



AMERICAN SAMOA POWER AUTHORITY

P.O. Box PPB
Pago Pago, American Samoa 96799
Telephone: (684) 699-1234
Email: bids@aspower.com
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REQUEST FOR PROPOSALS (RFP)

FOR

“GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT”

RFP NO. ASPA21.044.WTR

Issuance Date: JULY 12, 2021
Closing Date/Time: AUGUST 11, 2021
2:00PM - AMERICAN SAMOA TIME

APPROVED FOR ISSUANCE BY:

WALLON YOUNG F.
ASPA Executive Director

NOTICE TO OFFERORS

ISSUANCE DATE: JULY 12, 2021

RFP NO. ASPA21.044.WTR

PROJECT NAME: GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT

CLOSING DATE/TIME: AUGUST 11, 2021 @ 2:00PM AMERICAN SAMOA TIME

The American Samoa Power Authority (ASPA) hereby issues this Request for Proposals (“RFP”) to evaluate, negotiate, and award a contract for professional GEOTECHNICAL SERVICES for the LEONE BOLTED STEEL TANK REPLACEMENT PROJECT. This project is part of ASPA’s efforts to improve its service to the people of American Samoa. The project is fully funded by the United States Environmental Protection Agency (USEPA). This contract shall include all services as described in the SOW. Offerors shall provide sufficient written and verifiable information that responds to the requirements set forth herein and in the Scope of Work (“SOW”).

You may view this RFP online at ASPA’s website <https://www.aspower.com>. For more information about this RFP, please contact the following person(s):

Renee Leotele Togafau-Matautia
Procurement Manager
Procurement Office
Tel. (684) 699-3057
procurement@aspower.com , renee@aspower.com

The American Samoa Power Authority reserves the right to:

1. Reject all proposals and reissue a new or amended RFP;
2. Request additional information from any Offeror;
3. Select a firm for award based on other qualifications than “least cost” (e.g. capability to complete work in a timely fashion or proven technical capabilities);
4. Negotiate a contract with the Offeror that is selected for award;
5. Waive any non-material violations of rules set up in this RFP at its sole discretion;
6. Require the Offeror to provide payment and performance bonds; and
7. Assign all of its rights and obligations, including the assignment of the RFP or any contracts awarded pursuant to this RFP and assignment of its ownership and/or management of the project.

Wallon Young. F.
Executive Director

Date

PROPOSAL INVITATION

AMERICAN SAMOA POWER AUTHORITY:

Procurement Office

P.O. BOX PPB

PAGO PAGO, AS 96799

(684) 699-3057

bids@aspower.com

ISSUANCE DATE: JULY 12, 2021

RFP NO. ASPA21.044

PROJECT NAME: **GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT**

1. This REQUEST FOR PROPOSAL shall require a **Cost Proposal** to be **submitted in a separate sealed envelope, box, or other enclosure**
2. All required submittals, including the Cost Proposal, must be addressed to the ASPA Procurement Manager
3. An original, five (5) hard copies and one (1) PDF of the complete proposal must be received at the ASPA Procurement Office no later than **AUGUST 11, 2021 @ 2:00 pm** American Samoa Time.
4. The envelope or box must be labeled “RFP No. ASPA21.044.WTR GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT. **Late submittals will not be opened or considered and will be determined as non-responsive.**
5. Any and all **pre-proposal questions** and/or clarifications shall be submitted to Procurement by email at bids@aspower.com or procurement@aspower.com no later than JULY 19, 2021 at 2:00 p.m.

NOTE TO OFFERORS:

This Proposal is subject to the attached General Terms and Conditions of the Request for Proposals for: **“RFP NO. ASPA21.044 GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT”**

The undersigned offers and agrees to furnish within the time specified, the articles and services at the price stated opposite the respective terms listed on the schedule provided. In consideration of the expense of the American Samoa Power Authority in opening, tabulating, and evaluating this and other Proposals, and other considerations such as the schedule, the undersigned agrees that this Proposal shall remain firm and irrevocable for One Hundred Twenty (120) calendar days from the closing date to supply any or all of the items for which prices are quoted.

SIGNED: _____ DATE _____

AMERICAN SAMOA POWER AUTHORITY

SPECIAL REMINDER TO PROSPECTIVE OFFERORS

Offerors are reminded to read the Proposal Solicitation Instructions and General Terms and Conditions attached to a PROPOSAL Invitation to ascertain that all of the following requirements (see check boxes) of the Proposal are submitted in the Proposal envelope at the date and time for Proposal opening.

- 1. PROPOSAL FORMS
 - a. Proposal Invitation Form
 - b. Proposal Transmittal Form (Attachment A)
 - c. OFFERORS Qualification Sheet (Attachment C)
 - d. Disclosure Statement (Attachment D)
 - e. Non-Collusion Statement (Attachment E)

- 2. BUSINESS LICENSE
Offerors must submit current business AND current contractor’s license as stated below (see General Terms and Condition for more information).

- 3. TECHNICAL PROPOSAL
The Technical Proposal shall comply with all requirements in the Scope of Work as outlined in Attachment B of this document and must follow the format described under this RFP.

- 4. CONTRACT COST PROPOSAL
The Offeror shall submit a separately sealed cost proposal for the proposal.

- 5. SPECIAL REMINDER FORM
This form must be completed and submitted.

All required forms must be signed and returned with the proposal envelope. Failure to comply with these requirements may result in disqualification or rejection of the proposal.

*I, _____, the duly authorized representative of _____,
acknowledge receipt of this special reminder to prospective Offerors together with PROPOSAL Invitation#:
RFP NO. ASPA 21.044 GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT
This date of _____, 2021.*

Offeror’s Representative’s Signature

GENERAL TERMS AND CONDITIONS

I. INTRODUCTION

Several of ASPA's potable bolted steel tanks are deteriorating due to corrosion and poor maintenance. Some have begun leaking at the bottom seams and is becoming a critical problem both for safety and water loss. Among those tanks that need to be replaced is the Leone tank. There are leaks at the bottom of the tank and the bolts are rusted. The tank has lasted its design life of 30 years and needs to be replaced. The Project will assure protection of drinking water from contaminant intrusion into the system and sustain safe, quality drinking water for the community as well as staying in compliance with requirements by EPA.

II. PROJECT BACKGROUND INFORMATION

This request for proposal covers the geotechnical investigation and report for the Leone bolted steel tank replacement project which will involve the installation of a 1,000,000 gallon potable water storage tank, steel bolted type, with an approximate diameter of 70 feet.

The intent of this RFP is to have an agreement based on the successful completion of the SOW (Attachment B).

III. AUTHORITY

- A. ASPA was formally established through legislative action by the American Samoa Government (ASG) in 1981.
- B. ASPA generates and distributes electrical power and provides water, wastewater, and solid waste services for the islands of American Samoa:
 - a. As a separate and semi-autonomous authority, ASPA was established to afford better accountability for the utilities' operations and cost of service.
 - b. ASPA is governed by a five-member Board of Directors which are appointed by the Governor of American Samoa and confirmed by the legislature.
 - c. ASPA's utility rates are developed and promulgated in accordance with ASG Administrative Procedures Act (ASCA § 4.1001 et. seq.) and specific guidelines within the Public Utility Regulatory Policies Act ("PURPA") for electricity.

IV. PROPOSAL DOCUMENTS

Request for Proposal package "RFP" may be obtained from the ASPA Procurement Office located in Tafuna. Offerors must submit qualification documents. ASPA reserves the right to reject or eliminate any proposal from the process if the offeror does not meet minimum qualifications.

V. SUBMITTALS

- A. Completed "SPECIAL NOTICES TO PROSPECTIVE OFFERORS" form on Page 6 of this document.
- B. The contractor will provide a cost bid as outlined on the "Bid Form"

- C. The contractor will provide information as required on Attachment D, the “Offeror Qualification Sheet Information Form”.
- D. The contractor will provide the signed Disclosure Statement as required on Attachment E
- E. The contractor will provide the signed Non-Collusion Statement as required on Attachment F.
- F. The Bid Invitation Form.
- G. The Bid Transmittal Form as provided on Attachment A.

VI. DATE/TIME/PLACE OF PROPOSAL SUBMITTAL AND PROPOSAL OPENING

- A. Each offeror must submit its proposal in a sealed envelope addressed to:

Renee Leotele Togafau-Matautia
Procurement Manager
P.O Box PPB
Pago Pago, AS 96799

- B. An original, four (5) hard copies and an electronic copy of the proposal must be received in the ASPA Office of Procurement on or before **August 11, 2021** at 2:00PM American Sāmoa time. If the closing date falls on a weekend, or public holiday, the closing date shall be the first working day that follows immediately after.
- C. Late submittals will not be opened or considered and will be determined as non-responsive.
- D. All Offerors shall provide sufficient written and verifiable information that responds to the requirements of the RFP and in accordance with the SOW

VII. PRE-PROPOSAL QUESTIONS

- 1. Any pre-proposal questions and/or clarifications shall be submitted in writing to Renee Leotele Togafau-Matautia by email at procurement@aspower.com or in hard copy to the address listed above in Section VI Part A of this document.
- 2. Pre-proposal questions must be received no later than July 19, 2021 at 2:00PM American Sāmoa time. ASPA will then issue an addenda to address any questions and/or clarifications as may be necessary.

VIII. ADDENDA

- A. ASPA reserves the right issue an addenda for any changes to this RFP.
- B. Offerors will be requested to send a signed “Receipt of Addenda” to ASPA for each addendum that may be issued.

IX. PROPOSAL PREPARATION INSTRUCTIONS

The response to this RFP shall include, but need not be limited to, the information described below. All information submitted shall pertain to the legal entity, subsidiary, or affiliate which will execute the ultimate construction contract.

Offeror(s) shall provide a collated binder that includes tab separators. An electronic copy is also required. Offeror (s) shall provide sufficient written and verifiable information that responds to the requirements of this RFP, and in accordance with the SOW. The binder shall be organized as follows:

1. Transmittal Form (Letter on Offeror’s Letterhead)

The Offeror shall submit a completed Attachment A “Proposal Transmittal Form”

2. Tab 1 – Proposal Submission Forms

The Offeror shall complete and include in Tab 1 all required forms as provided for in this RFP (refer to Item 1 of the *Special Reminders to Offeror*)

3. Tab 2 - Security

The Offeror(s) must include in this Tab all bonds required under this RFP (refer to Item 2 and 3 of the *Special Reminders to Offeror*). This section may be disregarded if no bonds are required for the tender.

4. Tab 3 – Professional Qualifications and Experience.

The Offeror(s) must include in this Tab all certified copies of credentials and certifications of the Engineer of Record (EOR) and sub-contractors. Offeror should provide references and a project history that verify a minimum of ten (10) years of related experience. The Offeror shall nominate sub-contractors including and a clear description of the services proposed including any limitations.

Engineer of Record (EOR) means the Professional Engineer licensed in any of the US State in good standing who is designated by the Offeror and acceptable to ASPA, acting reasonably, as the engineer responsible for the preparation, signing, dating, sealing and issuing of the engineering documents relating to a portion of or all of the design work required under this RFP. Proposal without EOR will be considered non-responsive.

5. Tab 4 – Technical Quality

The proposal will be reviewed and evaluated by ASPA for responsiveness and completeness in meeting the requirements outlined in the Scope of Work. Interview and/or negotiations may be necessary to clarify elements of the proposal and/or to arrive at mutually agreeable terms to complete the scope of work. The Offeror shall provide in this tab an adequate Work Breakdown Structure (WBS) and Proposed Schedule to successfully complete the requirement of this RFP.

6. Tab 5 – Price

Offeror’s price to perform this work will be evaluated in terms of the quantity and quality of work to be provided by Offerors, and in terms of funding availability and affordability as determined by ASPA.

7. Tab 6 – General Terms and Condition.

The Offeror must provide a description of any and all proposed deviations from the ASPA General Terms and Conditions.

8. Tab 7 – Additional Information

The Offeror may include additional information, including company and product brochures.

ASPA reserves the right to reject any proposal when, in its opinion, the Proposer has insufficient experience, skill, financial and/or business standing to perform the proposed service in strict compliance with the specifications, or when the information provided by the Proposer is deemed by the SEB as insufficient for making a judgment.

ASPA also reserves the right to check on references and to request additional information from any Proposer to assist ASPA in its consideration of the proposals.

X. CONTRACT AND PAYMENT TERMS

- A. The term for this contract is **50 calendar days**.
- B. *Notice to Proceed*. The contract shall be initiated by the issuance of a Notice to Proceed by ASPA at which time a contract completion date will be established.
- C. ASPA retains the sole option to renew or extend the contract after its initial term.
- D. The successful Offeror shall agree to have ASPA retain 20% of the Contract amount, which will be retained by ASPA from each monthly invoice/pay application submitted by the contractor for approval of payment, for a period of 30 days after the successful completion of the project.
- E. Payment will be made in percentages commensurate with 10%, 30%, 60%, 90% draft and final submittals for each deliverable. Payment will only be issued upon approval of the submittals.

XI. TYPE OF CONTRACT

- A. The successful Offeror will provide services to ASPA under a firm fixed-price, itemized contract agreement.
- B. The successful Offeror shall be an independent contractor and not an agent or employee of the American Sāmoa Power Authority.
- C. The successful Offeror shall furnish the necessary personnel, materials, insurance, licenses, permits, equipment, ground transportation to and from work areas, and otherwise do all things necessary to perform the work and services specified in the SOW and to the satisfaction of ASPA's Project Engineer.

- D. The Contractor must at all times comply with all applicable workman’s compensation, occupational disease, occupational health and safety laws, statues, and regulations to the full extent applicable.
- E. ASPA will not be held responsible in any way for claims filed by the successful Offeror or its employees for services employed under the terms of this RFP or the contract.

XII. BASIS FOR SELECTION

- A. Proposals will be evaluated by a Source Evaluation Board (“SEB”). SEB members shall be appointed by the Procurement Manager approved by the Executive Director. Submission of a proposal shall constitute a waiver of any challenge or dispute of the SEB members, as well as the choice of methodology set forth on the SEB score sheets. The award will be made by ASPA in accordance with the evaluation criteria set forth herein and with ASPA’s Procurement Rules.
- B. A determination shall be made by the SEB of those responsible Offerors whose proposals are susceptible of being selected for award. The determination shall be included in the contract file. Discussions may be conducted by the SEB with those responsible Offerors whose proposals are determined to be responsive and responsible to the RFP. These discussions shall only be conducted for the purpose of obtaining clarification from the Offeror on its proposal to ensure full understanding of and responsiveness to the RFP requirements. Discussions shall be conducted individually with each offeror and care shall be exercised to ensure that no information derived from competing offeror’s proposals is disclosed. All Offerors with whom discussions are conducted shall be accorded an opportunity to revise their proposals in response to specific clarifications based on the discussions. Unless the Procurement Manager determines that satisfactory evidence exists that a “mistake” has been made, as set forth in Procurement Rules §3-114, Offerors will not be permitted to revise their proposals after proposal opening.
- C. The results of the evaluation will be documented, and written recommendation by the SEB will be sent to the Procurement Manager. Recommendation for award is sent to Executive Director for approval.
- D. ASPA reserves the right to make the award to the offeror that submits he proposal, which meet the requirements set forth herein and is in the best interests of ASPA after taking into consideration the aforementioned factors. ASPA also reserves the right to select portions of a proposal, or to reject any and all proposals.

XIII. IRREGULAR PROPOSALS SUBJECT TO REJECTION

Proposals shall be considered irregular and may be rejected for any of the following reasons:

1. If the proposal is not submitted on the forms furnished by ASPA.
2. If the proposal contains or is accompanied by conditions, reservations, or by statements concerning limitations, qualifications or contingencies.
3. If the proposal is incomplete.
4. If the proposal contains any erasure or correction of a bidder’s entry which is not initiated by the person or persons signing the proposal.

XIV. EVALUATION CRITERIA

- A. The submitted proposals will be subject to a preliminary examination to verify the authenticity and completeness of proposals, and then a detailed evaluation will be conducted.
- B. A two-stage procedure is utilized in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being opened and compared.
- C. Only proposals that achieve above the minimum of 42 points (i.e. at least 70% of the non-priced points) on the substantive presentation shall be reviewed for price.

CATEGORY	CATEGORY WEIGHT
1. PRICE	45
2. TECHNICAL ABILITY & EXPERIENCE -Qualifications and experience on projects of similar size and scope	35
3. PAST PERFORMANCE -Reference checks -Demonstrated history of completing similar projects or others on schedule and within budget	10
4. PROJECT SCHEDULE/WORK PLAN -A schedule confirming all the work required by the RFP can be performed within the time set aside for this project	10
5. STAFF QUALIFICATIONS -Proposal shall include a team member organizational chart and a listing of biographies for key individuals assigned to this project.	5

- D. Individual SEB member evaluations will remain confidential.
- E. ASPA reserves the right to make the contract award to the Offeror that submits the proposal which best meets the requirements set forth herein and which is in the best interest of ASPA after taking into consideration the aforementioned factors.

XV. ATTACHMENTS

- A. Attachment A – Proposal Transmittal Form
- B. Attachment B – Scope of Work
- C. Attachment C – Offeror’s Qualifications Form
- D. Attachment D – Disclosure Statements
- E. Attachment E – Non-Collusion Affidavit of Prime Offeror
- F. Attachment F – Bid Bond Security Instructions
- G. Attachment G – Bid Bond Security Form
- J. Attachment J –Cost Proposal Form

XVI. QUALIFICATION OF OFFERORS

- A. At minimum, the Offeror shall submit the information required by the Offeror's Qualification Form (Attachment C) and section XXIV.
- B. ASPA may make such investigations as it deems necessary to determine the ability of the Offeror to perform the work.
- C. The Offeror shall furnish to ASPA such additional information and data for this purpose as ASPA may request, or the proposal may be deemed non-responsive.

XVII. MULTIPLE PROPOSALS COLLUSION

- A. If more than one Proposal is submitted by any one party or in the name of its clerk, partner, or other person, all Proposals submitted by said party may be rejected by ASPA.
- B. If requested by ASPA to do so, an Offeror may submit an alternate Proposal.
- C. If ASPA believes that collusions exist amongst any Offerors, the participants in such collusion will be disqualified from contract award consideration.
- D. Proposals in which the proposed costs and fees are unreasonably high or unrealistically low may be rejected at ASPA's sole discretion.

XVIII. BUSINESS LICENSE

- A. An Offeror from elsewhere other than American Samoa shall be appropriately licensed in accordance with the state and/or country of the Offeror's origin and shall be skilled and regularly engaged in the general type and size of work called for under this RFP.
- B. The successful Offeror shall possess a currently valid American Samoa Business License prior to the execution of this contract.

XIX. CONTRACT DOCUMENTS

- A. The Contract Documents which govern all work set forth by this RFP consist of the following:
 - 1. This RFP
 - 2. All addenda to this RFP
 - 3. All Attachment(s), Exhibits, and Appendix to this RFP
 - 4. The Contract (or the Agreement)

XX. OFFEROR'S UNDERSTANDING

- A. Each Offeror must inform itself of the conditions relating to the execution of the work.
- B. The Offeror will make itself thoroughly familiar with all the Contract Documents prior to execution of the Agreement.

- C. Each Offeror shall inform itself of, and the Offeror awarded the Contract shall comply with, federal and territorial statutes and ordinances relative to the execution of the work, including but not limited to, applicable regulations which concern the following:
 - 1. Wage rates;
 - 2. Non-discrimination in the employment of labor;
 - 3. Protection of public and employee safety and health;
 - 4. Environmental protection;
 - 5. Historic preservation;
 - 6. Protection of natural resources;
 - 7. Fire protection;
 - 8. Burning and non-burning requirements;
 - 9. Permits and fees;
 - 10. Similar subjects.

- D. The Offeror agrees to a proposal by the requirements under Executive Order No. 11246, as amended, including specifically the provisions of the equal opportunity clause

XXI. WITHDRAWAL OF PROPOSAL

- A. Any proposal may be withdrawn prior to the scheduled time for the opening of Proposals by notifying ASPA in a written request.

- B. No Proposal may be withdrawn after the time scheduled for opening of Proposals.

XXII. OPENING AND EVALUATION OF PROPOSALS

- A. In accordance with Procurement Rule § 3-110, Proposals will be opened and recorded as part of the RFP record on the date and at the time indicated in Section IV, Part B of this document.

- B. All Proposals will be opened at the ASPA Procurement Conference Room in Tafuna, American Samoa or in another location as designated by the ASPA Acting Procurement Manager in Writing.

XXIII. EXECUTION OF CONTRACT

- A. Upon receiving ASPA's Notice of Award, the successful Offeror must sign and deliver the Contract to ASPA, together with any other documents as may be required by ASPA.

XXIV. RFP CONDITIONS

- A. This RFP does not commit ASPA to award a contract or to pay any cost incurred in the preparation of this proposal.

- B. The American Samoa Power Authority reserves the right to do the following:
 - 1. Reject any Offeror for being non-responsive to the Proposal requirements which are contained in this RFP;
 - 2. Reject all proposals and reissue an amended RFP;

3. Request additional information from any Offeror submitting a proposal;
 4. Select an Offeror for award based on other than “least cost” criteria (e.g. capability to complete work in a timely fashion or substantive and relevant work experience);
 5. Negotiate a contract with the Offeror selected for award;
 6. Waive any non-material violations of rules in this RFP.
- C. ASPA reserves the right to issue any addendum to this RFP, after which the following steps will be followed:
1. OFFERORS shall send ASPA a signed Receipt of Addenda from confirming the receipt of any Addendum;
 2. OFFERORS shall submit any additional information as is required by any Addendum;
 3. If any Offeror fails to acknowledge the receipt of any such Addendum, the Offeror’s proposal shall be considered irregular and will be accepted by ASPA only if it is in ASPA’s best interest;
 4. If any Addenda are not received prior to submittal of the Offeror’s Proposal, a Supplementary Proposal may be submitted in order to revise the original Proposal;
 5. Supplementary Proposals must be received by ASPA prior to the scheduled time for the opening of Proposals.

XXV. OFFEROR’S QUALIFICATION DATA

- A. It is the intention of ASPA to award the contract only to an Offeror who is able to furnish satisfactory evidence that the Offeror has the requisite experience and ability, including sufficient capital, facilities, and employees, which are necessary to prosecute the work successfully and promptly and to complete it within the term set forth in the contract.
1. Please provide past project experience on similar projects to SOW laid out in this RFP.
 2. Please list experience in American Sāmoa and/or in similar remote locations with limited infrastructure.
 3. Please list any sources/suppliers/manufacturers of materials and prefab elements.
 4. Please provide recommendations that might help improve the project overall in terms of maintenance and operations.
- B. The Offeror shall complete and submit the Offeror’s Qualification Form (Attachment C), as part of the total proposal package

XXVI. AWARD OF CONTRACT

Within forty (40) calendar days after the opening of offers, unless otherwise stated in the Notice to Offerors, ASPA will accept one of the offers in accordance with the selection criteria. The acceptance of the offer will be by written Notice of Award, mailed or delivered to the office designated in the proposal. In the event of failure of the lowest responsive, responsible offeror to sign and return the Contract with acceptable payment and performance bonds, as prescribed herein, ASPA may award the contract to the next lowest responsive, responsible qualified offeror. Such award, if made, will be made within ninety (90) days after the opening of proposals. Before

a Contract is finalized, ASPA may require the apparent low offeror to submit a complete statement of the origin, composition, manufacture and availability of replacement parts and services for any or all materials to be used in the work, together with samples. These samples may be subjected to the tests provided for in these Contract Documents to determine their and fitness for the work.

XXVII. PAYMENT

- A. **General.** In consideration of the faithful performance of the Work prosecuted in accordance with the provisions of the Contract, ASPA will pay the Contractor in United States dollars for all such goods and services delivered or rendered pursuant to the Contract on the basis of percentage of completion for lump sum items and unit price for all other items, all as more particularly described in the Contract.
- B. **Partial Payments.** Partial Payments may be made from time to time as provided in the Contract. Partial payments shall not be construed to affect the right, hereby reserved, of ASPA to reject the whole or any part of any work, should such work be later found not to comply with the provisions of the Contract. All estimated quantities of work for which partial payments have been made are subject to review and correction on the final estimate. Payment by ASPA and acceptance by the Contractor of partial payments based on periodic estimates of quantities of work performed shall not, in any way, constitute acceptance of the estimated quantities used as the basis for computing the amount of the partial payments.

Before the first working day of each calendar month, the Contractor shall prepare a detailed estimate of the amount earned for the separate portions of the work for review and approval by ASPA. As used in this Section, the words "amount earned" means the value, on the date of the estimate for partial payment, of the work completed in accordance with the Contract and the value of approved materials delivered to the project site suitably stored and protected prior to incorporation into the work.

- C. **ASPA's Right To Withhold Amount.** In addition to any other amount which ASPA may otherwise retain hereunder or under the Contract, in the event the successful Offeror is in material breach of the Contract, ASPA may withhold all or part of any payment or payments otherwise due the Contractor if ASPA reasonably determines such additional withholding is necessary to ensure Contractor's compliance with the agreed upon terms of the contract.
- D. **Qualification For Partial Payment For Materials Delivered.** Materials, as used herein, shall be considered those items which are fabricated and manufactured material and equipment. Only those materials for which the Contractor can transfer clear title to ASPA will be qualified for partial payment. To receive partial payment for materials delivered to the site, but not incorporated in the work, it shall be necessary for the Contractor to submit to the Engineer, at least seven (7) days prior to the end of said month, a list of such materials. At his sole discretion, the Engineer will approve items for which partial payment is to be made. Invoices of suppliers must support the Contractor's actual net cost for the materials. Proper storage and protection shall be provided by the Contractor, and as approved by an ASPA engineer. Final payment shall be made only for

materials actually incorporated in the work and, upon acceptance of the work, all materials remaining for which advance payments had been made shall revert to the Contractor, unless otherwise agreed, and partial payments made for these items shall be deducted from the final payment for the Work. Partial payments will include surface shipping costs to American Samoa. Bills of lading will be provided by the Contractor to determine actual shipping costs. Partial payments shall not exceed Sixty percent (60%) of material and shipping costs. No payment will be made for on-island transshipment to work site.

XXVIII. CONTRACTOR'S LICENSE

Offerors who are not from American Samoa shall be licensed in accordance with the provisions of their respective state and country and shall be skilled and regularly engaged in the general type and size of work called for under this RFP. The selected Offeror shall have an American Samoa Business license prior to execution of the Contract. Offerors from American Samoa shall be licensed in accordance with the American Samoa rules and regulations for Contractors.

XXIX. PRIMARY OFFEROR

The award, if made, will be to a single Offeror. The selected primary Offeror will be responsible for successful performance of all subcontractors and support services offered in response to this Bid. Furthermore, the ASPA will consider the primary Offeror to be the sole point of contact regarding contractual matters for the term of the Agreement. The Offeror must not assign financial documents to a third-party without prior written approval by ASPA, and an amendment to the resulting Agreement.

XXX. SUBCONTRACTOR

- A. Any Subcontractor that the Offeror chooses to use in fulfilling the requirements of this RFP, and which is expected to receive more than ten percent (10%) of the value of the Agreement, must also meet all Administrative, Business and Technical Requirements of the RFP, as applicable.
- B. Nothing contained in the resulting Agreement shall create any relationship between ASPA and any Subcontractors, and no subcontract shall relieve the Offeror of its responsibilities and obligations. The Offeror is fully responsible to the Government for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by any of them.
- C. The Prime Offeror's obligation to pay its subcontractors is an independent obligation from ASPA's obligation to pay or to enforce the payment of any money to any subcontractor. Offeror is solely responsible for any payments to or claims made by subcontractor.
- D. The Offeror must not change Subcontractor(s) if such changes conflict with the work to be performed under this contract. ASPA recognizes that changes to Subcontractor(s) may be necessary and in the best interests of ASPA, however, advance notification of a

contemplated change and the reasons for such change must be made to ASPA no less than ten (10) Business Days prior to the existing Subcontractor's termination. If this should occur, the Offeror should be aware that the ASPA contract administrator or designee must approve any changes to the subcontractor(s) prior to the termination of the existing Subcontractor(s). This also includes any changes made between submittal of the Final Offer and actual start of the contract.

- E. ASPA will not compensate the Offeror for any of the Offeror's time or effort to educate or otherwise make the new Subcontractor(s) ready to begin work on the contract.

XXXI. LISTING OF SUBCONTRACTOR

All offers shall include the names of each firm to be engaged by the offeror as a subcontractor in the performance of the Contract. The nature and scope of work to be performed by such subcontractor shall also be included. ASPA shall not be responsible for payment to any joint contractor or subcontractor. ASPA only recognizes its contractual payment obligations to the successful offeror.

XXXII. PROOF OF COMPETENCY OF SUBCONTRACTOR

Any offeror may be required to furnish evidence, satisfactory to ASPA, that proposed subcontractors have sufficient means, equipment, and experience in the types of work called for to assure completion of the contract in a satisfactory manner.

XXXIII. INSURANCE

- A. The Architect/Engineer shall maintain insurance in the amounts and types as determined by the Owner in its sole and absolute discretion and such insurance shall be procured from a reputable insurer qualified to do business in the Territory of American Samoa as part of the Architect/Engineer's Basic Services and at no additional cost to the Owner. The Architect/Engineer shall include the Owner and the Construction Manager as an additional insured party on all of the Architect/Engineer's insurance policies, except for the Workers' Compensation and professional liability policies. The policy endorsement shall grant the additional insured liability status stated herein. The Architect/Engineer shall submit to the Owner prior to the execution of the contract, an appropriate Certificate of Insurance which certifies that the Architect/Engineer has procured the insurance required by the Owner. Insurance policies shall provide the Owner with a thirty-day (30-day) notice of cancellation, non-renewal or change in insurance coverage. The successful firm must provide and maintain the following minimum limits of insurance coverage during the period of performance required under the contract:
- B. During the term of the Agreement the Contractor shall maintain such public liability and property damage insurance, and automobile public liability that shall protect the Contractor from claims for damages for personal injury, including accidental death, as well as from claims for direct property damage, which may arise from negligent operations under the Agreement, whether such operations are by itself or by a

subcontractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be as follows

- a. Workmen's Compensation: The Contractor shall maintain such statutory amounts of workmen's compensation insurance as are set forth in the American Samoa Code Annotated and American Samoa Administrative Code.
- b. Employer's Liability: The Contractor shall maintain employer liability insurance in the amount of Two Million (\$2,000,000 USD).
- c. Public/General Liability: Public/General liability shall include coverage for wrongful death claims, and shall not exclude coverage for explosion, collapse, or underground exposure.
 - i. The Contractor shall maintain public/general liability insurance covering third party bodily/personal injury in the amount of Five Hundred Thousand Dollars (\$500,000 USD) per person/per occurrence with an aggregate of One Million Dollars (\$1,000,000 USD).
 - ii. The Contractor shall maintain public/general liability insurance covering property damage in the amount of Five Hundred Thousand Dollars (\$500,000 USD) per person/per occurrence or coverage that is equivalent as currently available.
 - iii. The Owner and Project Manager shall be named as additional insured with respect to general liability.
- d. Automobile Liability:
 - i. Bodily/personal injury. The Contractor shall maintain automobile liability insurance covering third party bodily/personal injury in the amount of Five Hundred Thousand Dollars (\$500,000 USD) per person/per occurrence with an aggregate of One Million Dollars (\$1,000,000 USD).
 - ii. Property damage. The Contractor shall maintain automobile liability insurance covering property damage in the amount of Five Hundred Thousand Dollars (\$500,000USD) per person/per occurrence with an aggregate of One Million Dollars (\$1,000,000 USD).
- e. Professional Liability:
 - i. One million (\$1,000,000) errors and omissions/malpractice per occurrence

XXXIV. REQUIRED REPORTS

- A. In addition to any requirements specified in the SOW, the Contractor shall also provide a monthly report of services completed. Monthly reports for the previous month shall be

submitted to the Project Engineer before the 10th day of each new month for verification prior to sending to any other ASPA office including the Accounting Division.

XXXV. AMERICAN SAMOA LICENSES, PERMITS, TAXES AND IMPORT DUTY

The Contractor shall be cognizant of and comply with all American Samoa Government (“ASG”) laws and ordinances pertaining to licenses, permits, tax structure and import duties. Additionally, the Contractor shall:

- A. Have or obtain an ASG business and contractor’s license as may be required by applicable law to perform the required contractual work. Over-the-highway vehicles require American Samoa Licenses. Operator’s licenses are required;
- B. Be cognizant that American Samoa is a protectorate of the United States located outside the jurisdiction of the U.S. Customs and U.S. Immigration Department. The Contractor’s equipment that will be returned to the United States will be subjected to customs or import duty unless properly manifested before shipment from the United States. Excise Tax on equipment to be incorporated into the project or used on this project may be waived upon written request. Should the Contractor elect to sell the equipment locally upon completion of the contract or to use the equipment for other than this project rather than shipping the equipment away from American Samoa, the equipment will then be subject to the appropriate duty rate. Equipment imported for use other than on this project is also subject to local tax; and
- C. Comply with the Workmen’s Compensation Act and maintain a compliant Health and Safety Plan. A copy of this plan shall be provided to ASPA.

XXXVI. ADDITIONAL AMERICAN SAMOA REGULATIONS

Offerors are advised of the following:

- A. Foreign Labor: Contractors must exercise good judgment in recruiting skilled foreign labor. Unskilled labor used on the project shall be American Samoa residents and/or granted permission by law to work in American Samoa. The Contractor shall conform to the current immigration laws and Codes of American Samoa.
- B. Social Security for Aliens: Alien technicians brought in to perform the work will be required to register and receive a social security number if they do not already possess one.
- C. Necessary Inoculations: Inoculations shall be as required by the United States Public Health Service. It will be the Contractor’s responsibility to determine that these inoculations are obtained prior to entry from any foreign country or possession.
- D. Costs of Transportation: The Contractor will be expected to include in its bid, among other things, the cost of transporting equipment, materials and personnel to and from American Samoa.
- E. Labor and Material Furnished by ASPA: No labor and materials will be furnished by ASPA. Certain materials and equipment may be made available to Contractor for its use and

access, but only in the sole discretion of ASPA. Offerors should not assume when preparing bids that ASPA material and equipment will be available for their use.

- F. Equipment and Project Warranty and Maintenance Requirements: All bids should include the cost of a one-year equipment and workmanship warranty, or length of warranty specified in the project specifications, attached hereto as Attachment I. Warranties shall include the cost of all parts, labor, equipment, shipping, and onsite visits to repair or replace any deficient equipment, material, or workmanship and include, at a minimum, at least one site visit by the contractor within 1 year of substantial completion ordered at ASPA's sole discretion.

XXXVII. TIME IS OF THE ESSENCE

Time is of the essence in completing the work to be performed under the contract. Delays and extensions of time will not be allowed, and a penalty fee equal to 1% of the total contract shall be assessed per day for not meeting any of the milestones agreed upon between ASPA Project Engineer.

XXXVIII. REPRESENTATION REGARDING ETHICS IN PUBLIC PROCUREMENTS

By submitting a bid, each Offeror represents that it has not knowingly influenced and agrees that it will not knowingly attempt to influence any ASPA employee to breach any applicable ethical standards and represents that it has not violated, it is not violating and promises that it will not violate the prohibition against gratuities and kickbacks set forth in § 9-103 of ASPA Procurement Rules or other applicable law.

XXXIX. REPRESENTATION REGARDING CONTINGENT FEES

The offeror represents that it has not retained a person to solicit or secure an ASPA contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

XL. COMPLIANCE WITH LAWS

Offerors who are awarded a contract under this solicitation shall comply with the applicable standards, provisions and stipulations of all pertinent Federal and/or local laws, rules and regulations relative to the performance of this contract and the furnishing of goods.

XLI. USE OF SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS.

All offerors must commit to taking affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

- B. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises; and
- E. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

XLII. COMPLIANCE WITH FEDERAL REGULATIONS

The Work will be funded by one or more federal agencies. As such, all offerors must agree to comply with applicable federal laws and regulations, including, but not limited to:

- A. Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR chapter 60);
- B. The Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3);
- C. The Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5);
- D. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5); and
- E. Applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR part 15).

XLIII. VENUE AND CHOICE OF LAW

- A. Venue: The obligations of the parties hereto are performed in American Samoa, and if legal action is necessary to enforce same, exclusive venue shall be within American Samoa.
- B. Governing Law: This contract shall be governed by and construed in accordance with the laws and case decisions of American Samoa contractual matters for the term of the Agreement. The Offeror must not assign financial documents to a third-party without prior written approval by ASPA, and an amendment to the resulting Agreement.

ATTACHMENT A (PROPOSAL TRANSMITTAL FORM)

Date: _____

AMERICAN SAMOA POWER AUTHORITY

To Whom It May Concern:

The undersigned (hereafter referred to as the Offeror) hereby proposes and agrees to furnish all of the requested submittal and proposal information pertaining to

**RFP NO. ASPA21.044.WTR
GEOTECHNICAL SERVICES – LEONE BOLTED STEEL TANK REPLACEMENT PROJECT**

In accordance with the Scope of Work (Attachment B), General Terms and Conditions, and other procurement requirements specified in this document for the prices stated in the itemized proposal form(s) attached hereto, plus any and all sums to be added and/or deducted resulting from all extra and/or omitted work in accordance with the unit and/or lump sum prices stated in the itemized proposal form attached hereto.

The undersigned has read and understands the proposal requirements, and is familiar with and knowledgeable of the local conditions at location(s) where the work is to be performed. The Offeror has read the Request for Proposal Instructions and General Terms and Conditions attached to ascertain that all of the requirements (see check boxes) of the cost proposal are submitted in the proposal envelope, with five copies, at the date and time for proposal opening. (See Page Five of this document, "SPECIAL REMINDERS TO PROSPECTIVE OFFERORS" to verify that all four submittal requirement boxes have been checked.)

Signed

Seal

Date

ATTACHMENT B (SCOPE OF WORK)

(Attached Separately)

ATTACHMENT C (OFFEROR QUALIFICATION FORM)

1. Name of Organization_____
2. Business Address:_____
 - a. Telephone: (HomeOffice)_____
 - b. Business Telephone:_____
 - c. Email Address:_____
 - d. Fax Number: _____
 - e. Tax Identification Number:_____

3. Contact Person:_____

4. Type of Business (please check one):

- Corporation
- Partnership
- Proprietorship
- Joint Venture

Note: For Corporations – Articles of Incorporation Certification must be on record with the Treasurer of American Samoa. Copies of partnership agreements and articles of incorporation must be submitted to the revenue branch with application form and relevant documents. Aliens cannot operate sole ownership enterprises and partnerships with aliens are subject to immigration board review.

5. Place of Organization or State of Incorporation:_____

6. Owner’s Names and Addresses (if not a Corporation):

7. For Corporations: Names and Addresses of Directors, Officers, and Stockholders with 20% or greater interest in the company.

8. List US States and Territories where company is registered as a foreign corporation.

9. List all projects of similar scope and extent to which the Offeror has conducted within the past five-years; provide the dollar value contract amount for each project. And list project owner contact information for reference inquiries.

Location **and** **Date** **of** **Project:**

Nature and scope of contract (provide a brief project description): _____

Name and address of awarding agency or owner for which work was performed:

Name, address, and phone number of Contact Person for the agency:

Contract Amount _____ Date _____ of
Completion _____

If not completed, why?

Was contract performed under joint venture, if so with whom and under what arrangement? _____

Location **and** **Date** **of** **Project:**

Nature and scope of contract (provide a brief project description): _____

Name and address of awarding agency or owner for which work was performed:

Name, address, and phone number of Contact Person for the agency:

Contract Amount _____ Date _____ of
Completion _____

If not completed, why?

Was contract performed under joint venture, if so with whom and under what
arrangement? _____

10. List the name or names of supervisory personnel proposed to be employed on the work under this Contract, including the qualifications and experience record for each. Personnel resumes may be included within the Offeror's proposal submittal.

No.	Names	Qualifications	Experience

11. List the names and addresses of at least three (3) references, one of which should be a bank or other lending institution, governmental agency, or bonding company.

No.	Name of Reference	Address and Contact Information

ATTACHMENT D (DISCLOSURE STATEMENTS)

This form must be completed by all offerors and submitted with the proposal.

I _____,
(Name of owner or partner- all partners must complete a form)

of _____ the Offeror, that has submitted the attached proposal:
(Name of Company)

(Complete one of the two following statements)

- A. **I have no** immediate relatives (parents, children or siblings) who are currently employed by the American Samoa Power Authority (ASPA) or the American Samoa Government (ASG)

(Signed)

(Title)

- B. **I have** immediate relatives (parents, children or siblings) who are currently employed by ASPA or the ASG.

Their names and positions in are as follows.

Name	Relationship to Offeror	Position in ASPA
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Signed)

(Title)

Note: It is not against ASPA procurement rules for the relatives of government employees to bid on and receive government contracts provided they disclose such relationships at the time of bidding.

ATTACHMENT E (NON-COLLUSION AFFIDAVIT OF PRIME OFFEROR)

I, _____, being first duly sworn deposes and says that:

1. He/She is _____
(Owner, Partner, Representative or Agent)
of _____
(Company Name)

of Offeror, that has submitted the attached bid.

2. He is fully informed regarding the preparation and contents of the attached bid and of all pertinent circumstances regarding such bid.
3. Such bid is genuine and is not a collusive or false bid.
4. Neither the said Offeror nor any of its officers, partners, owner, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Offeror, firm or person to submit a collusive or false bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against American Samoa Power Authority or any person interested in the proposed Contract; and
5. The price or prices quoted in the attached bid are fair and proper, and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Offeror or any of its agent's representatives, owners, employees, or parties in interest, including this affiant.

(Signed)

(Title)

Subscribed and sworn to before me this ____ day of _____, 2021

(Signed)

(Title)

My Commission expires _____, 2021

ATTACHMENT F (COST PROPOSAL BID FORM)

(Attached Separately)