



CONTRACT FOR TECHNICAL AND PROFESSIONAL SERVICES

12/11/2024

THIS CONTRACT is made and entered into on the ____ day of _____, 2024, by Milsoft Utility Solutions Inc., hereinafter called the CONSULTANT OR FIRM, and the Guam Power Authority, hereinafter called GPA.

GPA engages the CONSULTANT to perform professional services for a project known and described as "Milsoft OMS (Outage Management System) Software Services", GPA-RFP-24-010, 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 **Milsoft OMS (Outage Management System) Software Services** with a 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

The Individual or Firm 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 CONSULTANT shall provide services as described in the task list (Exhibit A) provided in the RFP. This list is not all inclusive; GPA can negotiate tasks that are similar in scope.
- B. The CONSULTANT has assigned TBD upon contract execution as the Project Manager for this Contract. Prior written approval is required in the event the CONSULTANT needs to change the Project Manager. The CONSULTANT shall submit the qualifications of the proposed substituted personnel to GPA for approval.
- C. The CONSULTANT shall submit all final documents in both hard copy and electronic format. All documents shall be Microsoft Office compatible. The software version used shall be compatible to current GPA standards.

SECTION II - PERIOD OF SERVICE

GPA and the Individual or Firm agree this CONTRACT will be effective commencing for a base contract period of five (5) years or until all tasks in Exhibit A are completed, whichever is less, from the date of award, 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.

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**SECTION III - CONSULTANT'S COMPENSATION**

A. The total compensation to Individual or Firm for services in this CONTRACT is the lump sum, as stated in the scope of work based on each task, plus approved adjustments.

B. GPA shall pay the Individual or Firm using a method mutually agreed upon by GPA and the successful Offeror.

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 the CONSULTANT installments based upon monthly 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, Individual or Firm 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 the Individual or Firm and provide prompt responses to questions and rendering of decisions pertaining thereto, to minimize delays in the progress of the Individual or Firm work. GPA will keep the Individual or Firm advised concerning the progress of GPA's review of the work. The Individual or Firm agrees that GPA's inspection, review, acceptance or approval of Individual or Firm work shall not relieve Individual or Firm responsibility for errors or omissions of the Individual or Firm or its sub-consultant(s).

SECTION VI - INVOICING AND PAYMENT TERMS & CONDITIONS

All Invoices shall include supporting documents (i.e. 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 the CONSULTANT.

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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 the Individual or Firm, 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, the Individual or Firm shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT. The Individual or Firm shall appraise the services it has completed and submit an appraisal to GPA for evaluation. GPA shall have the right to inspect the Individual or Firm work to appraise the services completed.

In the event of such termination or abandonment, the Individual or Firm shall be paid for services performed prior to receipt of said notice of termination including reimbursable expenses then incurred.

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

In the event this Individual or Firm is terminated, 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.

SECTION IX - ASSIGNMENT OF AGREEMENT

Individual or Firm may not assign this Agreement, or any sum becoming due to under the provisions of this Agreement, without the prior written consent of GPA.

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

OFFEROR 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: **Milsoft Utility Solutions, Inc.**
4400 Buffalo Gap Road
Abilene, Texas 79606
ATTN: XXXXXXXXXXXX
FAX: (325) 690-6942

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 the Individual or Firm provides.

SECTION XVI – DISPUTES

All controversies between GPA and the Individual or Firm 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

The Individual or Firm 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

The Individual or Firm 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. The Individual or Firm shall maintain all insurance required during the course of the work.

**SECTION XIX - LICENSING**

The CONSULTANTS are 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

The CONSULTANT warrants that he 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 the 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 CONSULTANTS upon contracts or sales secured or made through, bona fide established commercial or selling agencies maintained by the 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 the CONSULTANT not to discriminate against an employee or applicant for employment because of race, creed, color or national origin. The 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, the CONSULTANT must meet all ADA regulations and requirements.

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.



12/11/2024

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT this _____ day _____, 2024. The Individual or Firm warrants that the person who is signing this CONTRACT on behalf of the Individual or Firm is authorized to do so and to execute all other documents necessary to carry out the terms of this CONTRACT.

XXXXX Adam Turner
XXXXX CEO of Business Operations
Milsoft Utility Solutions, Inc.
Federal I.D. No. 75-2255624

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

APPROVED AS TO FORM:

12/10/2024

MARIANNE WOŁOSHUCK
STAFF ATTORNEY
GUAM POWER AUTHORITY

DATE



EXHIBIT A – SCOPE OF WORK



EXHIBIT A

SCOPE OF WORK

The Scope of Work for this project includes the following:

1. Milsoft OMS (Outage Management System –DisSPatch) and Milsoft IVR (Interactive Voice Response) software upgrade, annual maintenance, design, and assessment.
 - a. Provide proponent's capability to supply services for the upgrade and the annual maintenance of Milsoft OMS (Outage Management System –DisSPatch) and IVR (Interactive Voice Response) Software. This includes other software/systems that is required by the OMS and IVR such as but not limited to the Texting system.
2. Training/Certification and Training Materials as required for the operations, and maintenance of Milsoft OMS (Outage Management System –DisSPatch) and Milsoft IVR (Interactive Voice Response) software
 - a. Provide proponent's experience and describe the training plan as required for the operations and maintenance of Milsoft OMS (Outage Management System –DisSPatch) and IVR (Interactive Voice Response) software.
3. Installation of OMS (Outage Management System –DisSPatch) and Milsoft IVR (Interactive Voice Response) software and required third party software/systems.
 - a. Provide proponent's capability to install and configure OMS (Outage Management System – DisSPatch) and IVR (Interactive Voice Response) software. This includes other software/systems that is required by the OMS and IVR such as but not limited to the Texting system.
4. Integration to other Third Party Software and devices.
 - a. Provide the proponent's experience in integrating other third-party software and devices to OMS (Outage Management System –DisSPatch) and Milsoft IVR (Interactive Voice Response) software. This includes but not limited to SEL (Schweitzer Engineering Laboratories) devices and software. GPA has SEL devices in the field. GPA would like to view the status of these devices in OMS.
5. Any Technical, Business Consulting, and Project Management Support as required by GPA for Developing and Executing the Change Management Documents for Milsoft's OMS (Outage Management System – DisSPatch) and Milsoft IVR (Interactive Voice Response) software.
 - a. Provide the proponent's experience and describe the plan in Developing and Executing the Change Management Documents for OMS (Outage Management System –DisSPatch) and IVR (Interactive Voice Response) software.