintenance practices to ESCO's satisfaction. ESCO shall provide any such training at ESCO's sole expense. The County DOW will not move, turn off, or otherwise change any ESCO installed equipment without the consent of the ESCO, unless such action is in accordance with the maintenance procedures provided by the ESCO; or if it is necessary in an emergency as sole determined by the County DOW, to prevent loss of life, injury or damage to property, or severe discomfort to facility occupants.

Response Times: Should the DOW decide to have the ESCO own the maintenance on the installed systems - the ESCO shall establish a point of contact (name and phone number) for use by the County DOW in providing response to ESCO-provided equipment failures. Initial telephone response to repair call messages shall be within 60 minutes. If a site visit is needed to repair equipment, repair personnel shall arrive on site within twenty-four hours of the initial telephone response for non-emergency repairs or within five hours for emergency repairs. Although normal ESCO access is during the hours of 7:00 a.m. to 3:30 p.m., the ESCO will have 24 hour per day access to the buildings for emergency work. In the event that ESCO fails to respond as required above or in the event of an emergency, the County DOW may perform emergency repairs to ESCO provided equipment. The ESCO shall hold the County DOW harmless in such cases where the ESCO fails to respond to emergencies and shall reimburse the County DOW for the repair work.

14) Operations and Maintenance Manuals and Training.

ESCO shall furnish operation and maintenance manuals and recommended spare parts lists for operations and maintenance of the ESCO-installed ECMs and WCMs and modified County DOW equipment.

Within 30 calendar days of the Substantial Completion Date, ESCO shall train County DOW personnel as required to operate, maintain and repair ECM and WCM equipment and systems in the event of emergencies.

The ESCO shall train County DOW personnel or a designee to operate, maintain and repair ECM and WCM equipment 90 calendar days prior to the end of the phase for the design and installation of any ECMs and WCMs. The maintenance and repair training provided by the ESCO is to allow the County DOW to supplement maintenance and repair work performed by the ESCO.

15) **Deliver electronic copies of record plans, specifications, submittals of the installed systems to the DOW.**

16) **Provide manufacturers' product warranties of the upgraded systems and equipment to the County DOW.**

17) **Energy and Water Savings- M&V**

The ESCO will be required to provide the necessary equipment and personnel to field measure and monitor the power consumption of the installed ECMs and water usage of the installed WCMs, per the Measurement and Verification plan approved by DOW. Energy and Water savings will be based on the Measurement and Verification methods in the M&V Plan approved by the DOW.

18) **Electricity Rebates.**

The ESCO shall prepare and submit to KIUC the rebate application forms and worksheets required for the County DOW to receive any energy rebates. The KIUC rebate applications and worksheets shall be coordinated with KIUC to obtain their latest forms.

2.4 PROCUREMENT OFFICER

The Procurement Officer of this contract is:

Ryan Smith
Chief, Operations Division
Phone: (808) 245-5436
Email: rsmith@kauaiwater.org

SECTION THREE

PROPOSAL FORMAT AND CONTENT

3.1 OFFEROR'S AUTHORITY TO SUBMIT AN OFFER

This RFP is issued pursuant to HRS 36-41 and requires all Offerors to be qualified ESPC vendors in accordance with SPO Vendor List contract No. 25-01.

3.2 REQUIRED REVIEW

3.2.1 Before submitting a proposal, each Offeror must thoroughly and carefully examine this RFP, any attachment, addendum. and other relevant document, to ensure Offeror understands the requirements of the RFP. Offeror must also become familiar with state, local, and federal laws, statutes, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work required.

3.2.2 Should Offeror find defects and questionable or objectionable items in the RFP, Offeror shall notify the DOW in writing prior to the deadline for written questions as stated in the RFP *Schedule and Significant Dates*, as amended. This will allow the issuance of any necessary corrections and/or amendments to the RFP by addendum, and mitigate reliance on a defective solicitation.

3.3 PROPOSAL PREPARATION COSTS

Any and all costs incurred by the Offeror in preparing or submitting a proposal shall be the Offeror's sole responsibility whether or not any award results from this RFP. The DOW shall not reimburse such costs.

3.4 TAX LIABILITY

3.4.1 Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237, and if applicable, taxable under HRS Chapter 238. Offerors are advised that they are liable for the Hawaiʻi GET for sales made on Oahu, and for the islands of Hawaiʻi, Maui, Molokai, and Kauaʻi. If, however, an Offeror is a person exempt by HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

3.4.2 Federal Tax I.D. Number and Hawaiʻi General Excise Tax License ID. Offeror shall submit its current Federal Tax I.D. Number and Hawaiʻi General Excise Tax License I.D. number in the space provided on Offer Form, OF-1, thereby attesting that the Offeror is doing business in the State and that Offeror will pay such taxes on all sales made to the State.

3.5 PROPERTY OF THE DEPARTMENT

Upon submission, all Proposals become the property of the DOW, County of Kaua‘i.

3.6 CONFIDENTIAL INFORMATION

3.6.1 If an Offeror believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld from disclosure as confidential, then the Offeror shall inform the Officer in Charge in writing and provide justification to support the Offeror’s confidentiality claim. Price is not considered confidential and will not be withheld.

3.6.2 An Offeror shall request in writing nondisclosure of information such as designated trade secrets or other proprietary data Offeror considers to be confidential. Such requests for nondisclosure shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non- confidential portion of the proposal.

3.6.3 All such requests for confidentiality and nondisclosure of information shall be subject to HAR §3-122-58 and the Uniform Information Practices Act, Hawai‘i Revised Statutes. Any and all portions of the proposal requested to be designated as confidential or not for disclosure shall be readily separable from the remaining portions of the proposal.

3.7 EXCEPTIONS

Should Offeror take any exception to the terms, conditions, specifications, or other requirements listed in the RFP, Offeror shall list such exceptions in this section of the Offeror’s proposal. Offeror shall reference the RFP section where exception is taken, a description of the exception taken, and the proposed alternative, if any. The DOW reserves the right to accept or not accept any exceptions; provided that no exceptions to statutory requirements of the DOW’s General Terms and Conditions for Goods and Services Contracts, dated August 2010 (hereinafter “General Terms”) shall be considered (Exhibit A).

3.8 PROPOSAL INSTRUCTIONS TO OFFERORS

3.8.1 Content of Proposals.

The intent of this section is to standardize the proposals to allow for ease of evaluation. It is not an attempt to limit the content of the proposals. The Offeror may include any additional data or information which is deemed pertinent to the Request For Proposal. The proposal should be prepared simply and economically, providing a clear and concise response to the requirements herein.

Offerors are encouraged to describe those characteristics and services that make the organization unique and best suited for selection.

When a proposer submits a proposal, it shall be considered a complete plan for accomplishing the tasks described herein and any supplemental tasks the Proposer has identified as necessary to successfully implement the proposal plan. Proposal may be accepted and a contract awarded on the basis of the initial offers received. A presentation and/or Best and Final Offer may not be requested or required, if it is determined by the evaluation committee that a selection may be made on the initial proposals submitted.

1. Letter of Transmittal.

   A transmittal letter shall be attached to the proposals. The transmittal letter shall be in standard business format, signed by an individual authorized to legally bind the offeror, and shall include:

   a) A statement naming the Offeror (legal name and if corporation, whether corporation has corporate seal) and stating the type of entity for the Offeror and any joint Offeror or subcontractor (e.g., corporation, limited liability company, partnership, sole proprietor, etc.);

   b) A statement, e.g. corporate resolution, identifying the person(s) and title of the person(s) authorized to sign all legal documents on behalf of the Offeror;

   c) A statement that the Offeror and any joint Offeror or subcontractor are or will be registered to do business in Hawaiʻi and will obtain a State ofHawaiʻi General Excise Tax License, and that evidence of any such registration and General Excise Tax License shall be provided prior to award;

   d) A statement acknowledging that all addenda to this Request For Proposal have been reviewed by the Offeror;

   e) A statement disclosing whether or not the proposal contains **confidential** information, trade secrets or other proprietary data that the offeror does not want to be subject to public inspection. (see instructions in Section IV, D, 2)

2. An Executive Summary describing the overall contents of the proposal.

3. Narrative discussion of services to be provided by the Offeror, either directly or indirectly through affiliated offices and/or otherwise.

   Particular attention should be given to those services and special expertise that are unique to your organization.

4. Narrative description of implementation plan upon award of contract.

5. Discussion of proposed fee, other compensation expected, and calculation.

6. Proposal attachments

   a) ATTACHMENT A: OFFEROR'S PROPOSAL

7. Narrative the Offeror deems is critical to the submission of their proposal

3.8.2 Inquiries

All questions and request for clarifications shall be submitted through the Public Purchase system. Substitution requests and email communications with attachments shall be sent to Procurement Officer, Ryan Smith.

3.8.3 Addenda

Addenda shall be issued to all prospective offerors who registered on Public Purchase. Should it be necessary, Addenda issued for Best and Final Offers (BAFO) shall be sent to priority listed offerors only, as a separate restricted access solicitation.

3.8.4 Transmittal of Proposals

Proposals shall be submitted by the offeror through the Public Purchase system at www.publicpurchase.com and receipt verified by DOW on or after the date and time specified in Section 1.3 *RFP Schedule and Significant Dates*, as amended. Proposers shall be registered with Public Purchase and are required to submit proposals on their own behalf. Proposers are not to submit proposals through third parties unless specifically allowed by rule or law.

Proposers who experience technical transmission problems are to immediately contact the assigned procurement specialist for notice and assistance prior to proposal submission deadline.

1. Proposals shall be submitted in pdf form.

2. Proposal Cost. Proposals prepared in response to this RFP shall be prepared at the sole cost and expense of the Proposer

3.8.5 Proposal Due Date and Opening

Proposals are due by the date and time designated in the RFP Section and Significant Dates.

Proposals shall not be opened publicly. The contract file shall be available for public inspection after posting of an award.

SECTION FOUR

EVALUATION CRITERIA

Evaluations shall not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, handicap, or political affiliation of the offeror.

An evaluation panel shall review and evaluate all proposals timely received. The criteria to be used to evaluate each proposal shall consist of the following:

Maximum Score Available: 100 Points

1. Qualification, Experience, Capacity to Perform the Work, and Management (50 points):

    a. Organizational structure and lines of communication (5 points).
    b. The experience of offeror's firm and personnel in successful completion of similar projects (5 points).
    c. Demonstrated ability to complete similar projects on schedule and within budget (5 points).
    d. Demonstrated ability to finance or arrange financing for similar projects (5 points).
    e. Clear assignment of responsibility for various project tasks to specific individuals (5 points).
    f. Ability to effectively manage project design, construction and complete the project on schedule and within budget (5 points).
    g. Quality of approach to operations and maintenance, monitoring, M&V (5 points).
    h. Past project successes and documented energy savings (5 points).
    i. Capacity to perform the work, including, but not limited to, commitment letters from manufacturers and subcontractors, physical location and staff presence in Hawaiʻi and duration of presence. (10 points).

2. Project Approach (35 points):

    The Offeror's plan to accomplish the project, along with any quality control measures to be incorporated. Specifically, the evaluation will consider:

    a. The proposed savings measurement approach, including the understanding of existing conditions, and methodology to establish baseline usage. Offerors should describe their measurement approaches using the terms defined in the IMPVP Measurement & Verification Guidelines Energy and Water-

Saving Projects (5 points).

b. The Offeror's plan to ensure effective communication with County DOW and personnel (5 points).

c. The proposed project schedule and plan to ensure timely completion and minimize disruption of normal County DOW work (5 points).

d. Appropriateness and availability of local maintenance, monitoring, training and support services offered (5 points).

e. The plan to identify and dispose of hazardous materials, if any (5 points).

f. The Offeror's overall FIM write up and Project Approach and its relevance to the needs of the DOW (10 points).

3. ESCO Indicative Pricing Proposal (5 points)

Offeror to provide the maximum percentage and rationale on a per line-item basis that would be charged for the Project. The best value will be determined by the County.

4. Financing Approach (10 points)

Offeror's financing proposal will be evaluated based on: third-party financing plan and structure; financing commitment; financing summary including financial soundness and stability of ESCO and financing approach.

5. Best Value Factors. "**Best Value"** means the most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that the offer meeting the overall combination that best serves the DOW is selected. These criteria may include, in addition to others, performance history of the vendor, quality of goods, services, or construction, delivery, and proposed technical performance." **(HAR 3-122-1 Definitions)**

Non-selected Offerors and Debriefing. **Non-selected offerors will be notified and able to view the notice of award, which will be posted on the County DOW Website, and on Public Purchase.** Non-selected offerors may submit a **request** for debriefing, or designee, **within three (3) working days** after posting of an award. Thereafter, the Director or designee, shall provide a **debriefing**, to the maximum extent practicable, **within seven (7) working days**. A **protest** may be filed with the Director, or designee, **within (5) working days** after the debriefing. (For protest requirements see HRS 103D-701 and HAR 3-126, Legal and Contractual Remedies)

SECTION FIVE

CONTRACTOR SELECTION AND AWARD

5.1 PROCEDURES

Offerors will submit conceptual proposals in accordance with the instructions herein. Proposals will be reviewed and evaluated according to the evaluation procedures and criteria more specifically described below. Proposals will be categorized as acceptable, potentially acceptable, or unacceptable.

Proposals may be accepted on evaluation without discussion and an award may be made to the responsible Offeror whose proposal is determined in writing to provide the DOW with the best value.

If there are numerous proposals on the Priority List, the evaluation committee may rank the proposals and limit the priority list to a minimum of the highest three (3) proposals.

Discussions may be conducted only with Offerors on the priority list, Acceptable and Potentially Acceptable Proposals, and shall be held to:

1. Promote understanding of the requirements herein and the Offeror's proposal; and

2. Facilitate arriving at a contract that is **most advantageous** to the DOW, taking into consideration the evaluation criteria set forth in this Request For Proposal.

Addenda may be issued to clarify or modify the Request For Proposal and shall be distributed only to priority-listed Offerors.

Should best and final offers be deemed necessary, the Contract Officer shall establish a date and time for the priority-listed Offerors to submit their best and final offers. Offerors who do not submit a Notice of Withdrawal or respond to a call for best and final offers shall have their initial proposal considered for final evaluation.

An evaluation will be conducted for award of a contract wherein applicable and appropriate, either after the initial proposals are received or after receipt of best and final offers.

5.2 AWARD

Award shall be made to the responsible offeror whose proposal is determined to provide the best value to the County DOW taking into consideration the price and the evaluation criteria specified in the RFP. The RFP file shall be open for public inspection, except for confidential information contained therein, after award of a contract and posting by the Division of Purchasing.

The award shall be subject to the provisions of HRS 103D-328 relating to Tax Clearances, and HRS 103D-310(c) and HAR 3-122-112 both relating to Responsibility of Offers.

EXHBIT A: FINANCING REQUIREMENTS

I. Financing Objectives.

The DOW's objectives for financing this project include the following:

a. Securing funding in the amounts and timing to implement the Project in its entirety;
b. Execute a third-party financing program that will require no DOW involvement other than the execution of financing documents;
c. Securing financing structure that is economical and efficient for this project implementation;
d. Using a single entity private placement financing structure, with a single placement counterparty, to minimize documentation and reporting burden for the DOW.

The financing agreement may only be sold, transferred, assigned or pledged with the DOW's prior written consent as a whole document to and for the benefit of a single holder and not in parts or be for the benefit of more than one holder.

All fractionalization is prohibited, including, without limitation Certificates of Participation (COPs), tender option bonds, securitizations, security for bonds or other obligations sold or transferred to more than one party. In the event of any such fractionalization, the holder shall be in default of the financing agreement and the DOW shall have no obligation to seek appropriation for, or to make any, payments under the financing agreement with respect to any period of time in which such fractionalization continues to exist. The DOW requires that the financing agreement to the fullest extent permitted by law, not be treated as a "security" for purposes of federal or state securities laws.

II. Purpose, Timing, and Amount of Financing.

A. Purpose of Financing.

The sole purpose of this financing is to fund the construction and implementation of the Project, in accordance with the solicitation, IGA, selected ECMs and WCMs, and the GEWSA or ESPC in its entirety. Funds from this project financing will not be used for any other purpose.

B. Timing of Financing.

All project financing documents shall be executed in a simultaneous close with the ESCO's services contract (GEWSA). The County DOW requests a complete financing solution, with an initial construction phase financing to implement the project and then a permanent financing from the project completion and final acceptance date by the County DOW through the end of the financing term.

The financing term shall be for a term of twenty (20) years or less, to be determined by the energy savings cash flows calculated by the ESCO and approved by the County

DOW.

C. Amount of Financing.

The ESCO shall be responsible for providing financing for all of the project's costs (DOW - selected ECMs and WCMs), including but not limited to:

Capital/construction cost for all labor and materials, loan origination fees, loan closing fees, banking/lender attorney fees, and filing fees. The amount of the payments shall not change over the term of the contract without a contract amendment. The financing shall be structured such that the payments made by the DOW to the ESCO or the ESCO's Financier do not exceed the annual cost savings in any year after completion and acceptance of the project.

III. Type of Financing Requested.

A. General Requirements.

1) Term Sheet Description.

The Contractor shall comply with the County DOW's requirements for financing as indicated in the following term sheet summary.

a. Lessee: Kauai County Department of Water

b. Total Transaction Size:

Determined by the GEWSA in conformance with County DOW selected ECMs and WCMs.

Transaction size shall be inclusive of all fees, including but not limited to: allowance for funds used during construction, origination fees, servicing fees, legal fees, and transaction closing fees.

c. Structure:

- Tax-Exempt Capital Lease, Taxable Lease, Contractor self- financing, or Bank loan;
- Non-Appropriation Clause – Annual; specifically, amount payable under the financing agreement shall be limited to funds appropriated or otherwise made available, from time to time, by the County DOW Council to pay amounts due under the financing agreement for the fiscal period in which the payments are due, together with any unexpended proceeds of the financing agreement, and any reserves or other amounts that have been deposited in trust to pay amounts due under the financing agreement

("Available Funds"). The Board of Water Supply shall not be obligated to appropriate or otherwise make funds available. However, the DOW will make commercially reasonable efforts to appropriate the funds;

- Payments to be scheduled on an annual basis, frontloaded at the beginning of each yearly term.

The County DOW will prioritize Tax-Exempt Lease Purchase (TELP) structure financing, with a general obligation bond as an alternative, and will additionally consider Offeror-provided self-financing, and other private placement structures.

d. Method of Sale:

- Non-Bank Qualified
- Single Entity Private Placement

The Contractor shall provide financing through a single entity private placement, without additional securitization. The Contractor shall provide information in detail as to its approach to private placement of this financing upon request.

If the Contractor prefers to incorporate self-financing through the construction phase of the project, and then execute a permanent financing, then Contractor shall provide enough detail for the DOW to determine the method and approach.

The DOW shall have the right to approve the private placement counterparty prior to execution of the financing, through its written approval.

e. Financed Term:

The Contractor shall determine the Financed Term in accordance with the terms of the solicitation, the findings of the IGA, the DOW-selected ECMs and WCMs, GEWSA and shall structure the Financed Term so that the DOW shall always have a positive cash flow from annual cost savings throughout the Financed Term.

The DOW will make payments for each year on an annual basis, at the beginning of each fiscal year (July 1). The first year's payment shall be ordered such that the payment term will run from the DOW's acceptance date for the system through June 30th, and then full year payments for the remainder of the term due and payable on each following July 1st.

The Financed Term shall not exceed a 20-year term, depending on the Contractor's approach to system implementation and servicing.

f. Security Interest:

All systems and associated equipment, as described in the GEWSA, as installed shall have the security interest perfected using a UCC-1 filing(s).

g. Construction Financing:

Construction financing shall be provided by the Contractor (and/or its financing partner) up to the point of project final acceptance by the County DOW. The installation schedule shall be two years or less.

Contractor shall develop a monthly construction draw schedule based on the overall installed cost of the project, along with the amount of construction interest incurred, for a total monthly draw amount(including servicing fees, if any).

Contractor shall clearly state its construction interest rate in the solicitation financing documents. Such interest rate shall be valid throughout the entire construction period through project final acceptance by the County DOW. Contractor may select a floating interest rate for the construction financing, tied to a published index, so long as the Contractor also provides an interest rate cap (maximum interest rate) with its proposal.

The total installed cost of the project (capital cost, construction interest, and all project financing fees and expenses) shall then be rolled over into the project financing.

2) Currency Standard.

All financing and transactions for the Project shall be conducted using United States Dollars (USD) as currency.

3) Private Placement – Method of Sale.

The Contractor shall finance this project using a private placement, exempt from registration with the Securities and Exchange Commission (SEC), and structured in conformance with SEC guidelines, as they currently exist at the time of financing closing.

a. Method of Sale: The Contractor and/or its Lender shall arrange a private placement method of sale to a qualified institutional buyer (QIB) within the meaning of Rule 144A under the Securities Act, who is purchasing for QIB's own account.

b. No Securitization: The Contractor and/or its Lender shall conduct the private placement without using securitization methods to multiple parties and/or the use of Certificates of Participation (COP), in a method so that the County DOW has a single lending counterparty in the financing of the project.

c. No Fractionalization: The Financed Agreement may only be sold, transferred, assigned or pledged with the County DOW's prior written consent as a whole document to and for the benefit of a single holder and not in parts or be for the benefit of more than one holder. All fractionalization is prohibited, including, without limitation Certificates of Participation (COPs), tender option bonds, securitizations, security for bonds or other obligations sold or transferred to more than one party. In the event of any such fractionalization, the holder shall be in default of the Financed Agreement and the County DOW shall have no obligation to seek appropriation for, or to make any, payments under the Financed Agreement with respect to any period of time in which such fractionalization continues to exist. The County DOW requires that the Financed Agreement to the fullest extent permitted by law, not be treated as a "security" for purposes of federal or state securities laws.

d. Investor Letter: Prior to executing the GESA and Financing Agreement, Contractor and/or Lender shall deliver to the County DOW an investor letter, which shall be addressed to the County DOW and shall provide as follows: Contractor and/or Lender has authority to purchase the Financed Agreement and to execute the letter and any other instruments and documents required to be executed by the Contractor and/or Lender in connection with the purchase of the Financed Agreement; the Contractor and/or Lender is a Qualified Institutional Buyer (QIB); the Contractor and/or Lender has sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-exempt municipal obligations similar to the Financed Agreement, and is capable of evaluating the risks and merits of its purchase of the Financed Agreement and can bear the economic risk of purchasing the Financed Agreement; subject to language below, the Financed Agreement is being acquired by the Contractor and/or Lender for investment and not with a view to, or for resale in connection with, any distribution of the Financed Agreement, and the Contractor and/or Lender intends to hold the Financed Agreement for its own account and for an indefinite period of time, and does not intend at this time to dispose of all or any part of the Financed Agreement; the Contractor and/or Lender understands that the Financed Agreement is not registered under the 1933 Act and that such registration is not legally required as of the date hereof; and further understands that the Financed Agreement (a) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, (c) will not carry a rating from any rating service and (d) will be delivered in a form which may not be readily marketable; the Contractor and/or Lender further understands that the payments under the Financed Agreement are payable solely from funds appropriated or otherwise made available, from time to time, by the County DOW Council to pay amounts due under the Financed Agreement for the fiscal period in which the payments are due, together with any unexpended proceeds of the Financed Agreement, and any reserves or other amounts that have been deposited in trust to pay amounts due under the Financed Agreement ("Available Funds") and are not secured by any pledge of any funds received or to be received from taxation by the County DOW or the State of Hawai'i; that the Financed Agreement will never represent or constitute a general obligation, moral obligation, or a pledge of the faith and credit of the County DOW or the State of Hawai'i, and that the liability of the County DOW with respect to the Financed Agreement is subject to further limitations set forth in the Financed Agreement; the Contractor and/or Lender has conducted such due diligence as it deems necessary in order to make an informed investment decision; although the Contractor and/or Lender does not intend at this time to dispose of all or any part of the Financed Agreement (other than to an affiliate), the Issuer acknowledges that the Contractor and/or Lenders have the right to sell and transfer the Financed Agreement in whole only, in accordance with terms and conditions of the Financed Agreement and applicable law; notwithstanding the provisions of the Investor Letter to the contrary, the Contractor and/or Lender covenants to and agrees with the County DOW that it shall not sell, transfer or otherwise dispose of the Financed Agreement in violation of the transfer restrictions set forth in this Investor Letter, in the Financed Agreement or in any applicable law; each Contractor and/or Lender agrees severally to indemnify and hold harmless the County DOW, and its members, employees, officers and agents with respect to any claim asserted against any of them that is based upon the Contractor and/or Lender's sale, transfer or other disposition of its interests in the Financed Agreement in violation of the provisions of the Investor Letter or of the Financed Agreement or any material inaccuracy in any statement made by the Contractor and/or Lender in the letter; and the undersigned is a duly appointed, qualified, and acting representative of the Contractor and/or Lender, is authorized to make the certifications, representations and warranties contained herein on behalf of the Contractor and/or Lender and is authorized to execute and deliver the letter.

4) Financing – Cash Flow Analysis and Pro Forma Documentation:

Prior to executing the GEWSA and Financing Agreement, the Contractor shall prepare and submit with its proposal an investment grade financial pro forma analysis that shows all of the cash flow projections for the Project, and the expected sources and uses of funds, including the repayment of the project financing.

Contractor shall include the following items in the investment grade proforma analysis of the Project and submit with its proposal:

a. Assumptions:

Contractor shall list all assumptions used in the cash flow analysis that are relevant to its proposal, including but not limited to:

1. Capital Cost: The Contractor-budgeted capital cost of the Project, with a detailed budget and costing schedule of the Project implementation showing how the final capital cost is determined, given the DOW requirements as documented in the solicitation.

2. Construction Period Financing and Capitalized Interest: The detailed cash flow analysis for the construction period when the Project is implemented over the anticipated two year construction schedule, or as defined by the Contractor's proposal. Investment grade calculations of construction period capitalized interest shall be shown by Contractor, based on its defined budget and draw schedule.

3. Origination, Servicing and Development Fees: Contractor shall include as separate assumption line items any and all origination, servicing and development fees in the cash flow analysis, and as guaranteed by the Contractor in its proposal. Any such fees as listed shall indicate whether they are pre-close or post-close expenses, and shall be shown as separate accounting line items on the cash flow analysis.

4. Interest Rate: Contractor shall include any interest rates required for its financing, whether for construction period financing or permanent financing. All interest rates shall be fixed rates through the financing term.

5. Term: Contractor shall include for each financing agreement (e.g. construction loan, permanent financing) the term assumptions for each financing, including the start date and end date of each financing term, and the duration in years of each term.

6. Working Capital and/or Reserve Requirements: Contractor shall include any required sinking funds or prefunding of working capital and/or reserve funding requirements for the permanent financing, and shall indicate the sources and uses of those funds in the cash flow proforma analysis.

7. Inflation/Escalation Assumptions: Contractor shall include any inflation and/or escalation assumptions. These assumptions shall conform to or be no greater than what is specified in solicitation herein.

b. Pro forma Analysis Term.

The cash flow analysis of the Project shall be prepared by the Contractor using a twenty-year (20-year) time horizon of commercial system operation, of which includes any time period used for construction prior to commercial operation.

c. Cash Flow Analysis.

The cash flow analysis of the Project shall include detailed projections of DOW energy and water usage, any savings from the DOW provided budget baseline, operating expenses in their entirety, full and timely repayment of the third-party financing, and working capital account cash flow balance as positive for all time periods during the financing term.

5) Contractor shall provide, with ESA proposal, a final form Financing Agreement to implement its third-party project financing. The Financing Agreement shall include any and all commitments, covenants (both financial and/or protective) that Contractor and/or its lending institutions are requesting the County DOW enter into as a part of the third-party project financing, and for the purposes of administering this financing agreement.

The provisions of this Agreement shall include the following:

a. Loan Terms.

All conditions of closing shall be clearly indicated in the Agreement submitted with Contractor's proposal, in final form language ready for execution. Any commitments required by the DOW to affirm or recognize shall be clearly described in the documents, including:

1. All Instruments and Proceedings: All documents that must be executed by the DOW (or by the Contractor) to the satisfaction of the Lender.

2. Representations and Warranties by the DOW: All statements by the DOW that affect the closing of the third-party financing. Typical representations and warranties may include: good standing of the DOW, authorization of the DOW to conduct the business of the Project, provision of DOW financial statements, taxable/tax- exempt representations of the DOW, clear title, valid lease representations, no material litigation that could affect the Project, no default or cross-default representation, no material adverse change, all governmental approvals by the DOW required to enter into the third-party financing.

3. Representations and Warranties by the Lender: All statements by the Lender that the note is being purchased for private placement investment and not with a view to resell. Further representation by the

Lender that the private placement will be without securitization and placement to multiple counterparties via Certificates of Participation (COPs).

4. Opinion of Counsel: All representations the Lender may reasonably require regarding a favorable opinion as to the DOW's good standing as a borrower, the transaction and financing validity, and validity of the opinion of the DOW Attorney and bond counsel.

5. Opinion of DOW Attorney: All representations reasonably required of the Office of the County DOW Attorney on matters including: the validity of County DOW approvals to enter into the transaction, that the transaction will not cause a breach or cross default of any other County DOW agreement, that all associated real property has clear title, and the absence of material litigation relevant to this Project.

6. Opinion of Bond Counsel to the effect that, assuming the validity of the Financing Agreement, the portion of each payment of rentals designated as and constituting interest paid by the County DOW under the Financed Agreement is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986; that such interest is not a specific preference item for purposes of the federal individual or corporate alternative minimum tax, although bond counsel observes that it is included in adjusted current earnings when calculating corporate alternative minimum taxable income; and that Bond Counsel express no opinion regarding other tax consequences related to the ownership or disposition of the Financed Agreement, or the amount, accrual or receipt of the portion of each payment of Rentals constituting interest. Costs related to bond counsel shall be included in the project financing.

b. Financial Covenants.

The Agreement shall include any and all financial covenants that place an obligation on the County DOW, and shall describe how the loan will be repaid, and how the loan may be prepaid under special circumstances as described in the Financing Agreement. The form of Agreement shall include the following:

1. Required Payments and Repayment Schedule: Level amortization of principal is a requirement. Any required annual payments and the financing repayment schedule shall be clearly defined. The repayment schedule shall be consistent with the cost savings cash flows being used by the County DOW as the sole source of repayment, and the Contractor shall prepare its forecasts of energy savings carefully, so as to be able to justify its position to the third-party lender with adequate margin of

safety for the County DOW.

2. No Restrictions on Refinancing: The County DOW shall have the right to refinance during any period throughout the term of the financing. Contractor shall provide the costs and requirements for refinancing.

c. Affirmative Covenants.

The Agreement shall include any and all affirmative covenants that place an obligation on the DOW, and shall describe any actions required by the DOW to perform. The form of Agreement shall include the following:

1. Right to Inspect: Any required reasonable access provisions for inspection of Project equipment and examination of records.

2. Maintenance of Project Assets: Any requirements to maintain the assets in good and workable condition. Note that any such requirement shall also reference Contractor's Warranty and Services Agreement with the DOW as primary during the term of the Project.

3. Compliance with Laws: Any compliance with laws and regulations including the DOW's obligations under the DOW's Participant Inclusion Plan (PIP) and the Kauai Seabird Habitat Conservation Plan (collectively, KSHCP). DOW shall have reasonable rights to contest such laws and regulations if they are not applicable to the Project.

4. Insurance: Any insurance requirements that the County DOW must comply. Contractor and its lending partners shall incorporate the fact that the County DOW is self-insured into any and all insurance-related language.

d. Protective Covenants.

The Agreement shall include any required protective covenants required by the third-party lender to monitor the health of the financing. The form of Agreement shall include the following:

1. Minimum Reserve or Working Capital Requirements: Specification of any minimum working capital or reserve fund requirements of Lender to implement and service the financing.

   Contractor shall insure that in its calculations and proposal documents that it has accounted for any required reserve or working capital requirements in its proposal, and that those reserve or working capital requirements are clearly stated in its financial projections for the project.

The Agreement shall state that the final disposition of any such minimum reserve or working capital requirement shall be for the benefit of the County DOW at the financing term end date.

2. Insurance: Any insurance requirements that the County DOW must comply. Contractor and its lending partners shall incorporate the fact that the County DOW is self-insured into any and all insurance-related language.

3. Limitations on Lease Obligations: Any limitations placed on the lease obligations of the County DOW, and limited to this specific Project, shall be clearly stated in the Agreement.

4. Limitations on Liens and Encumbrances: The Agreement shall state any restrictions by the County DOW in terms of liens and encumbrances of Project property. Any such restriction shall exempt the County DOW from existing liens, liens arising in the ordinary course of County DOW business, any tax/governmental liens, performance bonds, zoning restrictions, easements or mechanic's liens.

e. Default Terms and Remedies.

The Agreement shall include any required default terms and remedies reasonably required by the third-party lender. Events of default to be included in the Agreement are: default on payments, default in observing protective covenants, default in any other covenant, agreement or section of the Agreement, or other contingencies (such as cross-default, bankruptcy, and breach of material representation or warranty).

Any default terms and remedies shall include language that clearly states whether the event of default shall be an immediate breach of the Agreement, or whether the event of default shall not be enforced without written notice to the other party, with a reasonable cure/remedy period before triggering a breach of the Agreement.

f. Boilerplate

The Agreement shall include any required boilerplate language that is used in the normal course of administration of the third-party financing. Typical boilerplate provisions may include:

1. Changes or Modifications to the Agreements: Any provisions to be changed or modified must be made in writing between the County DOW and any other party.

2. Definitions: Any defined terms, as used in the Agreement, shall be

stated and defined as to the meaning used in the Agreement.

3. Financing Expenses: The language that states that any and all reasonable expenses of the financing transaction, including any legal or special counsel fees or publication/printing fees, shall be paid through the financing transaction, and that those fees are clearly stated in the Agreement, as well as in Contractor's proposal documents.

4. Lease Requirements (if required by the type of third-party financing chosen by Contractor): the language that states that the financing transaction is a true lease under the Internal Revenue Code, residual values, statement of positive cash flows from energy savings as guaranteed by Contractor, and any other requirements for lease financing.

ATTACHMENT A: OFFERORS PROPOSAL

I. Non-Disclosure of Proprietary Information.

It is recognized that proposals submitted in response to this solicitation may contain technical, financial, or other data whose public disclosure would cause substantial injury to an Offeror's competitive position. Offerors therefore should specifically identify those pages of the Proposal that contain such information by properly marking the applicable pages “CONFIDENTIAL” on every copy submitted. The County DOW assumes no liability for disclosure or use of unmarked data for any purpose. An Offeror responding to this RFP shall request in writing non-disclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the Proposal and shall be readily separable from the Proposal and labeled CONFIDENTIAL in order to facilitate eventual public inspection of the non-confidential portion of the Proposal. Disclosure of public documents will be enforced in accordance with HRS §92F.

II. Proposal Content.

Offeror shall submit their Proposal in PDF form. The submittals shall include:

A. A transmittal letter shall be addressed to:

> Department Of Water, County of Kaua‘i
> 4389 Pua Loke Street
> Līhu‘e, Hawai‘i 96766

The letter shall be signed by a principal officer of the Offeror. In the case of a joint venture or other joint-prime relationship, one principal officer of each venture partner shall sign.

B. The front section of the Proposal shall have the following items:

1) A Title Page indicating the title of the solicitation, the RFP number, the name of Offeror, and the date submitted.
2) Table of Contents listing the contents of the Proposal.
3) Letter of Delegation of Authority authorizing an individual from the company or companies to execute and deliver any and all contracts on behalf of the company or companies.

C. The information in the Offeror’s proposal shall be provided in a straightforward and concise manner. All items should be addressed in the order listed below and clearly indicate to which item number (e.g., 1.1, 1.2 etc.) the information corresponds, to permit a methodical evaluation. If an item does not apply to your organization or submittal, so indicate with the symbol “N/A” (not applicable).

PART 1 – OFFEROR'S QUALIFICATION, EXPERIENCE, AND CAPACITY TO PERFORM THE WORK

This part will be used to evaluate the Offeror's qualification, experience and capacity to perform the work.

1.1 Organizational Data.

a. Offeror's name.
b. Offeror's address.
c. Offer's telephone.
d. Name of Offeror's representative(s) and email addresses.
e. Organization type (individual, partnership, corporation, joint venture, state of incorporation, taxpayer identification numbers, etc.).
f. Year firm was established.
g. Former firm name (if applicable).
h. How many years firm has been in business under its present business name.
i. How many years firm has been operating in Hawai‘i under its present business name.
j. How many years has firm been involved in energy performance contracting.
k. Indicate number of full-time personnel employed by your firm.
l. Offeror's team members (include subcontractors and subconsultants), starting with the Offeror, in the following format in a spreadsheet or table for each member. Indicate the team member responsible for signing contracts.

	Team Member 1	Team Member 2	Team Member 3
Name			
Offeror (or Company):			
Role			
Responsibility			
Address			
Telephone No.			
Email Address			
Hawaii License No.			
License Classification			

m. Description of team, indicating the major contractors / organizations legal ties between those contractors / organizations, lines of communication between those contractors / organizations, and levels of responsibilities of each contractor / organization. An organization chart diagramming the relationships must be included.

1.2 Experience.

List and describe the following:

a. Describe your Team's Experience as it relates to the proposed project. Describe prior experience in performance contracting.

b. Describe team member's experience in implementing projects in Hawai'i.

c. Identify Key Personnel and Responsibilities in this project. Describe their qualifications and experience with the specified products or similar products for this project, in the following format in a spreadsheet or table. Attach resumes for key personnel. Note under qualifications what experience they have working on FIMs in Hawai'i. Describe under responsibilities the specific role and responsibilities this individual had for each listed project, as well as the responsibilities this individual will have for the duration of this project.

	Project Phase	Key Personnel Name	Title	# yrs with ESCO	Qualifications (Education & Professional)	Responsibilities
1						
2						
3						

d. Describe several relevant FIMs Implementations projects completed by the Offeror. Demonstrate ability to complete similar projects on schedule and within budget. Submit history of performance of recent projects. For each project, please provide the below information in the following format in a spreadsheet or table, including: the contact person (person directly responsible for the day-to-day management of the project); description of FIMs installed including equipment capacity, if a new installation or repair/modify existing equipment or operation; and Offeror's role in arranging project financing, and contract term. Please inform these clients that the DOW may contact them to verify the information and to ask questions regarding your performance on these projects.

	Client 1	Client 2	Client 3
Client Name			
Location of Project			
Contact Person			
Title			
Telephone No.			
Email			
Project Description			
List of ECMs and WCMs with Capacities and Quantities			
Dollar Value of Projected Annual Energy Savings			
Dollar Value of Guaranteed Annual Energy Savings			
Dollar Value and Type of Annual Operational Cost Savings (if applicable) (e.g. maintenance contracts, material savings, etc.)			
Method(s) of Savings M&V			

Project Construction Cost			
Utility Rebates			
Cost Savings (first year)			
Schedule (Original)			
Schedule (Final)			
Status			
Financing Type			
Role in Financing			
Contract Term			

e. Quality Control and Quality Assurance Program that will be applied to this project. Identify senior staff that will perform quality control and quality assurance reviews. Include existing workload and completion dates of those senior staff personnel, in the following format in a spreadsheet or table.

	Senior Staff Name	Title	Workload	Completion Dates
1				
2				
3				

f. List of all successful ESPC projects and their contract values, completed by the Offeror in the last five (5) years, in the following format in a spreadsheet or table. Provide the list separately to the contract value table below.

Contract Value	2021	2022	2023	2024	2025
< $1,000,000					
$1,000,001 to $10,000,000					
>$10,000,001					

g. Indicate the number of all ESPC Projects implemented by and currently under contract. Limit response to only those projects that have been managed directly by the specific branch, division, office or any individual in such branch, division or office that will be specifically assigned to this project.

h. Identify the ECM and WCM Implementations contracts or other third-party financed contracts that were breached by the Offeror in the last five (5) years, where the breach occurred due to leases, licenses, permits or other reasons, if any. Include name of project, contact person and contact number, in the following format.

   a. Project Name:
   b. Contact Person:
   c. Contact Number:
   d. Reason for Breach:

1.3 Capacity to Perform the Work

Offeror shall provide, list or describe the following:

a. Provide letter(s) from potential partners indicating their commitment in providing the required work necessary to complete the project in a timely manner.
b. Provide letter(s) from the manufacturers indicating their commitment in providing the required equipment necessary to complete the project in a timely manner.
c. Provide letter(s) from contractor or subcontractor(s) indicating their commitment in providing the necessary personnel and equipment to complete the construction of the project within the DOW's timeline.

1.4 Project Approach

a. Summarize the scope of services (design, financial, operations, maintenance, training, etc.) offered by your firm. This scope of services is to include the entirety of an anticipated ESPC for the DOW, consisting of all economically feasible FIMs plus other improvements to meet the DOW's stated goals.
b. Describe the ECMs and WCMs the Offeror proposes to implement, including each measure's location, maintenance requirements, and special construction or operating requirements if any. This list is subject to change based on the detailed IGA to be performed but should indicate the Offeror's best estimate. Complete Table 2.1 for the proposed measures.
c. Describe the methods, metering, and other equipment you will use to measure savings from the project. Describe how you will determine baseline energy and water use and adjust the baseline. Describe how you will determine the dollar value of energy and water savings.
d. Describe the plan to ensure effective communication and project justification with all County DOW departments and personnel.
e. Provide a schedule of the major steps in development of the project. Include at least the following milestones:
    a. Completion of the IGA;
    b. Completion of design and pre-construction activities;
    c. Completion of construction. Indicate at what points County DOW has the opportunity to review and approve and what response times are allowed for any required approvals from the County DOW.
f. Describe the maintenance, monitoring, training, and support services the ESCO proposes to provide to the DOW.
g. Describe availability of local maintenance, repair, and training support for proposed measures in lieu of ESCO supplied maintenance and support services.
h. Describe how any hazardous materials, which may be disturbed by the work, will be located, identified, and disposed.
i. Provide a project schedule in a critical path format highlighting the major steps in the implementation of the project. The following milestones shall be included:
    a. Anticipated contract execution date.
    b. Anticipated Notice to Proceed date.
    c. Conducting IGA.
    d. Obtain County DOW's approvals for the recommended ECMs and WCMs for Implementation.
    e. Finalize construction cost and financing agreement with the DOW.

f. Developing ECM and WCM installation schedule for each Facility and obtaining approval of the schedule from the DOW.
g. Ordering, fabrication, delivering, and storing of the HVAC, lighting, BAS, and all other components identified.
h. Start and duration of field installation for each building separately.
i. Processing of rebate applications and revised billing letters. This may be done in phases.
j. Commissioning
k. Training of County DOW personnel.
l. Final inspection and acceptance.
m. Post installation services including maintenance, repair and training, M&V.

PART 2 – PRICE PROPOSAL

The County intends to award a contract for IGA services and intends to negotiate a GEWSA and ESPC based on Offeror's provided indicative pricing matrix and proposed financing.

Complete the following Table 2.1 ESCO Indicative Pricing Matrix in its entirety to detail the Indicative Pricing Proposal. The County does not request absolute pricing, but rather the range of percentages with a maximum percentage each Offeror proposes to charge for the project, including the rationale. The maximum percentages submitted now should be expected to be included in the IGA.

	PROJECT BUDGET	MAXIMUM MARKUPS (%)	RATIONALE
a	Subcontractor Costs (Contractor costs to ESCO)	Leave Blank	Leave Blank
b	Other Direct Purchases of Equipment, Material, Supplies	Leave Blank	Leave Blank
c	Total of Hard Costs	c=a+b	
d	Project Development (including itemized IGA)		
e	Design/Engineering		
f	Project Management		
g	Permits		
h	Performance Bond		
i	Payment Bond		
j	Commissioning		
k	Measurement and Verification		
l	Training		
m	Contingency		
n	Warranty Service		
o	Total Hard Costs and ESCO Fees	O = c + sum (d:n)	
p	Overhead		
q	Profit		
r	Project Price Sub Total w/OH & P		

PART 3 – FINANCING SUBMITTALS

This part will be used to evaluate the Offeror's financing capability to the DOW. Offeror shall address the following items:

3.1 Financing References

a. Provide a company prospectus to include a Balance Sheet and Cash Flow statement not more than fifteen (15) months old.
b. Provide the name, address, and telephone number of firms prepared to fund a potential project.
c. Enclose banking references including financial institution, address, contact person, telephone number, and specific information on your firm's credit that may be used to fund construction for large-scale projects.
d. Please certify that your company does not owe the State of Hawaiʻi any taxes.
e. Please certify that your company is not currently under suspicion or debarment by the State of Hawaiʻi, or any other state, or the federal government.
f. Please identify your firm's legal counsel for this project. Give the name and address of the primary individual responsible for contract negotiation.

3.2 Financing Approach and Structure.

g. Provide a detailed written financing approach including information on how the project financing will be implemented and why the method of financing provides the best lifecycle value for the DOW. Include a section on how all the County's requirements for this financing has been incorporated into the proposal documents.

h. Provide a complete financing structure diagram indicating the anticipated structure of the project financing, the taxable/tax-exempt nature of the financing, any and all counterparties to the financing, and a complete description of the flow of funds as well as payment streams associated with the financing.

Indicate in the diagram each financing agreement required by Offeror and/or its bank/lending institution and how those agreements relate to each counterparty.

The diagram shall clearly indicate the obligations of the DOW in their entirety for the financing.

Certificate of Acceptance of Solicitation Requirements.

It is understood and agreed that the undersigned acknowledges the following:

1. The Offeror has read this solicitation document including any addenda, in its entirety;
2. The Offeror understands and agrees to furnish, deliver, and perform the requirements of the solicitation in strict compliance with the solicitation document as amended, including any specifications, plans, and scope of work descriptions, without any exceptions, if awarded a contract;
3. The Offeror understands and agrees that no substitution or alternate brands may be furnished without the **written approval** of the County DOW;
4. The Offeror understands that the Contractor shall resolve any noncompliance with the requirements of the awarded contract at the Contractor's own expense;
5. The Offeror will make all modifications or customizations to the brand and model being offered as necessary to meet all specifications, at no additional cost. Offeror guarantees that all modifications or customizations done to meet specifications shall not affect the quality or operation of the product; and
6. The Offeror understands that **FAILURE TO MEET CONTRACT REQUIREMENTS WILL CONSTITUTE A BREACH OF CONTRACT THAT MAY RESULT IN SUSPENSION OR DEBARMENT, AND THE EXERCISE OF RIGHTS AND REMEDIES AS PROVIDED BY LAW.** Contract requirements include any specifications, plans, and scope of work descriptions;
7. The undersigned is an authorized representative of the Offeror and can legally obligate the Offeror thereto.

Offeror:______________________________

Signature:____________________________

Print Name:___________________________

Title:________________________________

Date:________________________________

Phone:_______________________________

Appendix A: County Facility Energy and Water Usage Data

(Attached Separately)