

HAWAIIAN ELECTRIC COMPANY, INC.



REQUEST FOR PROPOSALS

**BIODIESEL SUPPLY CONTRACT
CIP CT-1
(OPERATIONAL VOLUME)**

AUGUST 14, 2009



REQUEST FOR PROPOSALS

Hawaiian Electric Company, Inc. (HECO) hereby requests proposals for the supply and delivery of 3 million to 7 million gallons of biodiesel per year for a term of two years to be used as fuel for power generation at HECO's new generating unit (CT-1) located in HECO's Barbers Point Tank Farm site in Campbell Estate Industrial Park (CIP), Kapolei, Oahu, Hawaii ("HECO CIP Facility"). HECO requests that responsive proposals be submitted to HECO by September 30, 2009 consistent with the requirements set forth herein.

TIME IS OF THE ESSENCE. HECO intends to award a contract for the desired biodiesel and submit the contract for approval to the Hawaii State Public Utilities Commission (Commission) in the shortest time possible. Specifically, HECO desires to submit a proposed contract to the Commission by no later than November 20, 2009. Bids that for any reason will not allow HECO to meet its desired time objectives will likely be rejected.

PROPRIETARY RIGHTS IN RFP

This RFP has been prepared exclusively by and for HECO. All recipients of this document shall consider and treat the information contained within as proprietary in nature. HECO reserves all copyrights for this document and its constituent parts and prohibits any unauthorized use or reproduction hereof.

RFP DOCUMENTS

This RFP includes and incorporates the following attached documents:

Attachment A:	Site Location
Attachment B:	Biodiesel Specifications
Attachment C:	Pricing Formula
Attachment D:	Contract Form
Attachment E:	Questionnaire
Attachment F:	HECO/NRDC Environmental Policy

BIODIESEL SUPPLY SUMMARY

HECO is a regulated public utility engaged in the production, transmission, distribution and sale of electricity on the island of Oahu, State of Hawaii. HECO seeks a reliable and secure supply of biodiesel to use as fuel to generate electricity with its new generating unit (CT-1) located in Campbell Estate Industrial Park (CIP), Kapolei, Oahu, Hawaii ("HECO CIP Facility").

RFP OBJECTIVE

The purpose of this RFP is to enable HECO to evaluate potential biodiesel suppliers and ultimately select and contract with a supplier (Selected Supplier) to provide a reliable and secure supply of biodiesel for power generation with HECO's new generating unit (CT-1). HECO's selection of the Selected Supplier will be based on a number of factors, including, without limitation, price, value, timeliness of supply, technical considerations, warranty, terms



and conditions of supply, risk allocation, source and type of biodiesel feedstock, feedstock sustainability, supplier experience, financial condition, other business and operations, and demonstrated ability to perform, delivery means and methods and product quality.

SPECIFICATIONS AND REQUIREMENTS

Timing: HECO desires the biodiesel to be available for delivery within the shortest time possible once the Supply Contract is approved by the State of Hawaii Public Utilities Commission (Commission). Supplier shall specify the maximum time needed to provide the biodiesel to HECO's CIP Facility once given a delivery order from HECO.

Biodiesel specifications: The specifications for the biodiesel being solicited are set forth in Attachment B.

Biodiesel Volume: 3 million to 7 million gallons during each rolling twelve (12) months of the two year Contract Term.

Contract Term: two (2) years to begin upon Contract Effective Date.

Point of Delivery: HECO CIP Facility Fuel Delivery Receiving Truck Manifold, Kapolei, Hawaii, USA
See Attachment A.

Commercial Terms and Conditions:

Pricing: Bidders must propose a price per gallon using the pricing formula set forth in Attachment C. Failure to do so may prevent HECO from quickly comparing price among bids and therefore may result in rejection. Bidders may also propose one or more additional pricing methods provided that any pricing method shall produce a price per gallon delivered, shall be explained in detail and shall identify and define each and every pricing component.

Feedstock/environmental sustainability: Bids should propose to supply biodiesel that complies with the *Environmental Policy For The Hawaiian Electric Company's Procurement Of Biofuel From Palm Oil And Locally Grown Feedstocks* (prepared by HECO and NRDC, dated August 2007), a copy of which is attached hereto as Attachment F. Bidders' proposals should explain specifically how the Bidder will comply with that policy. Bidders may also propose an alternative source of feedstock (such as yellow grease, soy, canola, etc.), provided that the Bidder shall demonstrate feedstock cultivation practices that meet sustainable environmental standards endorsed by an independent governing body and provided that the potential supplier shall maintain a clear, documented and verifiable chain of custody for all feedstocks.

Blender Credit: Proposals should include a price per gallon (1) for B100 biodiesel, and alternatively (2) for B99.9 biodiesel (0.1% petroleum diesel blend).

Contract: HECO and the Selected Supplier will execute a biodiesel supply contract ("the Contract"). The proposed form of the Contract (Proposed Contract) is attached hereto as Attachment D. The Selected Supplier's pricing will be incorporated into the Contract.



Bidders may propose specific revisions to the terms of the Proposed Contract. **However, the type, nature and extensiveness of exceptions taken to the terms of the Proposed Contract will be weighed in the selection process. Exceptions that may appear to prevent HECO from executing the Contract in a timely manner may cause a bid to be rejected.**

Commission Approval: The Contract will be submitted to the Commission for approval. Commission approval will be a condition to the full effectiveness of the Contract. If the Commission denies HECO's request to approve the Contract or approves the Contract on conditions deemed by HECO to be unacceptable, as determined in HECO's sole and absolute discretion, HECO will have the option to immediately terminate the Contract without liability.

Performance Bond or Letter Of Credit: HECO may require the Selected Supplier to provide security for its performance under the Contract via an acceptable performance bond, irrevocable standby or other letter of credit. The purpose of the bond or letter of credit would be to protect HECO from any financial loss in the event that the Selected Supplier cannot perform and HECO is required to obtain the biodiesel from another supplier at increased cost to HECO.

Confidentiality: Only pricing information in Proposals will be considered by HECO to be confidential. HECO shall not be required to treat any other information as confidential. This requirement is necessary so that HECO may file Proposals with the Commission with only pricing information protected from public disclosure. Accordingly, all pricing information should be submitted on separate pages in the Proposal marked confidential (if Bidder deems the pricing information confidential). Any other confidentiality designation by Bidder in its Proposal shall be void.

INSTRUCTIONS FOR SUBMISSION OF PROPOSALS

PROPOSAL REQUIREMENTS, TERMS AND CONDITIONS

1. Additional Definition of Terms and Abbreviations

Bidder: A supplier submitting a Proposal in response to this RFP.

Proposal Due Date: **September 30, 2009.**

Proposal: Bidder's proposal to supply biodiesel as requested in this RFP.



2. Proposals

- 2.1. Bidders shall submit a single Proposal only. Modification of a Proposal is addressed below. The Proposal shall be submitted electronically to meet the proposal due date with an identical hard copy proposal received by HECO no later than seven (7) days after the proposal due date.
- 2.2. The Proposal must be complete; mandatory information identified in section 3, below, must be provided in full.
- 2.3. The hard copy Proposal must be signed and dated by a corporate officer having authority to contractually obligate the Bidder by the terms of the Proposal.
- 2.4. The Proposal must be submitted electronically on or before the Proposal Due Date to the following email address:

biofuelRFP@heco.com

In addition, a hard copy must be delivered to and received by HECO no later than seven days after the Proposal Due Date at the following address:

Hawaiian Electric Company, Inc.
P.O. Box 2750
Honolulu, Hawaii 96840-0001
Attention: Debra Yoshimura, Mailstop WP3-1A

- 2.5. The electronically submitted Proposal is due on or before **3:30 p.m., Hawaii Standard Time**, on the Proposal Due Date. HECO reserves the right to cancel or postpone the Proposal Due Date at any time up to, on, or after the Proposal Due Date.
- 2.6. Date and time of receipt of Proposals will be recorded by HECO. HECO's record of receipt will be deemed controlling in the event of any dispute whatsoever relating to the delivery of a Proposal.
- 2.7. Proposals that are delivered after the Proposal Due Date, or otherwise not in conformity with the requirements of this RFP, may be rejected at HECO's sole discretion and without notice.
- 2.8. Bidders have the sole responsibility for careful review of their Proposal to correct any errors prior to submission. HECO shall be entitled to rely on the correctness and accuracy of the Proposal contents.
- 2.9. Each Bidder is responsible for proposing all terms, conditions, agreements, services and everything else that will be required for its successful performance and delivery of the biodiesel supply requested herein, including products, terms and services that may not have been specifically identified or requested herein. If a Bidder's Proposal is accepted and that Bidder failed to propose any such product, term or service, that Bidder will be responsible for providing such product, term or service at no cost to HECO.



- 2.10. This RFP, the Bidder's Proposal and all other material representations made by that Bidder may be written or incorporated into the Contract between that Bidder and HECO. Thus, by submitting a Proposal, Bidders understand and acknowledge that HECO will rely on the Proposal and other representations made by Bidder in HECO's selection of the Selected Supplier and in entering into the Contract, and each Bidder warrants that the statements made in its Proposal and its representations to HECO in connection with this RFP are truthful and accurate.
- 2.11. The Proposal constitutes an irrevocable offer to HECO if not properly modified or withdrawn prior to the Proposal Due Date, which shall remain open and which cannot be withdrawn by the potential supplier for a period of **one hundred and twenty (120)** days following the Proposal Due Date.
- 2.12. Based on its evaluation of the Proposals and answers to questions asked in Attachment E, HECO may require some or all Bidders to answer follow up questions and/or submit additional information. After the Proposal Due Date, HECO may ask for follow up information from and/or negotiate with one or more bidders, as HECO determines in its sole discretion.

3. Required Information

- 3.1. The Proposal shall contain an attachment with complete and accurate responses to the questions set forth in Attachment E hereto.
- 3.2. The Proposal shall affirmatively state that the contract terms contained in Attachment D are acceptable to the Bidder, or, the Bidder shall identify specifically in its Proposal which such terms and conditions are unacceptable and shall propose substitute language that is acceptable to the Bidder. Terms and conditions with respect to which a Bidder does not identify exceptions shall be deemed acceptable to the Bidder.
- 3.3. The Proposal must identify the legal name of the Bidder and identify the specific business entity that will perform the Contract, if other than Bidder.
- 3.4. The Proposal must include full pricing information with respect to all options.
- 3.5. HECO may later require a Bidder to submit biodiesel samples to labs specified by HECO for testing at the Bidder's expense.

4. Preparation of Proposals

- 4.1. Each Bidder shall have sole responsibility for careful review of the entire RFP and for thoroughly investigating all matters pertinent to this RFP, its Proposal and its anticipated performance under the Contract. Any failure by a Bidder to do so shall be at its sole risk.
- 4.2. The Bidder shall not rely upon any oral statements made or any written information from HECO or its employees or agents, nor upon any other information provided by or originating from any of the foregoing, except as explicitly set forth in this RFP.



- 4.3. Each Bidder shall be solely responsible for and shall bear all of its costs incurred in the preparation of its Proposal and/or its participation in this RFP, including, but not limited to, all costs incurred with respect to the review of the RFP documents, site visits, third party consultant consultation, and investigation and informing itself with respect to matters pertaining to its Proposal and this RFP, and the same shall not be reimbursed by HECO to any Bidder, including the Selected Supplier.

5. Modification of Proposals

- 5.1. A Proposal may be modified at any time prior to the Proposal Due Date.
- 5.2. In order to modify its Proposal, the Bidder must submit a Revised Proposal, clearly identified as such, which expressly supersedes and replaces Bidder's earlier Proposal; the Revised Proposal must identify the date of the earlier Proposal which it is superseding and replacing.
- 5.3. Revised Proposals are subject to all requirements of this RFP, shall not incorporate or rely upon the Proposal that it is superseding and replacing and must be delivered to or received by HECO on or before the Proposal Due Date.
- 5.4. A Proposal may not be modified or revised after the Proposal Due Date.
- 5.5. Proposals that have been modified by a Revised Proposal letter or have been otherwise superseded or amended will not be considered by HECO and may be discarded by HECO.

6. Withdrawal of Proposals

- 6.1. A Bidder may withdraw its Proposal at any time prior to the Proposal Due Date.
- 6.2. A Proposal will be deemed withdrawn upon receipt by HECO of a Withdrawal of Proposal notice at the office identified in subsection 2.4, above, on or before the Proposal Due Date.
- 6.3. Proposals that have been withdrawn pursuant to this section will not be considered by HECO and may be discarded by HECO.
- 6.4. Proposals may not be withdrawn after the Proposal Due Date for any reason, including, but not limited to, mistake.

7. Correction of Errors in Proposals

- 7.1. A Bidder may correct errors in its Proposal prior to the Proposal Due Date by modification or withdrawal of a Proposal Letter pursuant to the requirements for modifications or withdrawals stated above.
- 7.2. After the Proposal Due Date, only HECO is authorized to correct errors in the Proposals.



7.3. Minor errors in a Proposal detected by HECO after the Proposal Due Date may be deemed waived, or the Bidder may be allowed to correct such error if HECO determines it is in its best interest to do so.

7.4. Errors in Proposals detected by HECO after the Proposal Due Date, when the error is patent and the correct information is clearly evident, may be corrected by HECO. Examples of such errors may include typographical errors, errors in extending unit prices, arithmetical errors and transposition errors.

8. Opening of Proposals

8.1. Proposals will be opened on or after the Proposal Due Date as HECO, in its sole judgment and discretion, deems appropriate.

8.2. Proposals will be opened by HECO personnel only, in private, and the Bidders shall not be present.

9. Exceptions

9.1. Any and all exceptions by Bidder to the Specifications and Requirements of this RFP shall be clearly stated in Bidder's Proposal. Each exception shall be separately stated, shall identify the relevant specification or requirement, shall identify the reason(s) for taking the exception, and shall propose a clearly stated alternative. No other exceptions shall be allowed.

9.2. HECO shall have the right in its sole judgment and discretion to reject any Proposal or evaluate it unfavorably based on exceptions taken.

10. Evaluation of Proposals

10.1. Proposals will be considered in conjunction with information submitted by other Bidders as well as any additional information as HECO, in its sole discretion, deems appropriate.

10.2. The evaluation of Proposals will be based upon criteria that HECO, in its sole judgment and discretion, believes to be in the best interest of HECO and its customers. Bidders shall not be entitled to disclosure of HECO's evaluation criteria or information pertaining to HECO's actual evaluation and analysis of Proposals.

10.3. HECO shall have the right to reject any Proposal, which HECO, in its sole judgment and discretion, believes to be unsatisfactory, indefinite, equivocal or unresponsive. HECO also reserves the unconditional right at any time to withdraw, modify or amend this RFP, and to elect not to award the Contract at all.

10.4. Subsequent to the opening of Proposals, but prior to award of the Contract, HECO shall have the right to contact any Bidder to request additional information or to clarify a Bidder's Proposal. HECO may do so without notice or disclosure to any other Bidder of such inquiry or of the information derived from such inquiry.



11. Award

- 11.1. HECO shall have the right to award the Contract to the Bidder that, in HECO's sole and absolute judgment and discretion, has provided a Proposal that is in the best interests and affords the greatest value to HECO and its customers.
- 11.2. HECO shall have the right to award the Contract to other than the lowest bidder.
- 11.3. HECO shall have the right to determine not to award the Contract, or to re-bid, restate, revise or cancel this Project.
- 11.4. HECO shall not be required to identify to any Bidder the basis upon which it awarded the Contract to the Selected Supplier and/or rejected the Proposals of any other Bidder.
- 11.5. The award of the Contract is anticipated to be made within 7-30 days following the Proposal Due Date. This is estimation and expectation, but not a commitment by HECO.

12. Notification of Award

- 12.1. The award, if any, will be announced in writing to the Selected Supplier. HECO will not provide notice to all other potential suppliers that their Proposals have not been accepted.
- 12.2. The award is conditioned upon the parties executing the Contract.

13. Protest or Appeal of Award

No Bidder shall have the right to protest or appeal the award of the Contract made by HECO.

14. Final Approval

- 14.1. The award and the executed Contract shall be subject to the final approval of the Commission.
- 14.2. Costs incurred by the Selected Supplier following the award and execution of the Contract up to the date performance under the Contract commences shall be the sole responsibility of the Selected Supplier in all instances, regardless of whether the award and/or Contract has been approved or disapproved by the PUC. Costs incurred following commencement of performance under the Contract shall be governed by the terms and conditions of the Contract.

15. Questions Regarding the RFP

- 15.1. Any questions regarding the RFP **must** be made in a written format and submitted via email to:

RFPquestion@heco.com



15.2. HECO shall have the sole option of determining whether a response to a question is necessary or appropriate under the circumstances.

15.3. If HECO elects to respond to a question, it shall have the further option of determining whether it shall respond solely to the Bidder raising the question or to all Bidders, based upon its assessment of the materiality of the question. Questions and answers responded to all Bidders will be periodically posted for viewing at <https://www.hawaiianelectric.com/biofuelsupply> until which time the RFP response deadline has passed.

16. Confidentiality of Proposals

16.1. Confidentiality of Proposal information is discussed in part in the Specifications and Requirements section above. Pricing information marked confidential shall be treated by HECO as confidential and shall not be disclosed to any person or entity other than HECO, employees, agents, professional consultants and representatives as may be necessary for purposes of this RFP, or as required by law. However, HECO intends to directly or indirectly disclose Proposal pricing information to the Commission, Hawaii Consumer Advocate, and/or any other governmental regulatory agency, provided that HECO shall take reasonable steps to obtain approval to submit the same under seal or under other procedures designed to preserve the confidentiality of the pricing information.

16.2. No Bidder shall be entitled to Proposals from any other Bidder or any other information contained therein or provided by or with respect to any other Bidder, nor shall any Bidder or other person or entity be entitled to any information from HECO pertaining to this Project, the Contract, this RFP or the evaluation of Proposals.

17. Rights Reserved

HECO may, at any time up to final award, at its sole discretion: postpone, withdraw and/or cancel this RFP; alter, extend or cancel any due date; and/or, alter, amend, withdraw and/or cancel any requirement, term or condition of this RFP, any and all of which shall be without any liability to HECO.

18. Integration

This RFP, including all documents attached hereto or referenced herein, constitutes the final agreement between HECO and Bidders with respect to the terms and conditions of this RFP, expressly superseding and replacing all prior and contemporaneous communications, understandings and agreements whatsoever; there are no terms, conditions or agreements relating hereto that are not found herein.

19. Acceptance of RFP Terms and Conditions by Bidder

All Bidders, by retaining this RFP, copies of it, and/or submitting a Proposal or other questions in response to this RFP, shall be deemed to accept all terms and conditions in the RFP, except for exceptions to any Specifications and Requirements stated in the Proposal. If a Bidder does not accept these terms and conditions, all originals and copies of the RFP and any portion thereof should be returned to HECO immediately (address provided in Section 2.4) accompanied by a statement that the Bidder has chosen not to respond to the RFP.