

CONTRACT FOR TECHNICAL AND PROFESSIONAL SERVICES

THIS CONTRACT is made and entered into on the 12th day of February, 2024, by Closedloop Communications, Inc., hereinafter called Consultant, and the Guam Power Authority, hereinafter called GPA.

GPA engages Consultant to perform professional services for a project known and described as “**DNP3 Secure Authentication Services**”, **Re-Solicitation GPA-RFP-22-007**, hereinafter called the "Project".

RECITALS

WHEREAS, the Guam Power Authority (GPA), is a public corporation of the Government of Guam authorized to conduct its own procurement; and

WHEREAS, the GPA strategic plan contains initiatives to create a culture based on customer services excellence at the Authority; and

WHEREAS, GPA seeks to enter into a contract for **DNP3 Secure Authentication Services** with Consultant wherein such services can be provided to the Authority for the benefit of its customers; and

WHEREAS, the services to be rendered are of a special and temporary nature and are determined to be in the best public interest to be performed under contract by technical personnel other than employees in the services of GPA; and

NOW, THEREFORE, the Guam Power Authority and the Consultant for the considerations set forth, agree as follows:

SECTION I - SERVICES OF THE CONSULTANT

Consultant shall perform the following professional services in accordance with the degree of care and skill that a registered professional in Guam would exercise under similar conditions:

- A. GPA and the Consultant have entered into a task-based contract wherein, GPA will call upon a task and negotiate price, scope and schedule with the Consultant. The Parties agree that Consultant shall provide the services reflected in Exhibit A ("Initial Task) and that Consultant may provide additional services as described in the task list/SOW (Exhibit B) provided in the GPA-RFP-22-007. This list is not all inclusive; GPA and Consultant can negotiate tasks that are similar in scope.
- B. Consultant has assigned Dennis Gammel to be the Project Manager for this Contract. Prior written approval is required in the event Consultant needs to change the Project Manager. Consultant shall submit the qualifications of the proposed substituted personnel to GPA for approval.
- C. Consultant shall submit all final documents in both hard copy and electronic format. All documents shall be Microsoft Office compatible or in an alternate format approved by GPA. The software version used shall be compatible to current GPA standards.

SECTION II - PERIOD OF SERVICE

GPA and Consultant agree this CONTRACT will be effective commencing March 1, 2024 for a base contract period of three (3) years or until all tasks in Exhibits A and B are completed, whichever is less, from the date of award of the contract with an option to extend the contract for two additional one-year periods, not to exceed a total contract period of five (5) years, subject to the availability of funds, and may, by mutual written agreement, be renewed at the same terms and conditions for additional periods subject to availability of funding.

SECTION III - CONSULTANT'S COMPENSATION

A. The total compensation to Consultant for the Initial Task under this CONTRACT is the lump sum of \$50,357.48, plus approved adjustments. In the event Consultant is asked to provide additional services under this Contract, the Parties shall negotiate the terms in accordance with Section I, above.

B. GPA shall pay Consultant using a method mutually agreed upon by GPA and Consultant.

The method of payment for this CONTRACT is to be negotiated. Payment options are lump sum, time and materials, or not to exceed payment.

GPA shall pay Consultant installments based upon progress reports and detailed invoices submitted by the CONSULTANT. Such payments shall be made as specified in SECTION VI.

SECTION IV - CONSULTANT'S STATUS

Consultant agrees that there shall be no employee benefits occurring from this Agreement, such as:

- A. Insurance coverage provided by GPA;
- B. Participation in the Government of Guam retirement system;
- C. Accumulation of vacation or sick leave;
- D. There shall be no withholding of taxes by GPA;
- E. That it is expressly understood and agreed that, in the performance of services under this Agreement, Consultant and its employees shall at all times act as independent contractors with respect to GPA, and not as an employee or agent of GPA. Further, it is expressly understood and agreed by the parties that nothing contained in this Agreement shall be construed to create a joint venture, partnership, association, or other affiliation or like relationship is and shall remain that of independent parties to a contractual relationship set forth in this Agreement.

SECTION V – GUAM POWER AUTHORITY'S RESPONSIBILITIES

- A. GPA shall designate a Project Manager during the term of this CONTRACT. The Project Manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by GPA on any aspect of the work shall be directed to the Project Manager.
- B. GPA shall review submittals by Consultant and provide prompt responses to questions and rendering of decisions pertaining thereto, to minimize delays in the progress of Consultant's work. GPA will keep Consultant advised concerning the progress of GPA's review of the work. Consultant agrees that GPA's inspection, review, acceptance or approval of Consultant's work shall not relieve Consultant of responsibility for errors or omissions of Consultant or its sub-consultant(s).

SECTION VI - INVOICING AND PAYMENT TERMS & CONDITIONS

All Invoices shall include supporting documents (e.g., timesheets, shipping invoices, consumable listings). All supporting documents must be reviewed and approved by GPA Project Manager prior to invoice submittal for charges. All invoices will be paid NET 30 Days from date invoice is received at the GPA Accounting Department. Payment shall be made using a method mutually agreed upon by the Guam Power Authority and Consultant.

SECTION VII - TERMINATION

GPA, at its sole discretion, may terminate this CONTRACT for convenience or abandon any portion of the Project for which services have not been performed by Consultant, upon thirty (30) days written notice delivered to CONSULTANT personally, via email, or by certified mail at the address provided.

Immediately after receiving such notice, Consultant shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. Consultant shall appraise the services it has completed since the last invoice and submit an appraisal to GPA for evaluation. GPA shall have the right to inspect Consultant work to appraise the services completed. GPA shall pay Consultant for the work referenced in the appraisal in accordance with the payment terms above in Section VI.

In the event of such termination or abandonment, Consultant shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred, including the work referenced in the appraisal.

GPA shall make final payment within thirty (30) days after Consultant has delivered the last of the partially completed items and the final fee has been agreed upon.

In the event Consultant is terminated for cause, GPA shall have the option of completing the work, or entering into a CONTRACT with another party for the completion of the work according to the provisions and agreements herein.

SECTION VIII - CHANGES

GPA may at any time, by written order, make any changes or deletions in the services to be performed hereunder. If such changes or deletions cause an increase or decrease in the cost of doing work under this Agreement, or in the time required for this performance, an equitable adjustment shall be made as agreed to by the parties and the Agreement shall be modified in writing accordingly. Given the nature of the Initial Task and the pricing proposed by Consultant, GPA agrees that once work has been commenced, any changes or deletions beyond those deemed minor by Consultant will not decrease Consultant's accepted pricing.

SECTION IX - ASSIGNMENT OF AGREEMENT

Neither party may assign this Agreement, or any sum becoming due to under the provisions of this Agreement, without the prior written consent of the other party.

SECTION X - FORCE MAJEURE

Neither party shall be liable for any delay in meeting or failure to meet its obligations under this Agreement due to a force majeure.

SECTION XI - TAXES

Consultant shall be liable for Guam Gross Receipt Taxes and all other applicable taxes and duties. Guam Power Authority shall have no tax liability under this contract. Specific information on taxes may be obtained from the Director of the Guam Department of Revenue and Taxation. GPA is a government agency exempted from ALL government taxes as stipulated in the Guam Code Annotated.

SECTION XII - NOTICES

Any notice, demand or other document required or permitted to be delivered hereunder shall be in writing and may be delivered personally (not to include facsimile transmission) or shall be deemed to be delivered when received postage prepaid, registered or certified mail, return receipt requested, addressed to the parties at their respective address as specified herein:

TO: Closedloop Communications, Inc.
ATTN: Rebecca Taylor
8115 Maple Lawn Blvd., Suite 350
Fulton, Maryland 20759
Email: Taylor.RL@ClosedloopComm.com

COPY: Levin F. Custis III
8115 Maple Lawn Blvd., Suite 350
Fulton, Maryland 20759
Email: Custis3.LF@ClosedloopComm.com

TO: Guam Power Authority
P.O. Box 2977
Hagatna, Guam 96932-2977
ATTN: General Manager
FAX: (671) 648-3165

SECTION XIII – GOVERNING LAW

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of Guam.

SECTION XIV - SUPPLEMENTAL CONTRACT PROVISIONS

The supplemental contract provisions to this CONTRACT are attached hereto and incorporated herein by reference as if fully set forth.

SECTION XV – INDEMNIFICATION

The Individual or Firm shall indemnify and hold GPA harmless from any claim, liability or product liability, loss, damage, demand, cause of action or suit, expense or reasonable fee of legal counsel arising out of or in connection with the goods or services CONSULTANT provides.

SECTION XVI – DISPUTES

All controversies between GPA and CONSULTANT which arise under, or are by virtue of, this CONTRACT and which are not resolved by mutual agreement shall be resolved under Guam Procurement Law and the Government Claims Act, and pursuant to the laws of Guam.

SECTION XVII – RELEASE OF INFORMATION

Consultant shall not release any information, including the contract price, concerning this project or any part thereof in any form, including advertising, news releases, or professional articles, without written permission from GPA.

SECTION XVIII – INSURANCE

Consultant shall not commence work under this CONTRACT until he has obtained reasonable insurance for Auto Liability and Worker's Compensation and Employer's Liability up to the statutory limits. Consultant shall maintain all insurance required during the course of the work.

SECTION XIX - LICENSING

Consultant is reminded that GPA will not consider for award any offer submitted by a Consultant who has not complied with the Guam Licensing Law. Specific information on licenses may be obtained from the Director of Revenue and Taxation.

SECTION XX – COVENANT AGAINST CONTINGENT FEES

Consultant warrants that it has not employed any person to solicit or secure any resultant contract upon agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Guam Power Authority the right to terminate Consultant, or in its discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commission payable by Consultant upon contracts or sales secured or made through, bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business.

SECTION XXI – EQUAL EMPLOYMENT OPPORTUNITY

Section 3.01 of the Executive Order 10935 dated March 07, 1965 requires Consultant not to discriminate against an employee or applicant for employment because of race, creed, color or national origin. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to race, creed, color or national origin.

SECTION XXII – AMERICAN DISABILITIES ACT

If requested, Consultant must meet all applicable ADA regulations and requirements, if any.

SECTION XXIII – PROHIBITION AGAINST GRATUITIES, KICKBACKS AND FAVORS TO THE TERRITORY

GCA 5 §5630(c) prohibits the CONSULTANT against gratuities, kickbacks, and favors to the Territory.

SECTION XXIV – RESTRICTION AGAINST CONTRACTORS EMPLOYING CONVICTED SEX OFFENDERS FROM WORKING AT GOVERNMENT OF GUAM VENUES

GCA 5 §5253(b) restricts the CONSULTANT against employing convicted sex offenders from working at Government of Guam venues. It states: (b) All contracts for services to agencies listed herein shall include the following provisions:

(1) warranties that no person providing services on behalf of the CONSULTANT has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA, or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry; and

(2) that if any person providing services on behalf of the CONSULTANT is convicted of a sex offense under the provisions of Chapter 25 of Title 9 GCA or an offense as defined in Article 2 of Chapter 28, Title 9 GCA or an offense in another jurisdiction with, at a minimum, the same elements as such offenses, or who is listed on the Sex Offender Registry, that such person will be immediately removed from working at said agency and that the administrator of said agency be informed of such within twenty-four (24) hours of such conviction.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this 12th day February, 2024. Each Party warrants that the person who is signing this CONTRACT on behalf of GPA or Consultant, as appropriate, is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.

Closedloop Communications, Inc.



LEVIN F. CUSTIS III
President/CEO

02/12/24

DATE

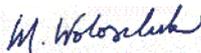


JOHN M. BENAVENTE, P.E.
GENERAL MANAGER
GUAM POWER AUTHORITY

2/29/2024

DATE

APPROVED AS TO FORM:



MARIANNE WOLOSCHUK, ESQ.
STAFF ATTORNEY
GUAM POWER AUTHORITY

2/29/2024

DATE

EXHIBIT A

INITIAL TASK

EXHIBIT A – INITIAL TASK



October 27, 2023

Guam Power Authority
Gloria B. Nelson Public Service Building
GPA Procurement Division
1st. Floor, Room 101
688 Route 15
Mangilao, Guam 96913

Telephone No: (671) 648-3054/3055
Facsimile: (671) 648-3165

Email: jpangelinan@gpagwa.com

Attention:
John M. Benavente, P.E.
General Manager
Jamie L.C. Pangelinan
Supply Management Administrator

***Re: DNP3 Secure Authentication Training, revised proposal for GPA-RFP-22-007.
Please accept and confirm the "Best and Final Offer".***

Dear Committee:

Pursuant to your request for pricing on the Closedloop Communications' (CCI) response for Solicitation GPA-RFP-22-007, CCI is pleased to submit this Quote for the proposed one-day video training on Cryptography and DNP3 SA. CCI is providing this response with the following scope broken down into two Phases as discussed with the customer.

Phase 1 Training

CCI will design and develop a one-day course in video format that includes cryptography basics, DNP3 SA basics and the necessary components for an appropriate implementation of the authentication solution, the SEL RTAC functions and features for a DNP3 SA configuration, and the future of cryptography and new technologies being developed specifically for OT systems that enable a ZTA approach to secure them.

Phase 2 Site Survey

CCI will collaborate with the customer to determine and develop a plan and road map for conversion of existing systems and devices that promote a continual increase in Cybersecurity maturity.

Logistics

Our team will be comprised of one (1) engineer: Dennis Gammel (CCI).



The total cost of the one-day course and site survey will be \$50,357.48. An itemized accounting is attached.

Please sign and return this letter, at your earliest convenience. We are happy to answer any questions or concerns. We look forward to working with you and introducing a new paradigm in OT network management and cybersecurity.

Sincerely,

Dennis Gammel

Dennis Gammel,
Control Systems SME

Attachments (2)

Seen & Agreed:

By signing below, I acknowledge and agree to the terms contained herein.

Guam Power Authority
Authorized Agent, Procurement

Date: _____

EXHIBIT B

SCOPE OF WORK

EXHIBIT B – SCOPE OF WORK

1. Provide training on the DNP3 protocol including DNP3 Secure Authentication version 5
2. Provide training on the use of the ASE2000 Version 2 Communication Test sets
 - a. Monitor Mode
 - b. RTU Mode
 - c. Master Station Mode
 - d. All Other Features
3. Provide training on the ModBus protocol
4. Provide materials and equipment for training.
 - a. This includes but not limited to ASE2000 Version 2 Communication Test sets.
5. Provide training to configure DNP3, DNP3 SAV5, and ModBus on the following equipment/systems:
 - a. D20 RTU
 - b. SCADAPack E RTU
 - c. OSIRIS RTU
 - d. SEL Axion-2240
6. Provide the following services:
 - a. Upgrade D20/D200 RTUS to enable them to support DNP3 Secure Authentication Version 5 communications
 - b. Convert D20/D200 RTUs from legacy DNP3 serial communications to DNP3 Secure Authentication Version 5 communications over GPWA's Operational Technology WAN
 - c. Assist in point-to-point testing of GPWA RTUs converted to DNP3 Secure Authentication
7. Provide Cybersecurity Consulting Services on the use of DNP3 Secure Authentication Version 5 in operations environment.