



REQUEST FOR PROPOSAL

PURCHASE, DESIGN AND INSTALLATION OF UV AND LED DISPLAYS FOR THE FILCOM CENTER Funded by the City and County of Honolulu Grants-In-Aid (GIA)

Project Specs

Clear Acrylic Display (5-sided cover with back piece)

5-Sided Covers: 1/4" x 36" x 24" x 5", E-3
Back Piece: Clear 1/4" x 23½" x 35½", E-3

Digital Display

Size: 32" Class (31.6" diagonal) TFT LCD	Built in Speakers: 5W+5W
Pixel Pitch: 0.364 x 0.364 mm	Mounting: VESA (4 points), 200 mm pitch, M6 screw
Max Brightness: 400 cd/m ²	Power Consumption: 69 W
Active Screen Area: 27½" x 15 7/16"	Dimensions (display only): 28½" x 2 3/16" x 16 11/16"
Response Time: 10 ms (grey to grey, avg.)	Weight (approx): 13.2 lbs
Backlight: LED, full array	

1.0 NOTICE OF REQUEST FOR PROPOSAL

The Filipino Community Center, Inc. ("FilCom Center") is requesting proposals from interested and qualified contractors for the Purchase, Design and Installation of UV and LED Displays at the FilCom Center to provide an opportunity to blend strategic direction, culture and guest experiences. These display cases will protect and present various materials and media important to the Filipino community.

Proposals shall be received no later than 5:00 p.m., HST, September 29, Friday, in the office of:

The Filipino Community Center, Inc.
94-428 Mokuola Street, Suite 302
Waipahu, Hawaii 96797

Proposals after the deadline will not be considered. Before any prospective Offeror shall be entitled to submit a Proposal, the Offeror must, wherein applicable, comply with the provisions of Section 103-55, HRS, regulating wages and hours and working conditions of employees of contractors supplying services to governmental agencies. Accordingly, an Offeror shall complete the wage certificate for service contracts as provided in the State of Hawaii regulations (Schedule F).

The FilCom Center Executive Director reserves the right to cancel this Request for Proposal and to reject any proposal, in whole or in part, when in the best interest of FilCom.

This Request for Proposal shall be governed by the requirements of HRS, Chapter 103D and the respective Hawaii Administrative Rules. Copies **must** be obtained from the FilCom Center office or downloaded from its website at www.filcom.org.

Franz D. Juan
Executive Director, FilCom Center

SCHEDULE "F"

WAGE CERTIFICATE

For Service Contracts

To: Executive Director, FilCom Center

Subject: **Request for Proposal**

Description of Project: **Purchase, Design and Installation of UV and LED Displays for the FilCom Center**

(Offeror to complete and submit with bid or proposal)

Pursuant to **Section 103-55 Wages, Hours, and Working Conditions of Employees of Contractors Performing Services, H.R.S.**, I hereby certify that if awarded the contract in excess of \$25,000, the services to be performed will be performed under the following conditions:

1. The services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to public officers and employees for similar work.
2. All applicable laws of the Federal and State governments relating to workmen's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

Offeror: _____

By: _____

Title: _____

Date: _____

2.0 GENERAL INFORMATION

(General Advisory: HRS 11-205.5 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS. Contractors are hereby notified of the applicability of Section 11-205.5, HRS, which states that campaign contributions are prohibited from specified State or County government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.

Questions regarding this statute should be directed to:

State of Hawaii
Campaign Spending Commission
235 S. Beretania Street, Room 300
Honolulu, HI 96813

Phone: (808) 586-0285; Fax (808) 586-0288
Webpage: www.hawaii.gov/campaign

2.1 Project Title: RFP for Purchase, Design and Installation of UV and LED Displays for the FilCom Center

2.2 Requesting Organization: FilCom Center

2.2.1 Contact Person: Franz D. Juan, Executive Director

2.3 Authority

This Request for Proposals (RFP) is issued under the provisions of the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes. All prospective Offerors are charged with the presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any prospective Offeror shall constitute admission of such knowledge.

2.4 Introduction and Project Overview

To provide an opportunity to blend strategic direction, culture and guest experiences. These display cases will protect and present various materials and media important to the Filipino community and community at large.

2.5 Pre-proposal Meeting

An optional pre-proposal meeting and site visitation will be held on September 26, 2017, Wednesday, at 10:30 a.m., at the FilCom Center. The purpose of this meeting is to explain the FilCom Center's expectations to Offerors, respond to Offerors' questions regarding the RFP, scope of work, proposal procedures, and other administrative matters.

2.6 Site Visitations

Interested Offerors may also visit the Subject Facility by contacting the FilCom Center at (808) 680-0451 for an appointment. It will be the Offeror's sole responsibility to familiarize themselves with the Subject Facility. The FilCom Center encourages Offerors to participate in the site visit to acquaint themselves with the facility.

2.7 Procurement Timetable/Significant Dates

The following is a **preliminary** schedule of significant dates that the FilCom Center has projected. All times are Hawaii Standard Time (HST).

Issue RFP (Website)..... 09/18/2017
PROPOSAL DUE DATE..... 09/29/2017
Tentative Award Date..... 10/02/2017
Completion of UV and LED Displays Installation..... November 30, 2017

2.8 Definitions

"ADDENDA" means written instruments that modify or interpret the Request for Proposal.

"AMENDMENT" means changes in the request for proposals by written addendum, or a contract modification.

"CONTRACTOR" means an Offeror or proposer that is awarded the PV contract.

"OFFICER-IN-CHARGE" is the Executive Director of the FilCom Center.

"OFFER" means proposal.

"OFFEROR" means any individual, contractors, partnership, firm, corporation, joint venture or other legal entity, submitting directly or through a duly authorized representative or agent, an offer for the services contemplated in the response to this solicitation.

"PRIORITY LISTED OFFEROR" Offerors whose proposals are deemed acceptable and are being asked to provide their best and final offer.

"PROPOSAL" means the executed document submitted by an Offeror in response to a request for proposal.

"PROPOSAL DUE DATE" means receipt of a document at or before 4:30 p.m., on the date specified in the Request for Proposal, as evidenced by the date-time stamp used by the FilCom Center.

"RFP" means Request for Proposal and includes all documents, whether attached or incorporated by reference, utilized for soliciting proposals under the competitive sealed proposal source of selection method.

"SUBJECT FACILITY" refers to The FilCom Center located in 94-428 Mokuola Street, Waipahu, Island of Oahu, State of Hawaii.

2.9 Tax Clearance.

As a prerequisite to contract and as a requirement for final payment, a tax clearance is required from the State of Hawaii, Director of Taxation and the Internal Revenue Service stating that all tax returns due have been filed, and all taxes, interest, penalties levied or accrued under the provisions of Title 14 that are administered by the Department of Taxation and under the Internal Revenue Code against the Contractor have been paid, together with the contract signed by the bidder to FilCom. (HRS 103D-328, as amended).

The tax clearance certificate is valid for six (6) months from the most recent approval stamp date on the certificate and must be valid on the date it is received by FilCom.

2.10 Proof of Compliance and Good Standing Certificates.

As a prerequisite to contract, in addition to the Tax Clearance referred to in the preceding paragraph, a Certificate of Compliance is required from the State Department of Labor and Industrial Relations, and a Certificate of Good Standing is required from the State Department of Commerce and Consumer Affairs.

Further, in addition to the tax clearance for final payment referred to in the preceding paragraph, a Certification of Compliance from the contractor is also required for final payment. (See Attachment 6, Schedule G-1, Contractor's Certification of Compliance) Note: This provision may not apply if there is no final payment to the Contractor in the negotiated contract.

2.11 Modifications or Changes Affecting the Proposer, or the Proposal Content or Representations after the Deadline for Submission of Proposals.

Any actions or modifications which are caused by, but is not limited to, forces of nature, changes in law,

rules, regulations, or economic conditions or situations that affect the Proposer, either directly or indirectly, and which are cause for or affect the content or representation(s) made in the Proposal submitted may be reason for the Proposal to be rejected.

2.12 Document Distribution List for Addendum, etc.

Prospective persons or entities interested in responding to this Request for Proposal shall be responsible for notifying the FilCom Center to place their respective name, address, and phone/fax number in the Request for Proposal file for purposes of receiving any addendum or communications regarding the project. This process is normally completed upon application for the Request for Proposal document. However, it should be noted that Request for Proposal documents have been distributed to persons not listed on the document distribution list. In those cases, persons not on the document distribution list will not receive, if issued, an addendum or clarification memorandum, which may be cause for their proposal to be rejected as unacceptable.

2.13 Special Provisions and General Terms and Conditions

The Special Provisions and General Terms and Conditions that are attached to this Request for Proposal shall be considered an integral part of this Request for Proposal and the subsequent contract.

3.0 INSTRUCTIONS TO PROPOSERS

3.1 Submittal Format

Package your proposals in 3-ring binder format, one original and five (5) copies. All proposals shall be printed on one side of an 8.5 x 11 inch paper. All pages shall be numbered and include a table of contents. Identify major sections of the proposals with "tabs." Failure to follow directions and to provide requested information in the requested format may cause a proposal to be rejected or result in a low evaluation score. Unnecessarily elaborate or bulky proposals are discouraged. The FilCom Center prefers that proposals be not more than 5 pages, with any supporting information added as appendices and identified by "tabs." The FilCom Center prefers proposals which are complete and thorough, but which are also concise and limited to relevant material. Do not email or fax your proposal.

3.2 Extension of Time for Acceptance of Offer

The Executive Director may request Offerors to extend the time during which the FilCom Center may accept their offers. The reasons for requesting such extension shall be documented.

3.3 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 that 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 an Offeror submits a proposal, it shall be considered a complete plan for accomplishing the tasks described herein and any supplemental tasks the Offeror 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.

3.3.1 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 and stating the type of entity for the Offeror and

any joint Offeror or subcontractor (i.e., corporation, limited liability company, partnership, sole proprietor, etc.);

- b) A statement 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 Hawaii and will obtain a State of Hawaii 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 the Offeror has read and understood the requirements of the RFP and related documents and that all addenda (state number of addenda received) to this Request for Proposal have been received by the Offeror. If no addenda have been received, a statement to that effect should be included;
- e) A statement that the Offeror's proposal shall remain valid for **sixty (60)** calendar days after the proposal due date or the deadline for submission of best and final offers, whichever is later, and when applicable. During said period, withdrawal of proposals will not be allowed, unless permitted by law.

3.3.2 Nondisclosure

An Offeror responding to a request for proposal shall request in writing nondisclosure of designated trade secrets or other proprietary data to be kept 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.*

3.3.3 Project Team and Qualifications

Provide a description of Offeror's qualifications, including:

- a) Resumes of principals, and key personnel assigned to this Request for Proposal.
- b) Name the team member who will be the lead negotiator and will sign all agreements with the FilCom Center.
- c) Provide contact information for all team members.

3.3.4. Narrative Discussion of the Technical Plan, Strategies, and Methodologies

Offerors are encouraged to offer creative alternatives. See Scope of Work and Evaluation Criteria below for the specific topics that should be discussed in the narrative.

3.3.5. Services To Be Provided/Savings to FilCom

Provide a narrative discussion of services to be provided by the Offeror, either directly or indirectly through affiliated offices and/or otherwise. See Scope of Work and Evaluation Criteria below.

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

Project Schedule. Provide a project schedule of key milestones that include, at a minimum: site preparation; installation; commissioning; and final date of formal operations. The FilCom Center desires an operational UV and LED Displays by November 30, 2017.

3.4 Inquiries

All questions and request for clarifications regarding this solicitation shall be done no later than September 22, 2017 by email or call.

3.5 Addenda

Addenda shall be issued in writing and shall be sent to prospective Offerors who requested a Request for Proposal Document and whose names and addresses are shown on the register of proposals maintained by the FilCom Center. Addenda issued for best and final offers shall be sent to Priority Listed Offerors only.

3.6 Submission of Proposals

1) Place of Submission of Proposals. A Notice of the Request for Proposal will be publicized in the FilCom website, <http://www.filcom.org>. Proposals shall be delivered to the following address on or before the due date specified in the Notice:

The Filipino Community Center, Inc.
94-428 Mokuola Street, Suite 302
Waipahu, Hawaii 96797

2) Proposals shall not be submitted by telephone or by use of a facsimile transmission, telex, telegraph or other forms of electronic communication. Any such proposals shall be rejected.

3.7 Proposal Submittal Package

Proposals shall be submitted in a sealed envelope. An original and three (3) copies are required. The original shall be clearly marked "ORIGINAL" and shall be signed in ink by a person with authority to commit the Offeror. **Evidence of the signor's authority to sign (corporate resolution, partnership agreement, articles of organization, operating agreement, etc.) the Proposal is required and must be submitted with the Proposal document.** The proposal shall:

- a) Be submitted in a sealed envelope, clearly marked with the title of the Proposal.
- b) Indicate the name, address, telephone and fax number of the Offeror.

Trade secrets or other proprietary data that the Offeror does not want to be subject to public inspection shall **be submitted at the sole risk of the bidder and without any liability to the FilCom Center; be readily separable** from the proposal; and be accompanied with a written request for nondisclosure of designated **confidential** information. Disclosure or nondisclosure by the FilCom Center of confidential material shall be governed by HRS, Chapter 92F. Confidential data is normally restricted to financial information concerning the Offeror's organization and data that qualifies as trade secret in accordance with the Uniform Trade Secrets Act (57-3A-1 to 57-3A-7, NMSA 1978). The price of products offered or the cost of services proposed may not be designated as confidential information.

3.8 No Reimbursement

Proposals prepared in response to this RFP shall be prepared at the sole cost and expense of the Proposer. The FilCom Center shall not provide any reimbursement for the cost of developing or presenting proposals in response to this request for proposal. All Proposals shall become the property of the FilCom Center upon submission.

3.9 Multiple or Alternate Proposals

Multiple or alternate proposals shall not be accepted. Each Offeror shall submit one primary offer.

3.10 Proposal Due Date and Opening

Proposals are due by the date, time, and at the location designated in the Notice. Proposals received earlier will be time-stamped and dated, and held unopened. Envelopes that are not time-stamped or which are time-stamped after the specified proposal due date and time shall be rejected and shall be returned to the Offeror unopened.

The time imprinted by the time stamp machine at FilCom Center shall be considered the "official time" the proposal was received.

Proposals shall **not be opened publicly**, but shall be opened in the presence of the RFP evaluation committee. The contract file shall be available for public inspection **after posting of an award**, except for those portions of the proposal for which an Offeror has made a written request for confidentiality. The contract file shall include, but is not limited to the following:

1. The register of proposals prepared pursuant to HAR 3-122-51;
2. A listing of all vendors to whom copies of the Request for Proposal were distributed;
3. Name of successful Offeror and dollar amount of offer;
4. The basis on which the award was made, including names of the persons conducting the evaluation;
5. A copy of the Request for Proposal;
6. A copy of the successful Offeror's proposal;
7. A copy of all unsuccessful Offerors' proposals; and
8. A copy of the executed contract resulting from the Request for Proposal.

3.11 Scope of Work

3.11.1 General Requirements. The FilCom Center invites interested Offerors to submit proposals to design, purchase and install UV and LED Displays at the FilCom Center. One Contractor will be selected through this competitive sealed proposal procurement process and a contract will be negotiated and executed, based on the following scope of work.

3.11.2 Drawings. Once a Contractor has been selected via the RFP process, the Contractor, at a minimum shall prepare detailed drawings of the proposed UV and LED Display cases for the FilCom Center's evaluation committee's review and approval.

3.11.3 Integrator Relationship. The proposal may list at least one subcontractor that the awarded Contractor has arrangements with to perform the installation. Provide information describing the subcontractor's ability to perform installations at this scale and on a time-frame consistent with November 30, 2017 completion.

3.11.4 Warranties and Guarantees. The FilCom Center requires new and efficient equipment and requests that the Contractor provide proof of applicable warranties. Any mounting system that requires penetration of the existing building shall require a minimum 40-year building penetration warranty per a licensed contractor. Offerors shall provide at least one (1) year of service/maintenance; additional years of maintenance and warranty that the Offerors will propose will be a plus factor in the evaluation of proposals and shall clearly describe warranties for their equipment.

3.11.5 Contracts Negotiated Between Parties. A contract will be negotiated between the parties and approved by the Executive Director of the FilCom Center as part of this solicitation.

3.11.6 Compliance with Applicable Laws. The Contractor (and any subcontractors) selected must comply with all applicable laws, regulations and rules of the Federal, State and City governments including the provisions of Chapter 104 of the Hawaii Revised Statutes relating to wages and hours of employees on public works projects, which in any manner affect the contract and all performance thereof.

3.12 Minimum Qualifications

An Offeror who is interested in responding to this RFP must meet the following minimum qualifications to be considered for an award. Joint ventures or combination of firms responding to this RFP will be evaluated with respect to their combined qualifications.

- a) Offerors must have all licenses and certifications to do business in Hawaii, including but not necessarily limited to a contractor license.
- b) Offerors shall have a minimum of two (2) years of experience in designing and installing UV and LED Display cases.

3.13 Minimum Requirements

The following are the minimum requirements that all proposals must address and contain in order to be considered for an award:

- Ability to provide performance and payment bonds during construction; and
- Liability insurance for the contract period and for any additional extensions.

3.14 Price Requirements

Offerors must substantiate all detailed pricing calculations of their proposal to the satisfaction of the FilCom Center.

3.15 Selection, Award, and Non-selected Offerors

3.15.1 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.

Unacceptable proposals shall be rejected. Acceptable and potentially acceptable proposals shall be eligible for the Priority List.

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 FilCom Center with the best value taking into consideration price and the evaluation factors set forth herein.

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 will provide the best value to the FilCom Center, taking into consideration the evaluation criteria set forth in this Request for Proposals.

Addenda may be issued to clarify or modify the Request for Proposals and shall be distributed only to Priority List Offerors.

Should best and final offers be deemed necessary, the Executive Director shall establish a date and time for the Priority List 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.

3.15.2 Award. Award shall be made in writing to the responsible Offeror whose proposal is

determined in writing to be the most advantageous to the FilCom Center taking into consideration 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 FilCom Center.

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. (See Attached Schedule G and G-1)

3.15.3 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 or members of his/her team.

An evaluation panel shall review and evaluate all proposals timely received. The criteria to be used to evaluate each proposal shall consist but not limited to the following:

A. TECHNICAL CAPABILITY AND APPROACH FOR MEETING PERFORMANCE REQUIREMENTS (35 points max.)

The Offeror shall describe their proposed project approach. The proposal shall include at a minimum the following:

1) The proposed technical drawings for the UV and LED Display cases. Describe the main features of the design that the Contractor proposes to implement. Give the justification for the selection of the main design aspects of the UV and LED Display cases, including installation. The preliminary design may be subject to change, but should indicate the Contractor's best estimate; and

2) Discuss the proposed project schedule and installation plan to ensure timely completion of the project and minimal disruption of normal FilCom Center operations. Describe your plan to ensure effective communications with appropriate FilCom Center personnel during installation and the subsequent period of system operation. Describe the hours of work and how installation will be coordinated to minimize disturbance to FilCom Center employees, tenants and the public.

Proposed Schedule: Provide a schedule of the major steps in the development of the project. Include at least the following milestones: (a) completion of the preliminary project design; (b) completion of the detailed project design and pre-installation activities; (c) completion of project; (d) completion of project testing; and e) project acceptance.

This project will require a local representative to service and maintain the equipment and to respond to any trouble calls for at minimum of one (1) year; more years that the Offerors will proposed will be a plus factor in the evaluation of proposals. Offerors shall provide local contact information with qualification information and the time frame (e.g. within 24 hours) in which calls for service will be addressed.

3) Offerors shall submit a minimum of three recent (within past five years) client references, including client name, title, address, contact name, current telephone number and current e-mail address. The information noted in the Past Project Experience can be used as references with the proper contact information as specified. Offerors understand that providing the contact information gives the FilCom Center permission to contact these references directly.

4) Offerors shall clearly describe the equipment/material used and related warranties (for at least one year; more years that the Offerors will proposed will be a plus factor in the evaluation of proposals) and provide documentation from equipment/material vendors. FilCom Center expects the equipment/material and hardware to be new.

5) Any other information that demonstrates Offeror's abilities in planning, designing and installing same projects of similar size.

**B. PROJECT ORGANIZATION, STAFFING AND EXPERIENCE
(30 points max.)**

This section shall include the Offeror and each subcontractor (include maintenance and service contractor also); the background of the company; its size and resources; details of specific experience; financial statements; and a list of other current or related projects. This section shall also include:

1) The project organization chart, showing the chain of authority and responsibility of Offeror's project personnel.

2) A description of key personnel, indicating their major areas of responsibility and location, with proposed estimates of the hours to be provided by each individual.

3) Resumes of each key person, which highlight experience on specific projects that are similar to this project. This section shall describe the qualifications of project team members and their experience in designing, constructing and installing UV and LED Display cases in Hawaii and the United States;

4) Availability of adequate staff and resources to complete the project on schedule and to provide required operation and maintenance services on Oahu, over the term of the contract;

5) If subcontractors are used, the information required for the Offeror must also be provided for the subcontractor;

6) Past Project Experience. Proposals shall include a brief description of past projects that are similar in nature to that which will result from this RFP. See Minimum Qualifications. The description for each project should include:

- Project name;
- Location;
- Project size (total cost and project capacity);
- Project type
- Year completed;
- Name of project manager;
- Name of client with contact information;
- Brief physical description of the project; and
- A brief description of any specific challenges that were overcome.

7) Litigation. Indicate whether the proposer or any other team member or any officers or principals have been party to any lawsuits involving the performance of any projects, and provide a summary of the issues and status of the lawsuits.

C. BENEFITS TO FILCOM (35 points max.)

1) Provide detailed breakdown of the total project cost that will benefit FilCom Center; and

2) It will be the Offerors' responsibility to describe the financial benefits in the simplest and clearest manner possible for the evaluators.

3.15.4 Non-selected Offerors and Debriefing. Non-selected Offerors will be given a copy of

the written notice of award by mail and which will also be posted on the website. Non-selected Offerors may submit a written request for debriefing to the Executive Director, or designee, within three (3) working days after posting of an award. Thereafter, the Executive Director or designee shall provide a debriefing, to the maximum extent practicable, within seven (7) working days. A written protest may be filed with the Executive Director, or designee, within (5) working days after the debriefing.

4.0 SPECIAL PROVISIONS

4.1 Precedence

In the event of any conflict or contradiction between the requirements of the General Terms and Conditions and these Special Provisions, the Special Provisions shall have precedence over the General Terms and Conditions.

4.2 Timely Submission of all Certificates

All required certificates should be applied for and submitted to the FilCom Center by the due date. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

4.3 Proprietary Information

Any information deemed proprietary in nature should be clearly marked "proprietary" by the Offeror. Failure to designate proprietary information will subject the Offeror's proposal to full disclosure and public inspection.

4.4 Hazardous Materials

Hazardous Materials shall include, without limitation, substances defined or classified as "hazardous substances", "hazardous waste", or "toxic substances" under federal, state, or local law, statute, regulation, or ordinance (collectively "Hazardous Materials"). The Contractor shall fully comply with all federal, State of Hawaii, 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. OFFERORS 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 AND COMPENSATION WILL NOT BE ALLOWED ON ACCOUNT OF HAZARDOUS MATERIALS.

Contractor 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.

4.5 Laws and Regulations

The Contractor shall keep himself/herself fully informed of all laws, ordinances, codes, rules and regulations, governmental general and development plans, setback limitations, rights of way, and all changes thereto, which in any manner affect the contract and all performance thereof.

The Contractor shall comply with all such present laws, ordinances, codes, rules, regulations, design standards and criteria, governmental general and development plans, setback limitations, rights-of-way, including the giving of all notices necessary and incident to proper and lawful prosecution of the work, and all changes thereto. If any discrepancy or inconsistency is discovered between the contract and any such law, ordinance, code, rule, regulation, design standard, design criterion, governmental general and development plans, setback limitation, or rights-of-way, the Contractor shall forthwith report the same in writing to the Executive Director.

4.6 Termination Rights, FilCom Center:

The FilCom Center shall have the right to terminate the Agreement at any time on thirty (30) days written notice to Contractor, without further liability, if any of the following occur:

- a) If Contractor files or is adjudged bankrupt fails to demonstrate the ability to perform under the Agreement following the filing or adjudication of a bankruptcy proceeding; or
- b) Upon an Event of Default by Contractor (as defined below).

4.7 Termination for Convenience, FilCom Center:

In addition to the termination rights above, the FilCom Center may terminate this Agreement for convenience, subject to sixty (60) days written notice to Contractor. In the event that FilCom Center terminates this Agreement for convenience pursuant to this section, FilCom Center shall pay Contractor a Termination Fee.

4.8 Event of Default, Contractor:

The following may be considered an Event of Default by Contractor at the option of the FilCom Center as the non-defaulting party:

- a) Contractor's failure to operate the System for a continuous period of sixty (60) days or for ninety (90) days in any six month period. FilCom Center shall have the right to demand an explanation of any continuous periods of non-operation in excess of thirty days in order to assess the nature and cause of the failure to operate;
- b) Unreasonable interference by Contractor with the operations of FilCom Center at the Facility, if the interference is curable by suspension of operation of the System and Contractor fails to suspend operation of the System within 48 hours of the FilCom Center's notice to Contractor regarding the interference without good cause, as determined by the FilCom Center;
- c) For terms other than those listed in a. and b. above, failure by Contractor to perform or comply with any material term of the Agreement or the License Agreement within sixty (60) days of written notice by the FilCom Center, unless FilCom Center agrees to a longer period to cure the default.

4.9 Event of Default, FilCom Center:

The following may be considered an Event of Default by the FilCom Center at the option of Contractor as the non-defaulting party:

- a) FilCom Center's failure to pay undisputed invoices for a continuous period of 180 or more days, except when such failure is a direct result of a "budget non-appropriation event".

4.10 FilCom Center Remedies:

If Contractor causes an Event of Default, the FilCom Center shall have the right to terminate the agreement by providing written notice to Contractor indicating that the agreement has been terminated and requesting that the System be removed and the Facility restored to the pre-installation condition subject to ordinary wear and tear. If the Contractor fails to remove the system and restore the Facility within forty-five (45) days of notice by FilCom Center, the FilCom Center may consider the system abandoned and may remove the system and any other property owned by the Contractor from the Facility and dispose of Contractor's property in any manner within FilCom Center's discretion. In addition, the FilCom Center may also recover from Contractor any reasonable expenses incurred as a result of Contractor's Default, including repair of the Facility to pre-installation condition. The FilCom Center's remedies shall also include, but not be limited to, the right by the FilCom Center to offset any damages resulting from Contractor's default against any monies owing or to be owed to Contractor under this Agreement. If the FilCom Center elects not to terminate the Agreement following an Event of Default by Contractor, this election shall not constitute a waiver by the FilCom Center as to any subsequent Event of Default by Contractor.

4.11 Contractor Remedies/Termination Fee:

If the FilCom Center causes an Event of Default, Contractor shall have the right to a Termination Fee in the form of Liquidated Damages. For purposes of this Agreement, parties agree that Contractor's

Liquidated Damages shall be calculated by multiplying the Net Installed Price of the System by a factor, the numerator being the full term of the agreement (in months) minus the current month of the agreement and the denominator being the full term of the agreement (in months). For purposes of this Liquidated Damages calculation, parties agree that the Net Installed Price is the full cost of the System, less any incentives or rebates received retained by Contractor. The Net Installed Price shall be confirmed by the calculations provided by the Contractor and approved by the Executive Director of the FilCom Center. Contractor shall provide the FilCom Center with documentation to verify the approved project cost and incentive amount. Parties also agree that if the FilCom Center causes an Event of Default (under Event of Default, FilCom, above) or Termination for Convenience within the first 12 months of the agreement, Liquidated Damages shall also include payment by the FilCom Center to Contractor of any rebates, tax credits or incentives which Contractor can demonstrate are lost or must be repaid by Contractor, or penalties accruing to Contractor as a direct result of the FilCom Center's Default or Termination within the first 12 months of the Agreement. Parties acknowledge and agree that in the Event of Default by FilCom Center of this Agreement, Contractor's damages would be difficult or impossible to compute and that this Liquidated Damages provision represents the reasonable estimate of such damages established by the parties in good faith consideration of the facts and circumstances surrounding the transactions contemplated by this Agreement as of the effective date. Parties have initiated this Section "Contractor Remedies" to establish their intent so to liquidate damages.

4.12 Limitation on Remedies:

For purposes of this Agreement, Contractor hereby accepts the Facility in an "As-Is" condition and acknowledges that the FilCom Center has not made any statements or representations or warranties regarding the Facility, and Contractor is not relying upon any statement or representation or warranty of the FilCom Center, the State or any third party regarding the Facility as to the fitness of the Facility for any particular use of the Contractor or any other matter. The FilCom Center hereby expressly disclaim and Contractor hereby waives all implied warranties, including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligator's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. If no remedy or measure of damages is expressly provided in the Agreement or in a transaction, the obligator's liability shall be limited to direct actual damages only, such direct actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived. Unless expressly provided in the Agreement, neither party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract or otherwise.

4.13 Insurance Requirements

The Contractor shall procure and maintain for the duration of the contract, insurance 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.

With the exception of Worker's Compensation and Employer's Liability insurance, the FilCom Center, **its officers, officials, employees, and volunteers** shall be added as an additional insured with respect to the work contracted for herein, and the Contractor shall submit proof of the insurance coverage(s) by providing to the FilCom a certificate of insurance prior to the commencement of the work.

The insurance policies required herein shall not be cancelled, limited in scope of coverage, or non-renewed by the contractor on the applicable policies during the contract period. Provided, should any policy required herein be canceled and not immediately replaced, the FilCom Center, in addition to other remedies, reserves the right to procure the canceled insurance and deduct the cost thereof from any money due to the Contractor.

a). **Minimum Insurance Coverage Requirements.** Unless otherwise approved by the President, 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 Hawaii and rated A- VII by A.M. Best. The minimum liability limits of liability may be provided by a combination of primary and Umbrella or Excess Liability policies.

(1) Commercial General Liability. Commercial General Liability insurance written by a carrier authorized to do business in the State of Hawaii on an "occurrence" form to include coverage for:

- 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;
- Explosion, Collapse and Underground Property Damage; and
- Severability of Interest

The minimum acceptable limits of liability for such coverage shall be:

- (a) Bodily Injury and Property Damage Combined Single Limit:**
\$1,000,000 per occurrence;
\$1,000,000 general aggregate applying per project;
- (b) Personal & Advertisers Injury:**
\$1,000,000 limit per person or organization.
\$1,000,000 aggregate; and
- (c) Products/Completed Operations:**
\$1,000,000 per occurrence; and
\$1,000,000 aggregate.

Products and Completed Operations coverage protecting the Contractor and Subcontractor must be carried for three (3) years after substantial completion of the Project. Evidence of this insurance will continue to be provided on an annual basis to the FilCom Center.

(2) Automobile Liability. The Contractor shall provide Automobile Liability coverage from a carrier admitted to do business in the State of Hawaii for all owned, non-owned, and hired autos. The coverage maintained will be in compliance with Hawaii law. The minimum acceptable limits are:

- (a) Bodily Injury** \$1,000,000 per person
 \$1,000,000 per occurrence; and
- (b) Property Damage** \$1,000,000 per accident

(3) Worker's Compensation and Employer's Liability. The Contractor shall, at no cost to the FilCom Center, procure and maintain, in full force and effect, at all times during the Contract term Worker's Compensation, Temporary Disability, and other similar insurance that is required by the State of Hawaii or Federal laws. Coverage will be secured from a carrier admitted to do business in the State of Hawaii:

Self-insurance is permitted but is subject to submission of a copy of the appropriate governmental authorization and qualification by the Contractor and Subcontractor. The minimum limits of liability to be maintained are as follows and the Contractor shall request a waiver of subrogation in favor of the FilCom Center.

(a) **Coverage A: State of Hawaii Workers' Compensation**
Law: Statutory

(b) **Coverage B: Employers Liability:**

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

(4) Builder's Risk Insurance. The Contractor shall procure Builder's Risk coverage on an "all risk" basis on a completed value basis for the project, naming the FilCom Center as an additional insured and loss payee. 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, including Hurricane, theft, vandalism, malicious mischief, flood and collapse. The amount of insurance for the peril of flood maybe less than the full replacement cost and subject to a sub-limit. 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.

(5) Other Insurance Provisions

(a) For any claims related to this Contract, the Contractor's insurance coverage shall be primary insurance as respects to the FilCom Center, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the FilCom Center, its officers, officials, employees, and volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

(b) The submission of insurance documentation to and acceptance by the FilCom Center which does not meet the requirements herein shall not be considered a waiver of the contractor's obligations or the FilCom Center's rights under the terms of this contract.