

NOTICE OF SOLE SOURCE

Department of Water, County of Kauai

The Chief Procurement Officer has received a Request For Sole Source in accordance with Hawai'i Administrative Rule §3-122-82 and Hawai'i Revised Statutes §103D-306. A preliminary review has been conducted and approved for posting of this Notice.

Accordingly, by posting of this Notice, constructive notice is provided to permit interested parties an opportunity to review a copy of the Request For Sole Source, attached and posted herewith, and to submit written objections within seven (7) days from the date this Notice was posted. Objections shall be submitted to:

Chief Procurement Officer or Designee
Department of Water
4398 Pua Loke Street
Lihue, Hawaii 96766

Questions may be directed to the Chief Procurement Officer or Designee at phone: (808) 245-5422 or Email: ryadao@kauaiwater.org.

A summary of the Sole Source Request follows:

Proposed Vendor's Name and Address:

Utilitec, Inc.
1911 Woodslee Drive
Troy, MI 48083

Brief description of proposed Sole Source Item:

The Department of Water (DOW)'s Customer Care and Billing (CC&B) was previously hosted by the Honolulu Board of Water Supply. Bulk mailing service for water bills and notices was provided by UTILITEC, Inc.

As DOW implemented their own instance of CC&B, DOW continued to utilize the services of Utilitec to minimize the unknown risks of converting and implementing a new program. In addition, it required less training for staff so the need to hire temporary workers to help during conversion was not necessary.

The DOW is in the process of procuring a new billing system and until a new billing system is in place, the DOW continues to seek the services of UTILITEC, Inc. to provide DOW bulk mailing through sole source procurement method. This method will save the DOW additional fees and costs from implementing a new bulk mailing service; i.e. the need for additional testing and training. DOW water bills were already configured to work with UTILITEC, Inc.'s process servers. Conversion time and efforts will be minimized as well as the risks involved in any conversion and/or implementation projects.

Approved for Sole Source Procurement pursuant to HAR 3-122-81, No. 4.

MULTI-TERM CONTRACT:

Funds are available and appropriated only for the first fiscal year of the contract. The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds. By mutual agreement between parties, the contract may be extended on a month-to-month, or term basis, not to exceed a total of 36 months. Any extension to the contract is subject to the availability of funds, and will be at the same contract price, except to the extent price adjustment is allowed by the contract and approved by the Department of Water. Any extension shall be issued in writing by the Department of Water and acceptance of the extension shall be signed by the Vendor. In all cases, it is agreed that the contract shall be subject to termination in the event the Board of Water Supply fails to appropriate funds for the upcoming fiscal year, beginning July 1st of each year. In the event the contract is terminated because of lack of appropriated funds, no breach of contract shall be deemed to have occurred, but shall be considered as a normal termination of contract.

Contract shall be agreed to and executed in accordance and in compliance with the General Terms and Conditions for Goods and Services of the Department of Water, County of Kaua'i, dated August 25, 2010. Reasonable licenses and terms will be considered subject to CPO, legal, and Board approvals. Vendor's license will not include a non-solicitation, non-disclosure, or non-compete provisions that restricts the rights of individuals to seek employment with the County. The DOW is a government agency not a corporation. As a government agency the DOW is bound by employment laws and the constitution.

MINIMUM INSURANCE REQUIREMENTS:

Please see attached.

BY: /s/Renee Yadao

Date Notice Posted: July 28, 2023

SPACE BELOW RESERVED FOR RESPONSE TO REQUESTING DIVISION
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TO: Renee Yadao
Division Head/Lead

Sole Source No. SS-2024-02 is assigned. This Notice was posted for seven (7) days. No objections were received. Please proceed with (1) processing of a requisition for a purchase order, or (2) contract preparation be sure to reference the assigned Sole Source No. in the contract.

Objection was received. Please contact the CPO or Designee.

Chief Procurement Officer or Designee

INSURANCE REQUIREMENTS

Board of Water Supply, County of Kaua'i

Contractor shall procure and maintain, on a primary basis and at its sole expense, at all times during the life of the contract insurance coverages and limits, including endorsements, described herein against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor or the Contractor's agents, representatives, employees, or subcontractors. The requirements contained herein, as well as the Board's review or acceptance of insurance maintained by the Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by the Contractor.

To the extent applicable, the amounts and types of insurance will conform to the minimum terms, conditions and coverage(s) of Insurance Service Office (ISO) policies, forms, and endorsements.

A. General Conditions

Waiver of Subrogation. Contractor shall agree by entering into a contract with the Board to provide a Waiver of Subrogation for the Commercial General Liability, Automobile Liability, and Workers Compensation policies. When required by the insurer, or should a policy condition not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, the Contractor shall agree to notify the insurer and request the policy be endorsed with a Waiver of Subrogation in favor of the Board. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

Additional Insured. Contractor shall agree to endorse the **Board of Water Supply, County of Kaua'i as an Additional Insured** with a CG026 Additional Insured – Designated Person or Organization endorsement, a copy of the applicable policy language, or similar endorsement to all required insurance policy(ies), except for Workers Compensation and Professional Liability.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Board. At the discretion of the Board, the Board may require Contractor to reduce or eliminate any such deductibles or self-insured retentions as respects the Board, or require Contractor to provide a financial guarantee (audited financial statement or bond) satisfactory to the Board guaranteeing payment of any losses and related investigations, claim administration, or defense expenses. Any deductibles or self-insured retentions are the sole responsibility of Contractor and its subcontractor(s) if any. The Board reserves the right to deduct from the final payment to Contractor any unsatisfied deductibles or self-insured retentions which would result in a lien against the project.

When any deductibles or self-insured retention exceeds \$50,000, the Board reserves the

right, but not the obligation, to request and review a copy of Contractor's most recent annual report or audited financial statement.

Contractor must declare any exception to the requirements of this provision as a question to the solicitation prior to submission of their offer, and must declare their ability to provide a bond or other satisfactory guarantee in lieu of any deductibles or self-insured retention. The Board will make a determination as to any exception(s) via an addendum to the solicitation prior to final submission of offers.

Contractor's Responsibility. The Contractor is responsible for paying any portion of any loss not covered because of the operation of any deductible, co- insurance clause or self-insured retention applicable to the insurance required herein. If the Board is damaged by the failure of the Contractor to maintain insurance as required in this paragraph, then the Contractor shall bear all reasonable costs properly attributable to that failure.

Primary and Non-contributory. All policies required of the Contractor will be endorsed as primary and any insurance or self-insurance program maintained by the Board shall be non-contributory.

Certificate of Insurance. Concurrent with the execution of the contract, Contractor shall provide the Board a certificate of insurance completed by a duly authorized representative of their insurer certifying that the liability coverage(s) is written on an occurrence form. Immediately upon becoming aware that its insurance will be cancelled, non-renewed, or materially changed, Contractor will notify Board by providing written notice.

The Certificate Holder address shall read:

Board of Water Supply, County of Kaua'i
4398 Pua Loke Street
Līhu'e, HI 96766
Attention: Renee Yadao
Contract No. TBD
Project Title: CC&B Bulk Mailing Service

Concurrent with the execution the contract the Contractor shall furnish the Board with original certificates and endorsements effecting required coverage(s). The Board reserves the right to require complete copies of all required insurance policies, including the policy declarations and endorsements affecting the coverage at any time.

Failure to secure and maintain the required insurance shall be considered as a material breach of the contract. Should the Board be forced to expend funds that would have been covered under the specified insurance, Contractor shall reimburse Board for such funds. In the event the Board determines, in its sole and absolute discretion, that it is necessary to purchase the coverages herein required of the Contractor, and which the Contractor has

failed to secure, the Contractor shall reimburse the Board for the expenditure of such funds.

Right to Revise or Reject. Board reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work or specifications affecting the applicability of coverage. Additionally, the Board reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operate legally.

B. Minimum Insurance Coverage Requirements

Unless otherwise approved by the Director of Finance, the policy or policies of insurance maintained by the Contractor shall provide the following minimum limit(s) and coverage(s) as specified herein and be placed with an insurance carrier authorized to do business in the State of Hawai'i and rated A-VII by A.M. Best:

Commercial General Liability. The Contractor shall procure and maintain Commercial General Liability (CGL), with dedicated required limits, as set forth herein, written on occurrence form providing:

Designated premises basis **OR** Per Project basis

(Per Project Basis. The Commercial General Liability policy aggregate limits shall apply to both the general and products/completed operations limits. The term "project basis" should not be construed to mean the Board is requiring the Contractor to purchase a separate project specific general liability and products completed operations policy for the project.)

The coverages shall include the following:

- Premises Operations
- Independent Contractors
- Products and Completed Operations
- Broad Form Property Damage including completed operations
- Blanket Contractual Liability
- Personal Injury
- Employees named as Additional Insured
- Severability of Interest
- Explosion, Collapse and Underground Property Damage

The minimum limits of liability may be satisfied by providing either:

<p>Bodily Injury and Property Damage Combined Single Limit:</p> <ul style="list-style-type: none"> ▪ \$2,000,000 per occurrence ▪ \$2,000,000 annual aggregate 	<p>OR</p>	<p>Personal Injury:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 per occurrence ▪ \$2,000,000 annual aggregate AND <p>Products and Completed Operations:</p> <ul style="list-style-type: none"> ▪ \$1,000,000 per occurrence ▪ \$2,000,000 annual aggregate
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Contractor must provide evidence that the Board is an Additional Insured for Products/Completed Operations coverage for both ongoing operations and after substantial completion of the work. ISO Form CG 20 10 04 13 and ISO Form CG 20 39 12 19, or equivalent forms are required from the Contractor. Coverage provided by a non-equivalent CGL form shall be specifically endorsed providing both the course of construction and products/completed operations. ISO Form CG 20 10 04 13 and ISO Form CG 20 39 12 19, or equivalent forms are required from the Contractor. The Contractor and subcontractor(s), if any, shall provide evidence to the Board on an annual basis the products/completed operation coverage is in effect for **two (2)** years after substantial completion of the project.

Business Automobile Liability. The Contractor shall procure and maintain Business Automobile Liability written on occurrence form for all Owned, Non-owned, and Hired automobiles. If the Contractor does not own automobiles, Contractor shall agree to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Automobile Liability. Coverage shall be for automobile contractual liability, uninsured and underinsured motorist coverage, basic no-fault, and personal injury protection, as required by Hawai'i law with the following limits:

Bodily Injury
 \$1,000,000 per person
 \$1,000,000 per occurrence

Property Damage
 \$1,000,000 per accident

Workers' Compensation and Employer's Liability. The Contractor shall procure and maintain at all times during the term of the contract the following insurance liability coverage: Workers' Compensation, Temporary Disability Insurance (TDI), and similar insurance that is required by the State of Hawai'i or federal laws. Self-insurance is permitted subject to submission of a copy of the appropriate governmental authorization and qualification by the Contractor and subcontractor(s).

The minimum limits of liability to be maintained are as follows:

Coverage A: State of Hawai'i Workers' Compensation Law:
Statutory Limits.

Coverage B: Employer's Liability:

Bodily Injury from each accident	\$1,000,000
Bodily Injury from disease	\$1,000,000
Bodily Injury from disease aggregate	\$1,000,000

Builder's Risk. The Contractor shall procure and maintain an Inland Marine Builder's Risk policy providing coverage to protect the interests of the Board, Contractor, sub-contractors, architects, and engineers, including property in transit and property on or off-premises, which shall become part of the building, or Project. Coverage shall be written on an **All Risk, Replacement Cost, and Completed Value Form** basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum, unless an agreed amount is otherwise stated between the Board and the Contractor. The policy shall insure all work, labor, and materials furnished by the Contractor and the Contractor's subcontractors against loss occasioned by fire, lightning, windstorm, theft, vandalism, malicious mischief, flood, earthquake, and collapse.

The amount of coverage for the perils of flood and earthquake may be subject to a sub-limit. The sub-limit shall provide coverage of at least 25% of the full replacement cost.

The policy shall also include coverage for debris removal and reasonable compensation for architect's and engineer's services and expenses required as a result of an insured loss. The Contractor shall endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by the Board. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the Board's interest in the building ceases, or the building is accepted or insured by the Board.

The Contractor shall name the Board of Water Supply, County of Kaua'i as a loss payee on the Builder's Risk policy.

Installation Floater. The Contractor shall procure and maintain an Installation Floater policy providing coverage to protect the interests of the Board, Contractor, sub-contractor(s), architects, and engineers, including property in transit and property on or off-premises, which shall become part of the project.

Coverage shall be written on an All Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to 100% of the projected completed value of the Project as well as subsequent modifications of that sum, unless an agreed amount is otherwise stated between the Board and the Contractor. The policy shall insure all work, labor, and

materials furnished by the Contractor and the Contractor's subcontractors against loss occasioned by fire, lightning, windstorm, theft, vandalism, malicious mischief, flood, earthquake, and collapse.

The amount of coverage for the perils of flood and earthquake may be subject to a sub-limit. The sub-limit shall provide coverage of at least 25% of the full replacement cost.

The policy shall also include coverage for debris removal and reasonable compensation for architect's and engineer's services and expenses required as a result of an insured loss. The Contractor shall endorse the policy with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by the Board. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the Board's interest in the building ceases, or the building is accepted or insured by the Board.

The Contractor shall name the Board of Water Supply, County of Kaua'i as a loss payee on the Installation Floater policy.

Professional Liability (Errors and Omissions). The Contractor and its subcontractors shall procure and maintain Professional Liability Insurance (Errors and Omissions Insurance) that covers all such activities under the contract. Such insurance shall have these minimum limits and coverage(s):

\$1,000,000 per occurrence
\$2,000,000 annual aggregate

For policies written on a "Claims-Made" basis, Contractor warrants the retroactive date equals or precedes the effective date of the contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of the contract, Contractor shall agree to purchase Supplement Extended Reporting Period (SERP) with a minimum reporting period not less than **two (2)** years. The requirement to purchase a SERP shall not relieve Contractor of the obligation to provide replacement coverage.

Pollution Legal Liability. The Contractor shall procure and maintain Pollution Liability or similar Environmental Impairment Liability at a minimum limit not less than:

\$1,000,000 per occurrence
\$2,000,000 annual aggregate

The policy shall provide coverage for damages against, but not limited to, third-party liability, clean-up, corrective action including assessment, remediation and defense costs.

Contractor's Pollution Liability. Contractor shall procure and maintain pollution liability insurance when the Scope of Work involves removal, abatement, encapsulation or other treatment, disposal or remediation of asbestos or other hazardous materials or an exposure to pollutants or impairment of the environment. The policy shall provide coverage for third party liability, clean-up, and corrective action including assessment remediation and defense costs. The policy may be written on either an occurrence form or claims made. The minimum limits of liability shall be:

\$1,000,000 per occurrence
\$2,000,000 annual aggregate

Crime Insurance or Commercial Fidelity Bond. Contractor shall procure and maintain Commercial Crime Insurance or Fidelity Bond providing Employee Dishonesty on a blanket basis covering all of the Contractor's employees with a minimum amount of insurance at least equal to the amount of the contract. The policy shall be endorsed to cover "Third-Party Liability" including a third-party beneficiary clause in favor of the Board. The policy shall include a minimum twelve (12) month "Discovery Period" when written on a Loss Sustained basis.

Property. The Tenant or Lessee, shall agree to maintain property insurance including flood and windstorm written on a replacement cost basis in an amount not less than 100% of the replacement cost of the building(s) and contents, including betterments and improvements made by the Tenant or Lessee, located on the premises. Contractor shall agree to be fully responsible for any deductible or self-insured retention, and to provide this coverage on primary basis.

Umbrella or Excess Liability. Contractor may satisfy the minimum liability limits required above under an Umbrella or Excess Liability policy with \$1,000,000 per occurrence and \$2,000,000 aggregate. If Contractor is using its Umbrella or Excess Liability Insurance policy to satisfy the minimum requirements, Contractor shall agree to endorse the Board of Water Supply, County of Kaua'i as "Additional Insured" on the Umbrella or Excess Liability policy, or shall confirm in writing that its Umbrella or Excess Liability policy "follows form."