



**REQUEST FOR PROPOSALS
No. RFP-09-01-OP**

**SEALED OFFERS
FOR
“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”**

**WILL BE RECEIVED UP TO 11:00 A.M. (HST) ON
October 30, 2008**

IN THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM (DBEDT), ADMINISTRATIVE SERVICES OFFICE/CONTRACTS, NO. 1 CAPITOL DISTRICT, 250 S. HOTEL ST., 5TH FLOOR, ROOM 504, HONOLULU, HAWAII, 96813. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO EILEEN HARADA, TELEPHONE (808) 586-9312, FACSIMILE (808) 586-2526, OR E-MAIL AT BIDS@DBEDT.HAWAII.GOV.

DOWNLOAD SOLICITATION from Website

Offeror is advised that if interested in responding to this solicitation, Offeror may choose to submit their offer from a downloaded document **provided** Offeror register its company by fax or e-mail for this specific solicitation. If Offeror does not register its company, Offeror will not receive addenda, if any, and their offer may be rejected and not considered for award.

Registration or Request for Copy of Solicitation

Submit FAX or E-Mail to:

FAX No.: (808) 586-2526
E-Mail Address: bids@dbedt.hawaii.gov

Provide the following information:

- | | |
|--|-----------------------|
| ⊕ Name of Company | ⊕ Mailing Address |
| ⊕ Name of Contact Person | ⊕ Telephone Number |
| ⊕ Facsimile Number | ⊕ Solicitation Number |
| ⊕ FedEx (or equivalent) account number (document will be sent by U.S. Postal Service first class mail if this is not provided) | |

STATE OF HAWAII

**DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
*OFFICE OF PLANNING***

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

Sealed proposals will be received up to and opened at 11:00 a.m. (HST)

on
October 30, 2008

in the Administrative Services Office/Contracts, No. 1 Capitol District, 250 S. Hotel St., 5th Floor, Room 504, Honolulu, Hawaii, 96813.

Questions relating to this bid solicitation shall be directed to Ms. Eileen Harada, phone (808) 586-9312 or facsimile (808) 586-2526.

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REQUEST FOR PROPOSALS

The Department of Business, Economic Development, and Tourism
OFFICE OF PLANNING

Solicitation No. RFP-09-01-OP

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

Pursuant to the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes, the State of Hawaii Department of Business, Economic Development, and Tourism (DBEDT) Office of Planning (OP) is soliciting proposals to “Rural Economic Development Planning Study”.

Project Description:

The Office of Planning, Department of Business, Economic Development and Tourism, is soliciting proposals to identify ways in which Hawaii’s rural communities can improve their economic conditions while maintaining their rural character and lifestyle. The project will do this by identifying rural communities which have been able to achieve both objectives and identifying the “best practices”, tools and techniques that these successful rural communities have utilized. The project will compile demographic and economic profiles of Hawaii’s rural communities and recommend approaches that could be used in Hawaii and which are also consistent with the values and goals of Hawaii’s rural communities.

Requirements:

All written questions must be submitted to the DBEDT/Administrative Services Office/Contracts by 3:00 p.m., Hawaii Standard Time (HST) on October 3, 2008.

Proposals shall be received up to 11:00 a.m., HST, on October 30, 2008 in the Administrative Services Office/Contracts Office, DBEDT, State of Hawaii, No. 1 Capitol District, 5th Floor, Room 504, 250 South Hotel Street, Honolulu, Hawaii, 96813. Request for Proposal (RFP) documents may be obtained from said office between the hours of 8:30 a.m. to 11:30 a.m. and 1:30 p.m. to 4:00 p.m., Monday through Friday, except for State holidays or you may download from www4.state.hi.us/bidapps or www.hawaii.gov/dbedt/info/bidfiles. All interested parties must register with said office at the time the RFP documents are requested. **PLEASE NOTE: REGISTRATION IS MANDATORY.**

All proposals must comply with General Conditions, AG-008, revised August 29, 2008, Exhibit F. Offerors are encouraged to carefully read the entire RFP document. Proposals must be submitted on DBEDT proposal forms **with an original signature**. **If possible, blue ink is preferred.**

All proposals must comply with Section 3-122-112, Hawaii Administrative Rules (HAR) (Exhibit D). Offeror is advised that if awarded a contract under this solicitation, upon award of the contract Offeror shall furnish proof of compliance with the requirements of Section 103D-310(e), HRS:

- 1) Chapter 237, tax clearance;
- 2) Chapter 383, unemployment insurance;
- 3) Chapter 386, workers' compensation;
- 4) Chapter 392, temporary disability insurance;
- 5) Chapter 393, prepaid health care; and
- 6) One of the following:
 - a. Be registered and incorporated or organized under the laws of the State, hereinafter referred to as a "Hawaii business"; or
 - b. Be registered to do business in the State, hereinafter referred to as a "compliant non-Hawaii business."

Eileen Harada for
Theodore E. Liu, Director
Department of Business, Economic Development, and Tourism
State of Hawaii

CAUTION

1. ALL PROPOSALS MUST BE SUBMITTED ON DBEDT PROPOSAL FORMS. FAILURE TO SUBMIT ON SUCH FORMS MAY RESULT IN DISQUALIFICATION.
2. ALL INTERESTED PARTIES MUST REGISTER WITH THE DBEDT ADMINISTRATIVE SERVICES / CONTRACTS OFFICE. REGISTRATION SHALL CONSIST OF CONTACTING THAT OFFICE TO REQUEST A COPY OF THIS SOLICITATION VIA MAIL, DOCUMENT DELIVERY SERVICE, OR DOWNLOADING FROM THE INTERNET.
3. ALL WRITTEN QUESTIONS MUST BE RECEIVED BY DBEDT ADMINISTRATIVE SERVICES OFFICE/CONTRACTS BY THE DATE AND TIME INDICATED IN THE SIGNIFICANT DATE SECTION.
4. ALL PROPOSALS MUST BE RECEIVED BY THE DBEDT ADMINISTRATIVE SERVICES / CONTRACTS OFFICE BY THE DATE AND TIME INDICATED IN THE SIGNIFICANT DATES SECTION.
5. PROPOSAL SUBMISSIONS MUST INCLUDE AN ORIGINAL SIGNATURE AND FIVE (5) COPIES. FAILURE TO SUBMIT PROPOSALS AS PRESCRIBED MAY RESULT IN DISQUALIFICATION. IF POSSIBLE, AN ORIGINAL SIGNATURE IN BLUE INK IS PREFERRED.
6. OFFERORS ARE CAUTIONED TO MAKE PRIOR ARRANGEMENTS TO ENSURE DELIVERY BY THE PROPOSAL DUE DATE.

Proposal and registration forms are available at the:

Department of Business, Economic Development, and Tourism
Administrative Services Office / Contracts
No. 1 Capitol District
250 South Hotel Street, 5th Floor, Room 504
Honolulu, Hawaii 96813
<http://www4.state.hi.us/bidapps>
<http://www.hawaii.gov/dbedt/info/bidfiles>

Contact person: Eileen Harada, (808) 586-9312

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

**INTRODUCTION, SIGNIFICANT DATES, AND
OFFICIAL CONTACT PERSON**

INTRODUCTION, SIGNIFICANT DATES AND OFFICIAL CONTACT PERSON

A. INTRODUCTION

The Office of Planning, Department of Business, Economic Development and Tourism, is soliciting proposals to identify ways in which Hawaii's rural communities can improve their economic conditions while maintaining rural character and lifestyle.

Hawaii's rural communities play an important part in the mix of elements that make Hawaii unique. Much of Hawaii's rich multi-cultural heritage is reflected in rural communities. The beauty of Hawaii's landscape is enhanced by rural open space and the small scale of rural communities. Many rural communities want to maintain their rural character and lifestyle.

However, many of Hawaii's rural communities have economic difficulties. Some are still struggling with the transition from sugar to diversified crops. Many rural communities have yet to find an economic driver comparable to sugar.

Moreover, a number of rural communities have not benefited from the overall Statewide economic boom and have high rates of unemployment and underemployment.

There are many economic development paths that rural communities can take. Kailua, Kona grew from a small fishing village to a major resort destination and lost its rural character in the process. Other rural communities, for example, in Windward Oahu, have become bedroom communities to a larger urban area and do not have core economic activities of their own. If some of Hawaii's rural communities don't want to follow these paths, what roads should they take?

Many rural communities in Hawaii desire to improve their economic condition while maintaining their rural character and lifestyle. How have other places managed to accomplish this? Are there models or examples that Hawaii's rural communities can follow?

The project will identify and research rural communities which have been able to achieve economic development while maintaining rural character and values; and identify the "best practices", tools and techniques that these successful rural communities have utilized. The project will prepare demographic and economic profiles of Hawaii's rural communities and recommend approaches that could be used in Hawaii and which are also consistent with the values and goals of Hawaii's rural communities.

The Office of Planning has conducted projects on Rural Policy and Best Practices and Low Impact Design. Information on these projects is available on the Office of Planning's website at <http://hawaii.gov/dbedt/czm/initiative/rural> and <http://Hawaii.gov/dbedt/czm/initiative/lid>. Proposals submitted in response to this RFP should not duplicate the work that has already been done. This RFP is not intended to cover/address land use planning issues. However, offerers should review this material

and proposals should be consistent with the purposes and intent of these other Office of Planning rural projects.

B. SIGNIFICANT DATES

- | | |
|--|--------------------|
| - Advertisement | September 25, 2008 |
| - Issuance of Request for Proposal | September 25, 2008 |
| - Deadline for Offeror's Written Questions, by 3:00 p.m. | October 3, 2008 |
| - Response to Offeror's Questions and Addenda Deadline | October 7, 2008 |
| - Sealed Proposal Due, 11:00 a.m., | October 30, 2008 |

C. OFFICIAL CONTACT PERSON

The official contact person for all communication regarding the RFP is:

Eileen Harada
Department of Business, Economic Development, and Tourism
Administrative Services Office/Contracts
No. 1 Capitol District
250 S. Hotel St., 5th Floor, Room 504
Honolulu, Hawaii 96813
Telephone: (808) 586-9312
Email: bids@dbedt.hawaii.gov

Official responses to Offerors' timely questions shall be made through written addenda issued to all Offerors who have registered with DBEDT. Offerors' attention is directed to the deadlines for questions and addenda stated above.

STATE OF HAWAII
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“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

STATEMENT OF WORK

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

A. OBJECTIVES

The overall goal of this project is to provide options for improved economic conditions in Hawaii’s rural communities that are consistent with residents’ goals for maintaining their traditional values and rural character.

As used in this RFP, the term “rural” means low-density, non-urban patterns of human settlement that include farms and small-scale commercial uses.

This overall goal will be accomplished by completion of the following objectives:

1. Summarize and present demographic and economic information for rural areas in Hawaii. This will provide a much needed baseline for information on rural communities.
2. Create a summary description of rural economic development problems, issues and trends in Hawaii and desired economic development goals and objectives of rural communities.
3. Review studies, reports, etc. on successful rural communities, both in Hawaii and outside of Hawaii, and rural economic development “best practices”, tools, and techniques with an emphasis on those areas that have managed to maintain their rural character and lifestyle and identify “best practices”, tools and techniques which would be useful and applicable to Hawaii.
4. Provide recommendations to support rural economic development in Hawaii in ways which are consistent with residents’ desires for a rural lifestyle; maintenance of rural communities and Hawaii’s unique culture.
5. Prepare a report for use by economic development professionals and community groups.

B. SCOPE OF WORK

The CONTRACTOR shall develop the Rural Economic Development Planning Study within the timeframe provided and to the satisfaction of the STATE, as follows:

1. Prepare a work plan and schedule that specifies the methodology process and breakdown of costs for completing all aspects of the project within the timeframes prescribed by this solicitation and the Office of Planning.

2. Prepare a narrative summary of demographic and economic information of rural areas in Hawaii statewide and by individual communities. The STATE will provide tables and geographic information system maps of demographic and economic information on rural areas statewide and by individual communities. The CONSULTANT shall be responsible for providing narrative descriptions and summaries of the data provided in the tables and incorporating the narrative summary, tables and geographic information system maps into the draft and final reports. The CONSULTANT AND STATE shall confer on the information to be provided and the geographic areas to cover.
3. Conduct more detailed research and analysis into complex indicators of distress, including but not limited to, under-employment, multiple job holders, trends over time of percentages of poverty levels and average wage gaps between rural areas and state average; and persons not in the labor force. In particular, a number of rural areas have high percentages of persons not in the labor force. The STATE desires research and analysis as to the reasons for this particularly when the State unemployment rate is comparatively low and employers have difficulty finding workers. Incorporate this information into the draft and final reports.
4. Inventory and analyze rural economic development problems, issues, and trends and opportunities in Hawaii.
5. Review county general and development plans for community goals and objectives pertaining to rural areas.
6. Create a summary description of rural economic development problems, issues, and trends in Hawaii and desired economic development goals and objectives pertaining to rural areas.
7. Review studies and reports on successful rural communities throughout the United States and in Hawaii and on rural economic development “best practices”, tools, and techniques, with an emphasis on those areas that have managed to retain their rural character and lifestyle and protect/promote traditional culture. Interview the four county economic development agencies and economic development boards.
8. Identify and select in consultation with the STATE and based on the review in item 7 at least two rural communities that serve as good examples of areas that have retained their rural character and lifestyle and at least one rural community that serves as a good example of an area that has retained its rural character and lifestyle and protected traditional culture. These “good examples” shall have relevance and potential applicability to Hawaii’s situation. Describe these “good example” rural communities as case studies and describe the programs, projects, practices, tools and techniques used by these communities to achieve maintenance of rural character and lifestyle and traditional culture.

9. Describe and identify programs, projects, “best practices”, tools and techniques which would be useful and applicable to Hawaii’s rural areas and which will meet the objectives of retaining rural character and lifestyle and protecting/promoting traditional culture and which were identified as a result of the review of studies conducted in items 7 and 8 above.
10. Provide recommendations to support rural economic development in Hawaii in ways which are consistent with residents’ desires for a rural lifestyle; maintenance of rural communities and Hawaii’s unique culture. Include “next steps” in the recommendations.
11. Prepare draft report which summarizes the findings and recommendations from the above tasks.
12. Assist OP in review of the draft report with economic development organizations and stakeholders.
13. CONTRACTOR shall give presentations to Hawaii economic development agencies and organizations and obtain input/feedback on all islands.
14. Prepare a final report and informational summary material, e.g. brochures, pamphlets, for STATE review and approval for use by Hawaii economic development professionals and community groups.

C. TIME SCHEDULE

1. Performance of services shall commence upon the effective date of the Contract and all of the services required under the Contract shall be completed by February 28, 2009, unless the Contract is sooner terminated as therein provided.
2. All proposals shall submit a time schedule for completion of all major tasks. The timeline shall include, but not be limited to: description of each task, duration of each task, schedule of tasks, milestones, and schedule of periodic progress reports with date of submission.

D. COMPENSATION

1. Award shall be made on a firm, fixed fee, including all taxes.
2. Proposals shall be priced and shall include a budget in accordance with the section entitled “Proposal Requirements.” The proposed budget shall include all costs, taxes, and fees. Only proposals requiring funding at or below \$92,500 will be considered.
3. Payment shall be made in predetermined installments contingent on the State’s approval of specific deliverables or progress reports.

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EVALUATION CRITERIA

**EVALUATION CRITERIA –
“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”**

A. MINIMUM CRITERIA FOR PROPOSAL RESPONSIVENESS

1. Unfavorable references may be justification for rejection of a proposal.
2. The STATE reserves the right to use whatever resources are available to the STATE to seek additional references in addition to those submitted in the proposal.
3. Submitting incomplete proposal documents or failure to sign the proposal documents may be justification for rejection of a proposal.
4. Failure to respond or comply with the specifications provided in the Solicitation or the requirements provided by statutes or law may be justification for rejection of a proposal.
5. Submitting a proposal with a price of more than \$92,500 including all applicable taxes may be justification for rejection of a proposal.

B. PROPOSAL EVALUATION CRITERIA

An evaluation committee shall be appointed by the DBEDT Director. The committee shall evaluate responsive proposals in accordance with the section entitled “Proposal Requirements” and based on the following general criteria:

	<u>Criteria</u>	<u>Total Possible Points</u>
1.	<u>Qualifications/Experience</u>	
	a. Demonstrates experience with similar projects.	10
	b. Demonstrates knowledge of rural economic development.	10
	b. Demonstrates sensitivity to and understanding of traditional cultures.	15
	c. Demonstrates understanding of factors comprising economic distress.	10
2.	<u>Proposal</u>	
	a. Completeness of proposal - covers all elements in the Scope of Work.	20
	b. Effectiveness of proposal to fulfill project objectives.	10
	c. Adequacy of description of each task that the contractor will perform.	10
	d. Proposal provides “best value” for \$92,500 to the STATE.	10
3.	<u>Preferences</u>	
	a. Ranking adjusted by in-state contractor preference (See Special Provisions); <u>OR</u>	5
	b. Ranking adjusted by out-of state reciprocal preference (See Special Provisions).	5

TOTAL POSSIBLE: 100 POINTS

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SPECIAL PROVISIONS

**SPECIAL PROVISIONS –
“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”**

A. OFFICIAL CONTACT PERSON

For the purpose of this solicitation, the official contact person for this solicitation is Eileen Harada, (808) 586-9312.

B. PREFERENCES

The following preferences shall apply to this solicitation. The total number of points awarded in the evaluation of the proposal shall include application of these preferences in the order specified below:

1. In-State Contractor. Preference shall be given to Offerors within the State of Hawaii. Whenever an Offeror selects and qualifies for an in-state contractor preference, all prices from Offerors who do not select or qualify under the in-state contractor preference shall be increased by 5% for evaluation purposes. Offerors claiming this preference shall submit a tax clearance certified from the State of Hawaii, Department of Taxation with their proposal and must indicate a State of Hawaii business address.
2. Tax adjustment for out-of-state and tax exempt Offerors. Where the Offeror is an out-of-state vendor not doing business in the State or is a person exempted from paying the applicable general excise tax, the proposal price shall be increased by the applicable retail rate of general excise tax and the applicable use tax.
3. Reciprocal Preference. Resident Offerors of the State of Hawaii may be given a reciprocal preference equal to the preference that an out-of-state Offeror would be given in their own state. If the out-of-state Offeror's state has a preference comparable to a Hawaii preference, the reciprocal preference shall be equal to the amount the out-of-state preference exceeds the Hawaii preference.

C. AUTHORITY

This RFP is issued under the provisions of Chapter 103D, HRS, and Subchapter 3-122, HAR. All Offerors are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any Offeror shall constitute admission of such knowledge on the part of such Offeror.

D. PROPOSALS MUST BE PRICED

E. BONDS: Bid, performance, and payment bonds are not required for this solicitation.

F. GENERAL CONDITIONS (GC) AND ADDITIONS TO THE GC

1. Copies of the GC, AG-008, revised August 29, 2008 are included herein as Exhibit F, and on the Internet at <http://www.hawaii.gov/dbedt/info/bidfiles>, "Goods and Services."
2. Additions to the GC:

Approvals. Any Contract arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulations, rule, order, or other directive.

Confidentiality of Material. All materials given to or made available to the Contractor by virtue of this contract, which is identified as proprietary, will be safeguarded by the Contractor and shall not be disclosed to any individual or organization without the prior written approval of the State.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, Chapter 92F, HRS. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to Section 3-122-58, HAR, in the case of an RFP, or Section 3-122-30, HAR, in the case of an IFB. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, delivery, and terms of payment shall be publicly available at the time of opening regardless of any designation to the contrary.

If a request is made to inspect the confidential or proprietary material, the inspection shall be subject to written determination by the Office of the Attorney General in accordance with Chapter 92F, HRS. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror protests under Chapter 3-126, HAR. If the request to inspect the confidential or proprietary material is denied, the decision may be appealed to the Office of Information Practices in accordance with Section 92F-15.5, HRS.

G. SPECIAL CONDITIONS

1. All work performed and products developed pursuant to the Contract shall comply with all applicable State, county, and federal rules, codes, and guidelines.
2. The Contractor must assure and be responsible for the continuity of service activities in the event of staff illness, medical emergencies, vacancies, or other situations that result in program resources that are less than proposed and contracted for. The Contractor must not require or depend on the State's staff to provide services activities in the event that program resources are not available due to the above situations.
3. When a disagreement arises between the Contractor and the State in regards to the performance of specific service requirements within contract specifications, the wishes of the State shall prevail. Failure on the part of the Contractor to comply shall be deemed cause for corrective action and subject to contractual remedies.
4. DBEDT reserves the right to reduce, amend, or expand the "Scope of Services."

H. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

It has been determined that funds for the contract have been appropriated by a legislative body.

Therefore, Offeror, if awarded a contract in response to this solicitation, agrees to comply with Section 11-205.5, HRS, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body.

I. REQUIRED REVIEW

Prospective Offerors shall carefully review this solicitation. Comments and questions shall be made in writing and submitted prior to the Deadline for Offerors' Written Questions in the Significant Dates section of the RFP. This shall allow issuance of any necessary amendments to the RFP.

J. CANCELLATION OF RFP AND PROPOSAL REJECTION

The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, as provided in Sections 3-122-95 through 3-122-97, HAR.

K. PROPOSAL OPENING

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and Offerors' proposals shall be

open to public inspection upon posting of the award. All proposals and other material submitted by Offerors become the property of the State and may be returned only at the State's option.

L. EVALUATION OF PROPOSALS

The Procurement Officer, or an evaluation committee of at least three (3) State employees selected by the Procurement Officer shall evaluate the proposals. The evaluation will be based solely on the evaluation criteria set out in this RFP.

Discussions may be conducted with firms or individuals determined to be priority-listed Offerors pursuant to Section 3-122-53, HAR. Priority-listed Offerors are those responsible Offerors with the highest-ranked proposals of those proposals that were ranked as acceptable or potentially acceptable. However, proposals may be accepted without such discussions.

If during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or change. Addenda to the RFP shall be distributed only to priority-listed Offerors. These Offerors shall be permitted to submit new proposals or to amend those submitted.

The date and time for Offerors to submit their best and final offers, as necessary, will be determined and made known. If Offeror does not submit a notice of withdrawal or another best and final offer, the Offeror's immediate previous offer will be considered as their best and final offer.

The State's acceptance of an offer, if any, will be made within ninety (90) calendar days after opening of proposals. Unless extended by mutual Contract, the Offeror's proposal shall remain firm for the ninety (90) day period.

M. DEBRIEFING

Pursuant to Section 3-122-60, HAR, a debriefing is provided, if requested, to the non-selected Offerors to inform them of the basis for the source selection decision and contract award.

A written request for debriefing shall be made within three (3) working days after the posting of the award of the contract. The procurement officer or designee shall hold the debriefing within seven (7) working days to the extent practicable from the receipt date of written request.

A protest by the requestor submitted pursuant to §103D-701 HRS, following a debriefing shall be filed within five (5) working days, as specific in §103D-303 (h), HRS.

N. PROTEST

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers, further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract, or in the case a debriefing was requested, within five (5) working days of the debriefing.

The notice of award letter(s), if any, resulting from this solicitation shall be posted on the Procurement Reporting System, which is available on the State Procurement Office website: <http://www.hawaii.gov/spo2/source/>.

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Department of Business, Economic Development, and Tourism Administrative Services Office/Contracts, No. 1 Capitol District, 250 S. Hotel St., 5th Floor, Room 504, Honolulu, Hawaii 96813.

O. METHOD OF AWARD AND CONTRACTOR REQUIREMENTS

Offeror is advised that prior to award of a contract under this solicitation, Offeror shall furnish proof of compliance with the requirements of sections 103D-310(c), HRS:

- a. Chapter 237, tax clearance;
- b. Chapter 383, unemployment insurance;
- c. Chapter 386, workers' compensation;
- d. Chapter 392, temporary disability insurance;
- e. Chapter 393, prepaid health care; and
- f. Chapter 103C-310 (c), Certificate of Good Standing (COGS for entities doing business in the State.

1. Hawaii Compliance Express.

An Offeror may collectively apply for these certificates through the Hawaii Compliance Express (HCE). The HCE allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov/hce/splash/welcome.html> to acquire a "Certificate of Vendor Compliance." The HCE provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance," indicating that the vendor's status is compliant with the requirements of HRS Section 103D-310(c), shall be accepted for both contracting purposes and final payment. Vendors that elect to use the new HCE services will be required to pay an annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC). **Vendors choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the sub-sections 2, 3, 4 that follow.**

2. **HRS Chapter 237 tax clearance requirement for award.**

Instructions follow:

Pursuant to HRS §103D-328, lowest responsive Offeror shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by the Administration Services Office/Contracts.

The tax clearance certificate shall be obtained on DOTAX "Tax Clearance Application" Form A-6 (Rev. 2006), which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website, Forms & Information:

http://www.state.hi.us/tax/a1_1alphalist.htm

DOTAX Forms by Fax/Mail:

(808) 587-7572

1 (800) 222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the DOTAX, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX: (808) 587-1488

IRS: (808) 539-1573

The application for the clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to the Administrative Services Office/Contracts. However, the tax clearance certificate shall be submitted to the Administrative Services Office/Contracts.

3. **HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.**

Instructions follow:

Pursuant to HRS §103D-310(c), lowest responsive Offeror shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by the Administration Services Office/Contracts. A photocopy of the certificate is acceptable to the Administration Services Office/Contracts.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH HAR SECTION 3-122-112*, "Form LIR#27 which is available at

<http://hawaii.gov/labor/forms/DCD-LIR27.pdf>, or at the Neighbor Island DLIR District Offices. The DLIR will return the form to the Offeror who in turn shall submit it to the Administration Services Office/Contracts.

The application for the certificate is the responsibility of the Offeror, and must be submitted directly to the DLIR and not to the Administrative Services Office/Contracts. However, the certificate shall be submitted to the Administrative Services Office/Contracts.

4. Compliance with Sections 103D-310 (c), HRS for an entity doing business in the State.

The lowest responsive Offeror shall be required to submit a CERTIFICATE OF GOOD STANDING (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received by the Administrative Services Office/Contracts. A photocopy of the Certificate is acceptable to the Administrative Services Office/Contracts.

To obtain the Certificate, the Offeror must first be registered with BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

Online business registration and the Certificate are available at www.BusinessRegistrations.com. To register or to obtain a "Certificate of Good Standing" by phone, call (808) 586-2727 (Monday-Friday, 7:45 a.m. to 4:30 p.m., HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

5. Final Payment Requirements.

Contractor is required to submit a tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two months old, with an original, green certified copy stamp must accompany the invoice for final payment on the contract.

In addition to a tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), Exhibit E, will be required for final payment. A copy of the Form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" menu. Alternatively, a "Certificate of Vendor Compliance", issued through the Hawaii Compliance Express system, shall be acceptable for final payment requirements.

6. Timely Submission of all Certificates.

The above certificates should be applied for and submitted to the Administrative Services Office/Contracts as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

P. PROPOSAL AS PART OF THE CONTRACT

Part or all of this RFP and the successful proposal may be incorporated into the contract.

Q. DISQUALIFICATIONS OF PROPOSALS

The State reserves the right to consider as acceptable only those proposals submitted in accordance with all the requirements set forth in this RFP and which demonstrate an understanding of the scope of services. Any proposal offering any other set of terms and conditions contradictory of those included in the RFP may be disqualified without further notice.

R. INVOICING AND PAYMENT

Section 103D-10, HRS, provides that the State shall have thirty (30) calendar days from receipt of invoice or satisfactory delivery of goods to make payment. For this reason, the State will reject any proposal submitted with a condition requiring payment within a shorter period.

S. NON-CONFORMANCE AND RE-EXECUTION OF WORK

If any work is not in full compliance with this RFP, the Contractor shall make all necessary corrections to the full satisfaction of the State and at no additional cost to the State. The Contractor shall perform corrective work within the period allowed by the State.

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

PROPOSAL REQUIREMENTS

**PROPOSAL REQUIREMENTS –FOR OFFERORS SUBMITTING A PROPOSAL FOR
“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”**

A. SUBMISSION REQUIREMENTS — Failure to comply with any of these requirements may be grounds for rejection of the proposal.

1. Offeror is requested to submit its Offeror’s exact legal name as registered with the DCCA, if applicable, and to indicate exact legal name in the appropriate space on Offer Form OF-1, Exhibit A. Failure to do so may delay proper execution of the contract.

The authorized signature on the first page of the Offer Form shall be an original signature, if possible blue ink is preferred. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall automatically be rejected unless accompanied by other material, containing an original signature, indicating the Offeror’s intent to be bound.

2. The Original plus five (5) copies (total of six (6) copies) of the proposal shall be submitted in a sealed envelope to:

DBEDT, State of Hawaii
Administrative Services Office / Contracts
No. 1 Capitol District
250 South Hotel Street, 5th Floor, Room 504
Honolulu, Hawaii 96813

3. The original proposal shall be clearly marked “ORIGINAL” on the upper right hand corner of the cover page and have an original signature, signed in blue ink is preferred. Copies shall be clearly marked “COPY.” **DO NOT SUBMIT MORE THAN ONE ORIGINAL.** The State will not provide any reimbursement for the cost of developing, submitting, or evaluating any proposals in response to the RFP.
4. “Solicitation No. RFP-09-01-OP” shall be referenced on the outside of the sealed proposals. **Facsimiles shall not be accepted.**
5. **The Administrative Services Office/Contracts must receive sealed proposals no later than the date indicated in “Significant Dates” in the RFP “Statement of Work.” Proposals shall be time-stamped with the Administrative Services Office/Contracts time clock upon receipt. Late proposals shall not be accepted. The Administrative Services Office/Contracts time clock shall serve as the official time.**

6. Offerors are cautioned to make prior arrangements to ensure delivery by the proposal due date. Offers received after the deadline shall be returned unopened.
7. Offerors are to complete and submit the documents contained in the RFP “Proposal” and a project proposal as described in Section C.

B. OFFEROR’S COVENANTS AND QUALIFICATIONS

1. Proposals shall include completed proposal pages in the section entitled, “Proposal.” Remove, complete, and submit the required number of copies for each document in the “Proposal” section.
2. The proposal must be signed by an authorized representative, and the corporate resolution or evidence of authorization to bind must be attached.
3. **PLEASE NOTE: The name of the organization filing the proposal must match the name which is either legally registered with the DCCA for Hawaii corporations, partnerships, or trade names, or the DOTAX for sole proprietors who do not have registered trade names with the DCCA. An out-of-state organization must be legally registered with its appropriate state. Should the proposal include more than one entity or should the Offeror anticipate work to be performed through subcontracts, please list all entities or subcontractors and their respective roles in the project.**

C. PROJECT PROPOSAL

The project proposal shall include, but not be limited to:

1. Scope of Work.
 - a. A detailed plan to effectively carry out the tasks described in the “Statement of Work,” paragraph B, “Scope of Work”.
2. Organizational Experience and Key Staff.
 - a. The proposal shall include a description and history of the Offeror, specifying organizational capabilities and relevant expertise in tasks outlined in the RFP, “Statement of Work”, paragraph B, “Scope of Work”.
 - b. Evidence of related or similar projects conducted by the Offeror shall also be provided.
 - c. The proposal shall include the names, qualifications, and relevant experience and roles of individuals who will work on the project.

3. Workplan and Time Schedule.

- a. The proposal shall include a detailed workplan of tasks. The proposed workplan should include, to the extent possible, the cost, resources, and duration of each task in the workplan.
- b. The proposal should include a time schedule which sets forth tasks to be achieved within specified timeframes with all tasks to be completed by March 31, 2009.

4. Compensation and Payment Schedule.

- a. The proposal shall be priced up to a maximum of \$92,500, and include a budget, including unit costs, for all tasks and services. Inasmuch as the State of Hawaii imposes a general excise tax on gross income, this levy should be taken into account when calculating costs.
- b. The proposal shall recommend a progress payment schedule based on tasks and deliverables as they are completed.

5. Tax Clearance Compliance

The Contractor shall be required to obtain a current tax clearance from the State of Hawaii, Department of Taxation and the Internal Revenue Service prior to entering into a contract with the State and again to receive final payment. Offerors are encouraged to immediately apply for a tax clearance, and if possible, to submit their tax clearance with their proposal. A tax clearance application is attached. See paragraph O, "Method of Award and Contract Requirements" of the Special Provisions for more detailed information.

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

PROPOSAL

OFFERORS ARE TO COMPLETE AND SUBMIT THIS SECTION FOR THEIR PROPOSALS.

PROPOSAL

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY” SOLICITATION No. RFP-09-01-OP

Department of Business, Economic Development and Tourism
Administrative Services Office/Contracts
No. 1 Capitol District, 5th Floor, Room 504
250 So. Hotel Street
Honolulu, HI 96813

The undersigned has carefully read and understands the terms, conditions and requirements specified in the Request for Proposal attached hereto and hereby submit the following proposal to perform the work specified herein, all in accordance with the true intent and meaning thereof.

The undersigned further understands and agrees to the following:

- That by submitting this proposal, the undersigned is declaring that this proposal is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts;
- That by submitting this proposal, the undersigned is declaring that the proposal is being made without collusion with any other person, firm or corporation;
- That the Director of the Department of Business, Economic Development, and Tourism reserves the right to cancel the Request for Proposal at any time and all proposals may be rejected in whole or in part when it is in the best interest of the State;
- That discussions may be conducted with Offerors who submit proposals determined to be reasonably susceptible of being selected for award, but a proposal may be accepted without such discussions;
- That the undersigned may be required to submit best and final offers based on discussion;
- That award, if any, will be made on a firm fixed fee basis to the responsive and responsible offeror who has submitted the most advantageous offer in accordance with the evaluation criteria set forth in this Request for Proposal;
- That by submitting this proposal, the undersigned is declaring that if awarded a contract, the undersigned will comply with all requirements for wages, hours and working conditions in accordance with Section 103-55, Hawaii Revised Statutes; and
- That if awarded a contract, the undersigned hereby commits to a minimum of two consultation sessions with the State.

The undersigned acknowledges receipt of any addendum issued by the Department of Business, Economic Development, and Tourism by recording in the space below the date of receipt:

Addendum No. 1 _____ Addendum No. 2 _____
Addendum No. 3 _____ Addendum No. 4 _____

The undersigned hereby certifies that the proposal hereby attached has been carefully checked and is submitted as correct.

Respectfully submitted,

Exact Legal Name of Offeror (company name)

Authorized signature (attach corporate resolution or evidence of authorization to bind)

Title

Date

Street Address

City, STATE, Zip Code

Telephone No.

Mailing Address (if different from street address)

QUALIFICATION QUESTIONNAIRE

1. How many years has your organization been in business under your present business name? _____

2. How many years experience in this field of work has your organization had?

3. Show what projects your organization has completed in the past five (5) years that are related to this project:

Name and Address of Project Owner	Description	Contract Completion	Amount	Date

4. Have you ever failed to complete any work awarded to you?
If so, please provide a brief description, including when and where it took place and why work was not completed.

5. Has any officer or partner of your organization in the past five (5) years been an officer, partner or individual of some other organization that failed to complete a contract?
If so, state name of individual, other organization and reason therefore:

6. For what entities within the State of Hawaii other than government agencies have you performed work and to whom do you refer?

Agency	Project Description	Contact Person	Phone

7. For what State departments and county agencies of the State of Hawaii have you performed work and to whom do you refer?

Department	Project Description	Contact Person	Phone

8. Have you performed work for the U.S. Government? _____
If so, list and to whom do you refer?

Agency	Project Description	Contact Person	Phone

9. Have you ever performed any work for any other governmental agencies outside the State of Hawaii? _____ If so, list and to whom do you refer?

Agency	Project Description	Contact Person	Phone

10. List below at least three references for whom Offeror has performed similar services and who can, if necessary, attest to the Offeror's performance. References not specific to the services described in this RFP shall not be considered acceptable. It is expressly understood that the STATE reserves the right to seek additional references and that unfavorable references may be grounds for the rejection of any offer.

Company	Project Description	Contact Person	Phone

11. What is the professional or project experience of the principal individuals being assigned to this project?

Individual's Name	Position or Title	Years Experience	Type of Work

CORPORATE RESOLUTION

Attach here:

Corporate resolution or written authorization of Offeror's representative to sign this proposal here.

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

EXHIBIT A – OFFER FORM OF-1

EXHIBIT A

Department of Business, Economic Development, and Tourism
Administrative Services Office / Contracts
No. 1 Capitol District
250 So. Hotel Street, 5th Floor, Room 504
Honolulu, Hawaii 96813

Dear Ms. Eileen Harada:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto, and in the General Conditions, Form 4/15/96, by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

The undersigned represents that it is: (Check one only)

- A **Hawaii business** incorporated or organized under the laws of the State of Hawaii; **OR**
- A **Compliant Non-Hawaii business** not incorporated or organized under the laws of the State of Hawaii, is or shall be registered at the State of Hawaii, Department of Commerce and Consumer Affairs Business Registration Division (DCCA-BREG) to do business in the State of Hawaii.

State of incorporation: _____

Offeror is:

- Sole Proprietor
- Partnership
- Corporation
- Joint Venture
- Other _____

Federal I.D. No.: _____

Hawaii General Excise Tax License I.D. No.: _____

Payment address (other than street address below): _____

City, State, Zip Code: _____

Business address (street address): _____

City, State, Zip Code: _____

Respectfully submitted:

(x) _____

Authorized (Original) Signature

Date: _____

Telephone No.: _____

Name and Title (Please Type or Print)

* _____

Exact Legal Name of Company (Offeror)

Fax No.: _____

*If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:

E-mail Address: _____

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

EXHIBIT B – TAX CLEARANCE

STATE OF HAWAII — DEPARTMENT OF TAXATION
TAX CLEARANCE APPLICATION
PLEASE TYPE OR PRINT CLEARLY

1. APPLICANT INFORMATION: (PLEASE PRINT CLEARLY)

Applicant's Name _____
Address _____
City/State/Zip Code _____
DBA/Trade Name _____

2. TAX IDENTIFICATION NUMBER(S): (Complete applicable ID numbers)

FEDERAL EMPLOYER ID # _____
(FEIN)
SOCIAL SECURITY #(SSN) _____

3. APPLICANT IS A/AN: (CHECK ONLY ONE BOX)

- CORPORATION S CORPORATION TAX EXEMPT ORGANIZATION
- INDIVIDUAL PARTNERSHIP ESTATE TRUST
- LIMITED LIABILITY COMPANY LIMITED LIABILITY PARTNERSHIP
- Single Member LLC disregarded as separate from owner; enter owner's FEIN/SSN _____

4. THE TAX CLEARANCE IS REQUIRED FOR:

- CITY, COUNTY, OR STATE GOVERNMENT CONTRACT IN HAWAII * LIQUOR LICENSE *
- REAL ESTATE LICENSE CONTRACTOR LICENSE BULK SALES
- FINANCIAL CLOSING PROGRESS PAYMENT PERSONAL
- HAWAII STATE RESIDENCY FEDERAL CONTRACT LOAN
- SUBCONTRACT OTHER _____

* IRS APPROVAL STAMP IS ONLY FOR PURPOSES INDICATED BY ASTERISK.

5. NO. OF CERTIFIED COPIES REQUESTED:

6. SIGNATURE:

PRINT NAME

PRINT TITLE: Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, Executor

SIGNATURE

DATE () - ()
TELEPHONE FAX

FOR OFFICE USE ONLY
BUSINESS START DATE IN HAWAII IF APPLICABLE / /
HAWAII RETURNS FILED IF APPLICABLE 20____ 20____ 20____
STATE APPROVAL STAMP
*IRS APPROVAL STAMP
CERTIFIED COPY STAMP

POWER OF ATTORNEY. If submitted by someone other than a Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, or Executor, a power of attorney (State of Hawaii, Department of Taxation, Form N-848) must be submitted with this application. **If a Tax Clearance is required from the Internal Revenue Service, IRS Form 8821, or IRS Form 2848 is also required.** Applications submitted without proper authorization will be sent to the address of record with the taxing authority. **UNSIGNED APPLICATIONS WILL NOT BE PROCESSED.**
PLEASE TYPE OR PRINT CLEARLY — THE FRONT PAGE OF THIS APPLICATION BECOMES THE CERTIFICATE UPON APPROVAL.
SEE PAGE 2 ON REVERSE & SEPARATE INSTRUCTIONS. Failure to provide required information on page 2 of this application or as required in the separate instructions to this application will result in a denial of the Tax Clearance request.

7. **CITY, COUNTY, OR STATE GOVERNMENT CONTRACT:** Bid/Entering Into a Contract Completion/Final Payment
 For completion/final payment of contract, please provide the name and telephone number of the contact person at the State or County Agency.
 Name: _____ Telephone Number: _____

8. **LIQUOR LICENSING:** Initial Renewal Transfer-Seller Transfer-Buyer Special Event
 9. **CONTRACTOR LICENSING:** Initial Renewal
 10. **STATE RESIDENCY:** DATE APPLICANT ARRIVED IN HAWAII _____
 11. **ACCOUNTING PERIOD:** Calendar year Fiscal year ending _____
 (MM/DD)

12. **TAX EXEMPT ORGANIZATION:**
 A) Provide the Internal Revenue Code Section that applies to your exemption. _____
 B) Does your organization file federal Form 990-T, Exempt Organization Business Income Tax Return? YES NO
 13. **CORPORATION:** Parent's Corporation Name _____ FEIN _____
 14. **INDIVIDUAL:** Spouse's Name _____ SSN _____

15. **IF YOU DO NOT HAVE A GENERAL EXCISE TAX LICENSE AND REQUIRE A TAX CLEARANCE FOR A GOVERNMENT CONTRACT:**
 A) Has your firm had any business income in Hawaii prior to the Bid? YES NO
 B) Does your firm have an office, inventory, property, employees, or other representatives in the State of Hawaii? YES NO
 C) Has your firm provided any services within the State of Hawaii? YES NO

16. **FILING THE APPLICATION FOR TAX CLEARANCE:**
 The completed application may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch. Applications which require an Internal Revenue Service Tax Clearance will be forwarded to the Internal Revenue Service after processing is completed by the Department of Taxation. Allow up to 10 to 15 business days for processing between the Department of Taxation and the Internal Revenue Service.

State Dept. of Taxation
 TAXPAYER SERVICES BRANCH
 P.O. BOX 259
 HONOLULU, HI 96809-0259
 TELEPHONE NO.: 808-587-4242
 TOLL FREE: 1-800-222-3229
 FAX NO.: 808-587-1488
 or
 830 PUNCHBOWL STREET, RM 124
 HONOLULU, HI 96813-5094

Internal Revenue Service
 WAGE & INVESTMENT DIVISION
 -TC M/S H214
 FIELD ASSISTANCE GROUP 562
 300 ALA MOANA BLVD., #50089
 HONOLULU, HI 96850
 TELEPHONE NO.: 808-539-1555
 FAX NO.: 808-539-1573
 or
 TAXPAYER ASSISTANCE CENTER
 HONOLULU:
 300 ALA MOANA BLVD., RM 1-128

Applications are available at Department of Taxation and IRS offices in Hawaii, and may also be requested by calling the Department of Taxation's Forms By Fax/Mail request line on Oahu at 808-587-7572 or toll-free at 1-800-222-7572. The Tax Clearance Application, Form A-6, can be downloaded from the Department of Taxation's website (www.hawaii.gov/tax).

----- FOR OFFICE USE ONLY -----

TYPE OF TAX	TAX RETURNS FILED STATUS	Clerk's Initials	ITEMS RECEIVED
INCOME			
GENERAL EXCISE/USE			
HAWAII WITHHOLDING			
TRANSIENT ACCOMMODATIONS			
RENTAL MOTOR /TOUR VEHICLE			
UNEMPLOYMENT INSURANCE			
OTHER TAXES			

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

EXHIBIT C – DLIR APPLICATION



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
INSTRUCTION SHEET FOR FORM LIR#27 APPLICATION FOR
CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR

Purpose

The State and County Government Purchasing Offices require vendors to submit a completed copy of this certificate. Page 1 of this application becomes the Certificate of Approval. Facsimiles and copies of this approval form are proof of compliance. This certificate applies to the Hawaii Unemployment Insurance, Workers' Compensation, Temporary Disability Insurance, and Prepaid Health Care programs.

Applications are available at the addresses below and can be downloaded from the Department of Labor and Industrial Relations' (DLIR) web site (www.hawaii.gov/labor). From the DLIR web site, Form LIR#27 is listed under the Unemployment Insurance Division and Disability Compensation Division.

DO NOT SUBMIT THIS PAGE

Approved, Not Applicable, or Pending certificates are valid for 6 months.

Date submitted to the DLIR _____ (for your use)
Allow up to a total of seven (7) business days for processing.

FILING INSTRUCTIONS FOR THE
APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR
Form LIR#27 (Rev. 10/05)

SUBMIT (mail, fax, or deliver) completed application only to the Department of Labor and Industrial Relations, Unemployment Insurance Division*.

*Unemployment Insurance Division
830 Punchbowl Street, Room 437
Honolulu, Hawaii 96813
Ph: (808) 586-8926
Fax: (808) 586-8929

INQUIRIES regarding the status of an application submitted seven (7) business days earlier should be directed to the Disability Compensation Division** (Workers' Compensation, Temporary Disability Insurance, and Prepaid Health programs).

**Disability Compensation Division
830 Punchbowl Street, Room 209
Honolulu, Hawaii 96813
Ph: (808) 586-9200
Fax: (808) 586-9206

The Approved, Not Applicable, or Pending certificate of approval will be faxed to the applicant by the Disability Compensation Division. Non-compliant applicants will receive Form LIR#27A instructing the applicant to contact the appropriate program(s).

Visit our Website at www.hawaii.gov/labor for ALL interactive and downloadable forms.

(Rev. 10/05)



STATE OF HAWAII
 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
**FORM LIR#27 APPLICATION FOR
 CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR**

1. APPLICANT INFORMATION: (Please Type or Print Clearly)

*Applicant's Business Name			
Address	City	State	Zip Code
DBA/Trade Name			

* Business name must be the same name submitted with the applicant's bid or proposal.

2. IDENTIFICATION NUMBER(S): (Complete Applicable ID Numbers)

State Department of Labor Unemployment Insurance ID#	Federal Employer ID# (FEIN)
--	-----------------------------

3. EMPLOYERS: If you have a State Department of Labor Unemployment Insurance ID#, please skip question 3 only:

Do you currently have employee(s) working in the State of Hawaii? <input type="checkbox"/> Yes <input type="checkbox"/> No	Do you plan to have employee(s) work in the State of Hawaii? <input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

SEE INSTRUCTION SHEET FOR FILING INSTRUCTIONS. Failure to provide above required information on this application will result in a denial of this request. Unsigned applications will not be processed.

4. SIGNATURE:

Signature	Date	Telephone No. () ()	Fax No. () ()
Print Name	PRINT TITLE: Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, Executor		
Email Address			

NOTE: If this application is stamped "PENDING", another LIR#27 must be submitted when employees are performing services in the State to determine compliance with the State of Hawaii labor laws. Approval constitutes a certificate of compliance with labor laws based on information available to the Department as of the approval date.

THIS APPLICATION BECOMES THE CERTIFICATE UPON APPROVAL.
 Facsimiles and copies of this approval form are proof of compliance.

FOR OFFICE USE ONLY		Department of Labor and Industrial Relations Approval Stamp
DLIR Log No.	Date Received	

This certificate is valid for **SIX (6) MONTHS** from the approval date.

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

EXHIBIT D – HAWAII ADMINISTRATIVE RULES

following:

- ~~(1) The notice shall be received not less than ten days prior to the deadline for receipt of offers; and~~
- ~~(2) The notice may be submitted by facsimile or electronically, pursuant to section 3-122-9, and the date of receipt as evidenced by the time indicated on the electronic transmittal or the procurement officer's transaction receiving report, shall determine timeliness of the notice.~~

~~(b) A notice of intent to offer may be waived in the case of a single offer when the procurement officer determines that acceptance is in the best interest of the public and the basis for the acceptance is explained in the written determination. [Eff and comp~~

~~MAR 21 2008] (Auth: HRS §§103D-202, 103D-310) (Imp: HRS §103D-310)~~

§3-122-112 Responsibility of offerors. (a) The offeror, as proof of compliance with the requirements of section 103D-310(c), HRS, upon award of a contract made pursuant to section 103D-302, 103D-303, 103D-304, or 103D-306, HRS, shall provide:

- (1) A tax clearance certificate from the department of taxation and the Internal Revenue Service, subject to section 103D-328, HRS, current within six months of issuance date;
- (2) A certificate of compliance for chapters 383, 386, 392, and 393, HRS, from the department of labor and industrial relations, current within six months of issuance date; and
- (3) A certificate of good standing from the business registration division of the department of commerce and consumer affairs, current within six months of issuance date.

(b) In lieu of the certificates referenced in subsection (a), offeror may make available proof of compliance through a state procurement office designated certification process.

(c) Except for any contract of less than \$25,000 or any contract entered into pursuant to section 103D-307, HRS, all state and county procurement officers or agents shall withhold final payment of a contract made pursuant to section 103D-302, 103D-303, 103D-304, or 103D-306, HRS, until receipt of:

§3-122-112

- (1) A tax clearance certificate from the director of taxation and the Internal Revenue Service, subject to section 103D-328, HRS, current within two months of issuance date; and a certification from the contractor affirming that the contractor has, as applicable, remained in compliance with all laws as required by this section. A contractor making a false affirmation shall be suspended and may be debarred pursuant to section 103D-702, HRS; or
- (2) Proof of compliance as provided in subsection (b).
- (d) This section shall not apply to any contract to the extent it jeopardizes federal funding. [Eff and comp **MAR 21 2008**] (Auth: HRS §§103D-202, 103D-310) (Imp: HRS §103D-310)

§§3-122-113 to 3-122-115 (Reserved).

~~SUBCHAPTER 14~~

~~PREQUALIFICATION OF SUPPLIERS~~

~~§3-122-116 Conditions for prequalification of suppliers. Prequalification of suppliers for particular types of goods, services, and construction shall be allowed under the following conditions:~~

- ~~(1) To limit a solicitation to those vendors who meet statutory or licensing requirements applicable to the solicitation;~~
- ~~(2) To minimize the time necessary to verify vendor qualifications which otherwise would jeopardize timely award of contracts. [Eff 12/15/95; comp 11/17/97; comp **MAR 21 2008**] (Auth: HRS §§103D-202, 103D-311) (Imp: HRS §103D-311)~~

~~§3-122-117 REPEALED. [R **MAR 21 2008**]~~

~~§§3-122-118 to 3-122-120 (Reserved).~~

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

EXHIBIT E – CERTIFICATE FOR FINAL PAYMENT (SPO FORM 22)

CERTIFICATION OF COMPLIANCE FOR FINAL PAYMENT
(Reference §3-122-112, HAR)

Reference: _____
(Contract Number) (IFB/RFP Number)

_____ affirms it is in
(Company Name)
compliance with all laws, as applicable, governing doing business in the State of Hawaii to include the following:

1. Chapter 383, HRS, Hawaii Employment Security Law – Unemployment Insurance;
2. Chapter 386, HRS, Worker’s Compensation Law;
3. Chapter 392, HRS, Temporary Disability Insurance;
4. Chapter 393, HRS, Prepaid Health Care Act; and

maintains a "Certificate of Good Standing" from the Department of Commerce and Consumer Affairs, Business Registration Division.

Moreover, _____
(Company Name)
acknowledges that making a false statement shall cause its suspension and may cause its debarment from future awards of contracts.

Signature: _____

Print Name: _____

Title: _____

Date: _____

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM
OFFICE OF PLANNING

“RURAL ECONOMIC DEVELOPMENT PLANNING STUDY”

SOLICITATION No. RFP-09-01-OP

EXHIBIT F – GENERAL CONDITIONS AG-008 REV 8/29/2008

GENERAL CONDITIONS

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GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
 - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
 - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
 - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
 - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
 - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
- i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
- b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.

6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.

a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:

- (1) The Assignee assumes all of the CONTRACTOR'S obligations;
- (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
- (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
 - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
 - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified period

not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
- (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.

b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:

- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
- (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.

d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
- d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.
- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
 - (A) Contract prices for goods or services accepted under the Contract;
 - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
 - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
 - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of

supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

(2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

(3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

(4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.

- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.

17. Payment Procedures; Final Payment; Tax Clearance.

- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
- b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
- c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
- d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.
- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:

- (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
- d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. CPO approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 or ten per cent (10%) of the initial contract price, whichever increase is higher, must receive the prior approval of the CPO.
 - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
 - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
 - (2) Method of delivery; or
 - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
 - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) By unit prices specified in the Contract or subsequently agreed upon;
 - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
 - (4) In such other manner as the parties may mutually agree; or
 - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
 - (1) Description of performance (Attachment 1);
 - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
 - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
 - b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
 - a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
 - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.
28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

- a. The cost or pricing data, and
- b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. Records Retention. The CONTRACTOR and any subcontractors shall maintain the books and records that relate to the Contract and any cost or pricing data for three (3) years from the date of final payment under the Contract.

32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.

33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.

35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.

36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.

37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-205.5, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or
 - (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.
- Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.
- "Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.
- b. Confidentiality of Material.
- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of

this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.

- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
 - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
 - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
 - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract, CONTRACTOR shall pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records, that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall not be disclosed without the prior written approval of the STATE. After the three (3) year retention period has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS.