

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION

SPECIAL PROVISIONS, SPECIFICATIONS,
PROPOSAL AND CONTRACT

FOR

FURNISHING UNARMED SECURITY SERVICES FOR NAWILIWILI HARBOR ON
THE ISLAND OF KAUAI

LIHUE, KAUAI, HAWAII

PROJECT NO. **RK1014-23**

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NOTICE TO BIDDERS
(Chapter 103D, HRS)

SEALED BIDS for FURNISHING UNARMED SECURITY SERVICES FOR NAWILIWILI HARBOR ON THE ISLAND OF KAUAI, HAWAII, PROJECT NO. RK1014-23, will begin as advertised in HiePRO. Bidders are to register and submit bids through HiePRO only. See the following HiePRO link for important information on registering: <https://hiepro.ehawaii.gov/welcome.html>.

Deadline to submit bids is March 21, 2023, at 2:00 p.m., Hawaii Standard Time (HST).

Bids received after said due date and time shall not be considered.

The scope of work consists of furnishing unarmed security services for Nawiliwili Harbor on the island of Kauai, Hawaii.

ALL requests for information (RFI) shall be received in writing via HiePRO prior to the Question Due Date in General Information of the HiePRO solicitation. Questions received after the deadline will not be addressed. Verbal requests for information will not receive a response.

Campaign contributions by State and County Contractors. Contractors are hereby notified of the applicability of §11-355, Hawaii Revised Statutes (HRS), which states that campaign contributions are prohibited from specified State or County government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. For more information, contact the Campaign Spending Commission at (808) 586-0285.


Any protest of this solicitation shall be submitted to the Director of Transportation, in accordance with §103D-701, HRS, and §3-126, Hawaii Administrative Rules.

The Equal Employment Opportunity Regulations of the Secretary of Labor implementing Executive Order 11246, as amended, shall be complied with on this project.

The U.S. Department of Transportation Regulation entitled “Nondiscrimination in Federally-Assisted Programs of the U.S. Department of Transportation,” Title 49, Code of Federal Regulations (CFR), Part 21 is applicable to this project. Bidders are hereby notified that the Department of Transportation will affirmatively ensure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin, or sex (as directed by 23 CFR Part 200).

For additional information, contact Mr. Robert Cecconi, Project Manager, Harbors Division, by phone at (808) 241-3757, by fax at (808) 241-3753 or by email at robert.a.cecconi@hawaii.gov.

The State reserves the right to reject any or all proposals and to waive any defects in said proposals for the best interest of the public.



DREANALEE K. KALILI
Deputy Director
Department of Transportation, Harbors Division

Posted on HIEPRO: February 21, 2023

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION

SPECIAL PROVISIONS

SPECIAL PROVISIONS

The specifications contained herein are amended as follows:

SECTION 1 - DEFINITION AND TERM

1.33 SUBCONTRACTOR is amended by deleting it and replacing it with the following:

"1.33 SUBCONTRACTOR - An individual, partnership, firm, corporation, or joint venture, or other legal entity, as licensed or required to be licensed under Chapter 444, Hawaii Revised Statutes, as amended, which enters into an agreement with the Contractor to perform a portion of the work."

SECTION 2 - PROPOSAL REQUIREMENTS AND CONDITIONS is amended as follows:

2.3 PROPOSAL GUARANTY is amended by adding the following to the end of 2.3, (C).

"4. Proposal Guaranty listed in (A) and (C) shall be in its original form, and shall be received at the Contracts Office, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813 before the bid deadline."

2.4 DELIVERY OF PROPOSALS is amended by replacing the entire subsection with:

"2.4 DELIVERY OF PROPOSALS - The bidder shall submit the proposal in HIePRO. Bids received after said date and time shall not be considered. Original bid documents do not have to be submitted. Award will be made based on proposals submitted via HIePRO."

2.5 WITHDRAWAL OF PROPOSALS is amended by replacing the entire subsection with:

"2.5 WITHDRAWAL OF PROPOSALS - A bidder may withdraw or revise a proposal after the bidder submits the proposal in HIePRO. Withdrawal or revision of proposal must be completed before the time set for receiving of bids."

2.6 PUBLIC OPENING OF PROPOSALS is not applicable.

Add the following to the end of the Section 2:

"2.9 CERTIFICATE FOR PERFORMANCE OF SERVICES - Pursuant to Section 103-55, Hawaii Revised Statutes, and unless indicated otherwise, bidders should submit the attached "Certificate for Performance of Services" in the event bids are in excess of \$25,000. The notarized certificate must be submitted to said Contracts Office, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813, before entering into a contract to perform services.

As of the bid opening date, salaries of State employees performing work similar to the work called for under this contract are as follows:

| Contractor Occupational Title | Similar State Classification | Range | 10/1/22 | 7/1/23 | 7/1/24 |
|-------------------------------|------------------------------|-------|---------|---------|---------|
| Traffic Control Officer | Parking & Security Officer I | SR-09 | \$16.85 | \$17.69 | \$18.58 |
| Harbor Security Officer | Security Officer I | SR-13 | \$19.72 | \$20.71 | \$21.74 |
| Contract Security Supervisor | Security Officer II | SR-15 | \$21.34 | \$22.41 | \$23.53 |

The above information is provided to the Contractor for guidance only and is subject to change in accordance with existing collective bargaining contracts or shall change as contracts are renegotiated. It is the bidder's responsibility to verify the accuracy of the wage rates contained herein and to provide for changes in the minimum wages which must be paid personnel working on this project at all times. Information on the status of Bargaining Unit (BU) contracts can be obtained from the Harbors Division, Personnel Management Office, 587-1925, or on the internet at <http://dhrd.hawaii.gov/state-hr-professionals/class-and-comp/salary-schedules/bu-03-white-collar-non-supervisor-bu-04-white-collar-supervisor/>.

Bidders are further advised that they are not restricted to hire only those classifications of employees as listed but are free to employ such other classifications of workers as the bidder deems proper and proposes to use on the project, and as may be according to the bidder's common hiring practice. However, the principal duties of employees other than those listed hereinabove working on the project will be matched against those of State workers to determine the closest equivalent State employee classification, and the Contractor must compensate such employee(s) at a rate which is no less than that of the equivalent State employee."

B. SECTION 3 AWARD AND EXECUTION OF CONTRACT

SECTION 3.1 AWARD OF CONTRACT is amended by adding the following:

"A portion of this contract to be awarded is considered a requirements contract as the number of security personnel and hours of service required will vary during the 12-month period. The State gives no assurance as to the number of personnel or hours of service required."

SECTION 3.2 REQUIRMENT

- A. STATE OF HAWAII GUARD LICENSE - Prospective bidders shall have a valid State of Hawaii Guard License at bid opening and award of this contract.
- B. TRAINING REVIEW - Successful bidder shall demonstrate personnel training in accordance with 33 CFR 105.205 Facility Security Officer, 33 CFR 105.210 Facility Personnel with specific security duties, 33 CFR 105-215 Security training for all other facility personnel, 33 CFR 105.245 Declarations of Security, and 33 CFR 105.255 Security Measures for Access Control, in order to support the STATE in implementing its Facility Security Plans. Review shall include an audit of training records and random personnel interviews prior to commencing work.
- C. NON-DISCLOSURE STATEMENT - Successful bidder shall sign a statement certifying that Sensitive Security Information will not be disclosed to unauthorized personnel.

C. SECTION 4 SCOPE OF WORK is amended by adding the following:

SECTION 4.7 CONTRACT TO BE OPEN-END - The requirement for providing traffic control, security guard and supervisory services at facilities within Nawiliwili Harbor are to be provided by the contractor on an as-needed basis as called for in these Specifications at the applicable unit bid price during the term of this contract and in such cases as may be required by the State. The unit bid price indicated by the Contractor shall be applicable and binding under the terms of this contract."

SECTION 7 - LEGAL RELATIONS AND RESPONSIBILITY

"7.8 LABOR AND COMPENSATION REQUIREMENTS is amended by replacing the first two paragraph with the following:

7.8 LABOR AND COMPENSATION REQUIREMENTS - Pursuant to Section 103-55, H.R.S., Wages, Hours, Working Conditions of Employees of Contractor's Supplying Services, services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Additional information on the requirements of Section 103-55, H.R.S. may be obtained at http://www.capitol.hawaii.gov/hrscurrent/Vol102_Ch0046-0115/HRS0103/HRS_0103-0055.htm"

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION

SPECIFICATIONS

SECTION 1 - DEFINITION AND TERMS

Whenever the following pronouns are used in these specifications, or in any documents or instruments where these specifications govern, the intent and meaning shall be interpreted as follows:

1.1 ADDENDA - A written document which may be issued by the Director during the bidding period involving changes to the specifications and plans, if any, which shall be considered and made a part of the contract.

1.2 AIRPORTS DIVISION - Airports Division, Department of Transportation, State of Hawaii.

1.3 AWARD - The written acceptance of a proposal by the State.

1.4 BIDDER - Any individual, partnership, corporation or other legal entity, or combination thereof, submitting a proposal for the work contemplated, acting either directly or through a duly authorized representative.

1.5 CALENDAR DAY - Every day shown on the calendar. If no designation of calendar or working day is made, "day" shall mean calendar day.

1.6 CHANGE ORDER - A written order issued by the Director to the Contractor requiring the contract work to be performed in accordance with a change or changes that may involve an adjustment in contract time and price or requiring performance of any unforeseen work essential to complete the contract.

1.7 CONTRACT - The written agreement between the State and the Contractor setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment.

The contract includes the (1) notice to bidders, (2) proposal, (3) contract form and contract bond, (4) specifications, (5) special provisions and plans, if any, (6) addenda, (7) notice to proceed, and (8) change orders and agreements that are required to complete the work, all of which constitute one instrument.

1.8 CONTRACT BOND - The approved form of security, executed by the Contractor and its Surety or Sureties, guaranteeing the completion of the work in accordance with the terms of the contract, and guaranteeing full payment of all claims for labor, materials, and supplies used or incorporated in the work.

1.9 CONTRACT TIME - The number of working days or calendar days allowed for completion of the contract, including authorized time extensions.

If a calendar date is specified as the date of completion in lieu of the number of working days or calendar days, the contract shall be completed by that date.

In case the contract is for a specified period of time, the contract time shall be for said specified period of time.

1.10 CONTRACTOR - The individual, partnership, corporation or other legal entity, or combination thereof, contracting with the State for performance of the prescribed work.

1.11 DEPARTMENT - The State Department of Transportation.

1.12 DIRECTOR - The Director of Transportation, acting either directly or through the Director's duly authorized representative.

1.13 EQUAL OR APPROVED EQUAL - Whenever this term is used in the specifications and plans, if any, it means a brand or article pre-qualified in accordance with Section 6.2 Trade Names and Alternates and which may be used in place of the one specified.

1.14 H.A.R. or HAR - Hawaii Administrative Rules.

1.15 H.R.S. or HRS - Hawaii Revised Statutes.

1.16 HARBORS DIVISION - Harbors Division, Department of Transportation, State of Hawaii.

1.17 HIGHWAYS DIVISION - Highways Division, Department of Transportation, State of Hawaii.

1.18 HOLIDAYS - The days which are set apart and established as State holidays pursuant to Section 8-1, H.R.S.

1.19 INSPECTOR - The Director's authorized representative assigned to make detailed inspections of contract performance and materials supplied.

1.20 NOTICE TO BIDDERS - The public announcement, as required by law, inviting proposals for the work to be performed or materials to be furnished.

1.21 NOTICE OF FINAL ACCEPTANCE - Written notice from the Director to the Contractor that the entire contract has been completed in all respects in accordance with the specifications and plans, if any, and any changes thereof previously approved by the Director.

1.22 NOTICE TO PROCEED - Written notice from the Director to the Contractor advising the Contractor of the date on which he is to begin the prosecution of the work.

1.23 PLANS - The contract drawings approved by the Director which show the location, character, dimensions and details of the work to be done and shall be a part of the contract.

1.24 PROCUREMENT OFFICER - The Director's duly authorized representative including project managers, project engineers and contract administrators assigned to prepare, evaluate and administer contracts for the purchasing of goods and services.

1.25 PROPOSAL (OR BID) - The offer of a bidder, on the prescribed form, to perform the work and to furnish the labor and materials at the prices quoted.

1.26 PROPOSAL FORM - The approved format prepared by the Department or a facsimile thereof on which bids for the work must be prepared and submitted. (Reasonable facsimile acceptable for bidding.)

1.27 PROPOSAL GUARANTY - The security furnished with a proposal to guarantee that the bidder will enter into the contract and furnish all other requirements if the bidder's proposal is accepted.

1.28 QUALIFICATION QUESTIONNAIRE - The specified forms on which the bidder shall furnish required information as to the bidder's ability to perform and finance the work.

1.29 S.L.H. or SLH - Session Laws of Hawaii.

1.30 SPECIAL PROVISIONS - Revisions to the specifications. The specific clauses setting forth conditions or requirements peculiar to the project under consideration which are not thoroughly or satisfactorily stipulated in these specifications.

1.31 SPECIFICATIONS - The directions, provisions, and requirements pertaining to the method and manner of performing the work and to the quantities and qualities of materials to be furnished under the contract.

1.32 STATE - The State of Hawaii.

1.33 SUBCONTRACTOR - An individual, partnership, corporation, other legal entity, or any combination thereof, that enters into an agreement with the Contractor to perform a portion of the work for the Contractor.

1.34 SUPERINTENDENT - The Contractor's representative who is responsible for and in charge of the work.

1.35 SURETY - The corporation, partnership or individual, other than the Contractor, executing a bond furnished by the Contractor and guaranteeing performance by the Contractor.

1.36 TITLES (OR HEADINGS) - The titles or headings of the Sections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation. Unless otherwise indicated, whenever the word "Section" is used, reference is being made to a Section in these specifications.

1.37 WORK - The furnishing of all labor, materials, equipment, and other incidentals necessary or convenient for the successful completion of the project and the execution of all the duties and obligations imposed by the contract.

1.38 WORKING DAY - Any day, except Saturdays, Sundays and State holidays.

SECTION 2 - PROPOSAL REQUIREMENTS AND CONDITIONS

2.1 QUALIFICATION OF BIDDERS - Prospective bidders must be capable of performing the work for which bids are called.

In accordance with Section 103D-310, HRS, the Department may require any prospective bidder to submit answers to questions contained in the "Standard Qualification Questionnaire for Prospective Bidders on Public Works Contracts" on the form furnished by the Department, properly executed and notarized, setting forth a complete statement of the experience of such prospective bidder and its organization in performing similar work and a statement of the equipment proposed to be used, together with adequate proof of the availability of such equipment. Whenever it appears to the Department, from answers to the questionnaire or otherwise, that the prospective bidder is not fully qualified and able to perform the intended work, the Department will, after affording the prospective bidder an opportunity to be heard and if still of the opinion that the bidder is not fully qualified to perform the work, refuse to receive or consider any bid offered by the prospective bidder. All information contained in the answers to the questionnaire shall be kept confidential. Questionnaire so submitted shall be returned to the bidders after serving their purpose.

Failure to complete the qualification questionnaire will be sufficient cause for the Department to disqualify a prospective bidder.

No person, firm or corporation may bid where (1) the person, firm, or corporation, or (2) a corporation owned substantially by the person, firm, or corporation, or (3) a substantial stockholder or an officer of the corporation, or (4) a partner or substantial investor in the firm is in arrears in payments owed to the State of Hawaii or its political subdivisions or is in default as a surety or failure to do faithfully and diligently previous contracts with the State.

2.2 REJECTION OF PROPOSALS CONTAINING ALTERATIONS, ERASURES, OR IRREGULARITIES - Proposals may be rejected if they show any alterations of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind.

When proposals are signed by any agent, other than the officer or officers of a corporation authorized to sign contract on its behalf or a member of copartnership, a Power of Attorney must be on file with the Department prior to opening bids or shall be submitted with the proposal; otherwise, the proposal may be rejected as irregular and unauthorized.

Members of a joint venture may be requested to supply the Department with a copy of their joint venture agreement or each member of the joint venture may be required to sign the proposal.

2.3 PROPOSAL GUARANTY - A proposal guaranty (bid bond) is not required except when specifically noted in the proposal section of the bid document.

When a proposal guaranty is required with a bid, it will be specifically stated in the proposal; and no proposal totaling \$25,000 or more will be considered unless accompanied by one of the following forms of bidder's security:

- A. a deposit of legal tender; or
- B. a surety bid bond underwritten by a company licensed to issue bonds in the State of Hawaii and submitted on the standard form provided herewith; or
- C. a certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or a certified check accepted by and payable on demand to the State by a bank, savings institution, or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).
 - 1. The bidder may use these instruments only to a maximum of one hundred thousand dollars (\$100,000.00).
 - 2. If the required security or bond amount totals over one hundred thousand dollars (\$100,000.00), more than one instrument not exceeding one hundred thousand dollars (\$100,000.00) each and issued by different financial institutions shall be acceptable.
 - 3. The instrument shall be made payable at sight to the Department of Transportation, State of Hawaii.

According to Section 103D-323, HRS, the above shall be in a sum not less than five percent (5%) of the amount bid.

2.4 DELIVERY OF PROPOSALS - Each proposal shall be placed, together with the proposal guaranty when required, in an envelope and sealed and so marked as to indicate the identity of the project, the name and address of the bidder, and other required information and then delivered as indicated in the Notice to Bidders. Proposals will be received up to the time fixed in the Notice to Bidders for the opening of bids.

2.5 WITHDRAWAL OF PROPOSALS - Any proposal may be withdrawn at any time prior to the time fixed in the Notice to Bidders for the opening of proposals upon the filing of a written request therefore with the Department, executed by the bidder or a duly authorized representative. The withdrawal of a proposal shall not preclude a bidder from submitting a new proposal.

2.6 PUBLIC OPENING OF PROPOSALS - Proposals will be opened and read publicly at the time and place indicated in the Notice to Bidders. Bidders or their authorized agents are invited to be present.

2.7 DISQUALIFICATION OF BIDDERS - Any of the following reasons may be considered as being sufficient grounds for the disqualification of a bidder and the rejection of his proposal or proposals.

- A. More than one proposal for the same work from an individual, firm, or corporation under the same or different name.
- B. Evidence of collusion among bidders. Participants in such collusion will receive no recognition as bidders for any future work of the Department until such participant shall have been reinstated as a qualified bidder.
- C. Evidence of assistance from a person who has been an employee of the agency within the preceding two years and who participated while in State office or employment in the matter with which the contract is directly concerned, pursuant to Section 84-15, H.R.S.
- D. Lack of proposal guaranty.
- E. Unsigned proposal or proposal not signed in ink by person or persons legally authorized to submit a proposal on behalf of the bidder.

2.8 MATERIAL GUARANTY - The bidder may be required to furnish a complete statement of the origin, composition and manufacture of any or all materials to be used in the prosecution of the work, together with samples. Such samples may be subjected to tests to determine their quality and fitness for the work.

SECTION 3 - AWARD AND EXECUTION OF CONTRACT

3.1 AWARD OF CONTRACT - The State reserves the right to reject any and all proposals and to waive any defects as may be deemed to be in the best interest of the public.

The award of contract, if it be awarded, will be made within sixty (60) calendar days after the opening of bids to the lowest responsive and responsible bidder whose proposal complies with all the prescribed requirements. The successful bidder will be notified, by letter mailed to the address shown in its proposal, that its proposal has been accepted and it has been awarded the contract.

Requirement for award. To be eligible for award, the apparent low Bidder will be contacted to submit copies of the documents listed below to demonstrate compliance with Section 103D-310(c), HRS. The documents should be submitted to the Department as soon as possible. If a valid certificate/clearance is not submitted on a timely basis for award of a contract, a Bidder otherwise responsive and responsible may not receive the award.

A. Tax Clearance.

Pursuant to §103D-310(c), 103-53 and 103D-328, HRS, the successful bidder shall be required to submit a certified copy of its tax clearance issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS) to demonstrate its compliance with Chapter 237, HRS. A tax clearance is valid for six (6) months from the most recent approval stamp date on the tax clearance and must be valid on the bid's first legal advertisement date or any date thereafter up to the bid opening date.

FORM A6, TAX CLEARANCE CERTIFICATE, is available at the following website:

<http://www.hawaii.gov/tax/>

To receive DOTAX Forms by fax or mail, phone (808)587-7572 or 1-800-222-7572.

The application for the Tax Clearance Certificate is the responsibility of the bidder, and must be submitted directly to the DOTAX or IRS. The approved certificate may then be submitted to the Department.

B. DLIR Certificate of Compliance.

Pursuant to §103D-310(c), HRS, the successful bidder shall be required to submit a copy (faxed copies are acceptable) of its approved Certificate of Compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR) to demonstrate its compliance with unemployment insurance (Chapter 383, HRS), workers' compensation (Chapter 386, HRS), temporary disability insurance (Chapter 392, HRS), and prepaid health care (Chapter 393, HRS). The certificate is valid for six (6) months from the most recent approval stamp date on the certificate and must be valid on the bid's first legal advertisement date or any date thereafter up to the bid opening date. For certificates which receive a "pending" approval stamp, a DLIR approval stamp is required prior to the issuance of the Notice to Proceed.

FORM LIR#27, APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR, is available at the following website:

www.hawaii.gov/labor

More information is available by calling the DLIR Unemployment Insurance Division at (808) 586-8926.

Inquiries regarding the status of a LIR#27 Form may be made by calling the DLIR Disability Compensation Division at (808)586-9200.

The application for the Certificate of Compliance is the responsibility of the bidder, and must be submitted directly to the DLIR. The approved certificate may then be submitted to the Department.

C. DCCA Certificate of Good Standing.

Pursuant to §103D-310(c), HRS, the successful bidder shall be required to submit a copy (faxed copies are acceptable) of its approved Certificate of Good Standing issued by the Hawaii State Department of Commerce and Consumer Affairs (DCCA), Business Registration Division (BREG) to demonstrate that it is either:

- (1) incorporated or organized under the laws of the State; or
- (2) registered to do business in the State as

a separate branch or division that is capable of fully performing under the contract.

A Certificate of Good Standing is valid for six (6) months from the approval date on the certificate and must be valid on the bid's first legal advertisement date or any date thereafter up to the bid opening date. A Hawaii business that is a sole proprietorship, is not required to register with the BREG, and therefore not required to submit a Certificate of Good Standing. Bidders are advised that there are costs associated with registering and obtaining a Certificate of Good Standing from the DCCA.

To purchase a CERTIFICATE OF GOOD STANDING, go to On-Line Services at the following website:

www.hawaii.gov/dcca/

The application for the Certificate of Good Standing is the responsibility of the bidder, and must be submitted directly to the DCCA. The approved certificate may then be submitted to the Department.

3.2 CANCELLATION OF AWARD - The State reserves the right to cancel the award of any contract any time before the execution of said contract by all parties without any liability to the successful bidder or any other bidder.

3.3 RETURN OF PROPOSAL GUARANTY - All proposal guaranties, except those of the lowest two (2) bidders, will be returned immediately following the opening and checking of the proposals. The retained proposal guaranty of the second lowest bidder, if not a bid bond, will be returned within ten (10) calendar days following execution of contract by the successful bidder. The successful bidder's proposal guaranty, if not a bid bond, will be returned after a satisfactory contract bond has been furnished and the contract has been executed.

3.4 REQUIREMENT OF CONTRACT BOND - Only when required by the proposal, the successful bidder at the time of the execution of the contract shall file good and sufficient performance and payment bonds on the forms furnished by the Department, or a facsimile thereof, conditioned for the full and faithful performance of the contract in accordance with the terms and intent thereof and also for the prompt payment to all others for all labor and materials furnished by them to it and use in the prosecution of the work provided for in such contract,

in the manner, form and amount required by Section 3-122-224(b)(2), H.A.R., which bonds shall be in an amount equal to fifty per cent (50%) of the contract price, including amounts estimated to be required for extra work, or in the case of price-term, open-end, or requirements contract under which the total amount to be paid to the Contractor cannot be accurately estimated at the time the contract is to be awarded, the bond amounts shall be as designated in the bid documents. Such bonds shall also by their terms inure to the benefit of any and all persons entitled to file claims for labor performed or materials furnished in the work so as to give them a right of action as contemplated by Section 103D-324, H.R.S.

The bidder shall limit the acceptable performance and payment bonds to the following:

(a) Legal tender; or

(b) Surety bond underwritten by a company licensed to issue bonds in the State of Hawaii; or

(c) A certificate of deposit; share certificate; cashier's check; treasurer's check; teller's check drawn by or a certified check accepted by and payable on demand to the State by a bank, savings institution or credit union insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).

1. The bidder may use these instruments only to a maximum of one hundred thousand dollars (\$100,000.00).

2. If the required security or bond amount totals over one hundred thousand dollars (\$100,000.00) more than one instrument not exceeding one hundred thousand dollars (\$100,000.00) each and issued by different financial institutions shall be acceptable.

3.5 EXECUTION OF CONTRACT - The contract and the "Certificate for Performance of Services", similar to a copy of the same annexed hereto, shall be executed by the successful bidder and returned, together with the contract bonds, when required, within ten (10) days after the award of the contract or within such further time as the Director may allow after the bidder has received the contract for execution.

Pursuant to Section 103D-309, H.R.S., the contract shall not bind the State in any way unless said contract has been fully and properly executed by all the parties thereto and

the Comptroller has endorsed thereon a certificate that there is available an unexpended appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract.

3.6 FAILURE TO EXECUTE CONTRACT - Failure to execute the contract, Certificate for Performance of Services and file acceptable bonds, when required, within ten (10) days after the award of the contract, or within such further time as the Director may allow, shall be cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award of the contract may then be made to the next lowest responsible bidder.

SECTION 4 - SCOPE OF WORK

4.1 WORK TO BE DONE - The work to be done is described in the Section(s) following Section 9 of these specifications.

4.2 PERFORMANCE OF WORK - The Contractor shall employ, so far as possible, such methods and means in carrying out his work so as not to cause any interruption, disturbance, or interference with the public.

In case the Contractor is performing work in a building, the Contractor shall conduct the work in such a manner so as not to cause any interruption, disturbance, or interference with the business activities of the tenants in the building.

4.3 EXTRA WORK - New and unforeseen items of work will be classed as extra work when they cannot be covered by any of the various items for which there is a bid price.

4.4 CHANGES AND CLAIMS FOR ADJUSTMENT

A. Change order. By a written order, at any time, and without notice to any surety, the procurement officer may, 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 to be furnished are to be specially manufactured for the State in accordance therewith;
2. Method of shipment or packing;
3. Place of delivery;
4. Changes in the work within the scope of the contract; or
5. Changes in the time of performance of the contract that do not alter the scope of work.

B. 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 contract price made pursuant to this clause shall be determined in accordance with the price adjustment clause 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 procurement officer promptly and duly make 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 an extension of time for completion.

C. Time period for claim. Within thirty (30) days after receipt of a written change order under subsection (a) unless the period is extended by the procurement officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State or county is prejudiced by the delay in notification.

D. Claim barred after final payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

E. Other claims not barred. In the absence of a change order, nothing in this clause shall be deemed to restrict the contractor's right to pursue a claim as under the contract or for breach of contract.

4.5 PRICE ADJUSTMENT

Any adjustment in contract price pursuant to a clause in this contract shall be made in one or more of the following ways:

A. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

B. By unit prices specified in the contract or subsequently agreed upon;

C. By the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract or subsequently agreed upon;

D. In such other manner as the parties may mutually agree; or

E. In the absence of agreement between the parties, by a unilateral determination by the procurement officer of the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as computed by the procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126 of the Hawaii Administrative Rules.

4.6 VARIATION IN QUANTITY

Upon agreement of the parties, the quantity of goods or services or both specified in this contract may be increased by a maximum of ten (10) percent provided (1) the unit prices will remain the same except for any price adjustments otherwise applicable and (2) the 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.

SECTION 5 - CONTROL OF WORK

5.1 AUTHORITY OF DIRECTOR - The Director shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed; the manner of performance and rate of progress of the work; the compensation for work performed; the interpretation of the contract and the fulfillment of the contract on the part of the Contractor. The Director's decision shall be final and the Director shall have the authority to enforce any such decision and order which the Contractor fails to carry out promptly and diligently. The Director shall have the following powers in the way of enforcement:

- A. The right to suspend the work.
- B. The right to withhold payment due the Contractor.

5.2 COORDINATION OF PLANS, SPECIFICATIONS AND SPECIAL PROVISIONS - These specifications, the plans, special provisions, and all supplementary documents are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to describe and provide for the complete work.

5.3 COOPERATION OF CONTRACTOR AND DIRECTOR - The Contractor shall have available at the work site at all times, a copy of the specifications, special provisions and plans. The Contractor shall give the work constant attention to facilitate the progress thereof and shall cooperate with the Director in every way possible.

Before starting work on the project, the Contractor shall designate in writing a superintendent who shall have complete authority to represent and to act for the Contractor.

5.4 INSPECTION - The Director at all times shall have access to the work during its prosecution and shall be furnished with every reasonable facility for ascertaining that the materials and the workmanship are in accordance with the requirements and intentions of these specifications and special provisions. All work done and all materials furnished shall be subject to the Director's inspection and approval.

The inspection of the work shall not relieve the Contractor of any of its obligations to fulfill its contract as prescribed, and defective work shall be made good and unsuitable materials may be rejected, notwithstanding that such defective work and materials may have been previously overlooked by the Director and accepted or included in an estimate for payment.

Projects financed in whole or in part with Federal funds shall be subject to inspection at all times by representatives of the Federal agency involved.

5.5 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK - All work which has been rejected shall be corrected or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed the Contractor for such correction or removal and replacement. Upon failure on the part of the Contractor to comply promptly with any order of the Director, the Director may cause any rejected work to be corrected or removed and replaced and to deduct the costs thereof from any monies due or to become due the Contractor.

5.6 CLAIMS AND DISPUTES - The Contractor may give notice in writing to the Director for claims that extra compensation, damages, or an extension of time for completion is due the Contractor for one or more of the following reasons:

- A. Requirements not clearly covered in the contract, or not ordered by the Director as extra work;
- B. Failure between the State and the Contractor to agree to an adjustment in price for a contract change order issued by the State; or
- C. An action or omission on the part of the Director requiring performance changes within the scope of the contract.

The Contractor shall continue with performance of the contract in compliance with the directions or orders of the procurement officer, 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:

- A. The notice in writing be given:
 - 1. Before the commencement of the work involved, if at that time the Contractor knows of such requirements or the occurrence of such actions or omissions; or
 - 2. Within thirty (30) calendar days after the Contractor knows of such requirements or the occurrence of such action or omission if the Contractor did not have such knowledge before the commencement of the work; or
 - 3. Within thirty (30) calendar days after receipt of the written contract change order that was not

agreed upon by both parties; or

4. Within such further time as may be allowed by the Director in writing.

B. The notice shall clearly state the Contractor's intention to make claim and the reasons why the Contractor believes that additional compensation, changes or an extension of time may be remedies to which the Contractor is entitled; and afford the Director every facility for keeping records of the actual cost of work. Failure on the part of the Contractor to give such notification or to afford the procurement officer proper facilities for keeping strict account of actual cost shall constitute waiver of the claim for such extra compensation. The filing of such notice by the Contractor and the keeping of costs by the procurement officer shall not in any way be construed to prove the validity of the claim.

The Director will review the notice and render a decision. The Director's decision shall be final and conclusive unless, within thirty (30) calendar days from the date of the decision, the Contractor mails or otherwise furnishes a written appeal to the Director. The decision of the Director shall be final. Later notification of such claims shall not bar the Contractor's claim unless the State is prejudiced by the delay in notification. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given before final payment under this contract. Any adjustment in the contract price made pursuant to this clause shall be determined according to Section 4.5 - Price Adjustment.

The provisions of this Section shall not be construed as establishing any claims contrary to the terms of Section 4.4 - Changes and Claims for Adjustment.

Nothing herein contained, however, shall excuse the Contractor from compliance with any rules of law precluding any state officers and any Contractors from acting in collusion or bad faith in issuing or performing contract change orders which are clearly not within the scope of the contract.

SECTION 6 - CONTROL OF MATERIAL AND EQUIPMENT

6.1 DEFECTIVE MATERIALS - All materials not conforming to the requirements of these specifications or the special provisions shall be considered defective and all such materials, whether in place or not, shall be rejected. They shall be removed immediately from the site of the work, unless otherwise permitted by the Director. No rejected materials, the defects of which have been subsequently corrected, shall be used until approval in writing has been given by the Director. Upon failure on the part of the Contractor to comply promptly with any order to remove and replace defective materials, the Director may remove and replace defective material and to deduct the cost of removal and replacement from any monies due or to become due the Contractor.

6.2 TRADE NAMES AND ALTERNATES - For convenience in designation on the plans or in the specifications, certain equipment or articles or materials may be designated under a trade name or the name of a manufacturer and its information catalogue. The use of alternate equipment or an article or material which is of equal quality and of the required characteristics for the purposes intended will be permitted, subject to the written approval of the Director, in accordance with the following requirements:

A. QUALIFICATION BEFORE BID OPENING - When the specifications and/or plans specify one or more manufacturer's brand names of materials or equipment to indicate a quality, style, appearance, or performance, the bidder will be assumed to have based its bid on one of the specified named products, except where such proprietary product are specified, alternate brands may be qualified if found equal or better by the Director. Bidders requesting qualification of alternate proprietary products must submit a request to the Director for review and approval at the earliest date possible, but in any event, such request must be received at the Contracts office not later than ten (10) days before the bid opening date, not including the bid opening date.

It shall be the responsibility of the bidder to submit sufficient evidence based upon which a determination can be made by the Director that the alternate brand is qualified. The evidence shall be transmitted with a covering letter which shall list the evidence submitted and the items for which the substitution is requested.

If the evidence accompanying a request for substitution is insufficient to qualify a particular

model, the request shall be denied provided that further evidence may be submitted to qualify the item five (5) days prior to the bid opening date if the initial request was made prior to the deadline set above.

B. SUBSTITUTION AFTER BID OPENING - Substitution of material or equipment will not be allowed after the bid opening date except under the following unforeseen circumstances:

1. If a specified or pre qualified item is delayed by a lengthy strike in the factory or other unforeseeable contingency beyond the control of the Contractor which would cause an abnormal delay in the project completion.
2. If a specified or pre qualified item is found to be unusable due to change or other circumstances.
3. If the Contractor is willing to provide a more recently developed or manufactured item of material or equipment of the same manufacturer which the Director determines to be equal or better than the one specified or pre-qualified.

A substitution request, regardless of reason, shall be fully explained in writing by the Contractor and shall include its justification for said request, the quantities and unit prices involved, quotations and such other documents as are deemed necessary to support the request. Any savings in cost will accrue to the State and any additional cost for the substituted items will be paid by the Contractor.

The burden of proof as to the comparative quality and suitability of alternate equipment, articles, or materials shall be upon the bidder or Contractor and bidder or Contractor shall furnish, at its own expense, all information necessary or related thereto as required by the Director. The Director shall be the sole judge as to the comparative quality and suitability of alternate equipment, articles or materials and the Director's decisions shall be final.

The above shall not be construed to mean that substitution for brand name specified materials and equipment will be allowed; the Director reserves the right to deny any request he deems irregular or not in the best interest of the State.

6.3 ASSIGNMENT OF ANTITRUST CLAIMS FOR OVERCHARGES FOR GOODS AND MATERIALS PURCHASED

A. Vendor and purchaser recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, vendor hereby assigns to purchaser any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges which result from antitrust violations commencing after the price is established under this order or contract and which are not passed on to the purchaser under an escalation clause.

B. Contractor and owner recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the owner. Therefore, contractor hereby assigns to owner any and all claims for such overcharges as to goods and materials purchased in connection with this order or contract, except as to overcharges which result from antitrust violations commencing after the price is established under this order or contract and any change order. In addition, contractor warrants and represents that each of its first tier suppliers and subcontractors shall assign any and all such claims to owner, subject to the aforementioned exception.

SECTION 7 - LEGAL RELATIONS AND RESPONSIBILITY

7.1 LAWS TO BE OBSERVED - The Contractor shall comply with all federal, state, city and county laws, ordinances, rules and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, and the conduct of the work. Any reference to such laws, ordinances, rules and regulations shall include any amendments thereto effective as of the date of the call for sealed proposals.

The Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State, its officers, agents and employees against any claim or liability arising from or based on the violation of any such laws, ordinances, rules or regulations. If any discrepancy or inconsistency is discovered in the contract for the work in relation to any law, ordinance, rule, regulation, order or decree, the Contractor shall forthwith report the same to the Director in writing.

7.2 PERMITS AND LICENSES - The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work.

7.3 PATENTS - The Contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the work, and shall hold harmless, indemnify, defend and where appropriate, insure the State, its officers, agents and employees from all suits at law or actions of every nature, for or on account of the use of any patented materials, equipment, devices or processes.

7.4 RESPONSIBILITY FOR INJURY AND DAMAGE - The State, its officers, agents and employees shall not be held accountable in any manner for any loss or damage to the work or any part thereof, or for any of the materials and equipment used or employed in performing the work, or for any injury to any person or persons either workers or the public, or for any damage to property caused by the Contractor or its workers or any one employed by the Contractor. The Contractor shall be responsible for any liability imposed by law for any injury to any person or any damage to property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time before its completion and final acceptance. The acceptance of the completed work of the Contractor by the Director shall not relieve the Contractor from any liability which may have accrued or may accrue as a result of the performance of the work by the Contractor. The Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State, its officers, agents and employees, from all suits or actions of every name, kind and description, brought for or on account of

any injuries or damages sustained by any persons or property caused by the Contractor, its servants or agents, or by or on account of any act or omission of the Contractor or its servants or agents, regardless of whether such actions or any claim is brought against them or any one of them before or after the final acceptance of the work. In addition to any remedy authorized by law, the State may withhold payment of any money due to Contractor as shall be reasonable until disposition has been made of any suits or claims for injuries or damages.

It is not the intention of the parties to this contract to make the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party hereto to maintain a suit for personal injuries or property damage based on a contract theory of liability. In any event, the Contractor shall hold harmless, indemnify, defend and where appropriate, insure the State from suits and claims for personal injuries or property damage where such injuries or damage are caused by the negligent acts or omissions of the Contractor, its agents or employees.

7.5 COOPERATION BETWEEN CONTRACTORS - Where two or more Contractors are employed on related or adjacent work, each shall conduct its operations in such a manner as not to cause any unnecessary delay or hindrance to the other.

7.6 CONTRACTOR'S RESPONSIBILITY FOR WORK - Until the acceptance of the contract, the Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all damages to any portion of the work occasioned by any of the above causes before its completion and acceptance and shall bear the expenses thereof.

7.7 NO PERSONAL LIABILITY - Neither the Director nor any other officer or authorized employee of the Department shall be personally responsible for any liability arising under the contract.

7.8 LABOR AND COMPENSATION REQUIREMENTS - Wages paid each laborer employed by the Contractor or any subcontractor shall not be less than the prevailing minimum wage rate prescribed by law.

Every laborer employed by the Contractor or any subcontractor whose rate of compensation is Five Dollars (\$5.00) or less per day shall be paid his wages weekly pursuant to Section 103-54, H.R.S.

The Contractor's attention is directed to Chapter 377, H.R.S., Hawaii Employment Relations Act; Chapter 378, H.R.S., Employment Practices; Chapter 383, H.R.S., Hawaii Employment Security Law; Chapter 386, H.R.S., Workers' Compensation Law; Chapter 387, H.R.S., Wage and Hour Law; Chapter 392, H.R.S., Temporary Disability Insurance; Chapter 393, H.R.S., Prepared Health Care Act; Chapter 396, H.R.S., Occupational Safety and Health; and Section 103-55, H.R.S., Wages, Hours, Working Conditions of Employees of Contractor's Supplying Services.

7.9 INSURANCE - Prior to commencing with the work, the Contractor shall, at its own expense, obtain and submit to the Department, Certificate of Insurance from an insurance company authorized by the laws of the State to issue such insurance in the State of Hawaii showing full policy coverage of the Contractor.

TYPES OF INSURANCE:

A. Workers' Compensation:

The Contractor shall obtain worker's compensation insurance for all persons whom they employ in carrying out the work under this contract. This insurance shall be in strict conformity with the requirements of the most current and applicable State of Hawaii Worker's Compensation Insurance laws in effect on the date of the execution of this contract and as modified during the duration of the contract. The minimum limit of liability for workers compensation is the HRS 386 statutory limit.

B. Comprehensive Automobile Liability:

The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and hired autos with a combined single Limit of not less than \$1,000,000 per accident for bodily injury and property damage with the State of Hawaii named as additional insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess

policies.

C. Commercial General Liability:

The Contractor shall obtain General Liability insurance with a limit of not less than \$1,000,000 per occurrence and in the aggregates. The General liability insurance shall include the State of Hawaii as an additional insured. The required limit of insurance may be provided by a single policy or with a combination of primary and excess policies.

All policies must provide that 30 days prior written notice of cancellation or material change in coverage be given to certificate holders stated above.

Such insurance when accepted by the Director in writing shall become applicable and shall remain unmodified throughout the entire term of the contract and in no event shall be terminated or otherwise allowed to lapse prior to written certification of final acceptance of the work by the State. Such insurance aforementioned shall cover the State for all work performed under the contract, all work performed incidental thereto or directly or indirectly connected therewith, including other work performed outside of the work area, and all change orders.

Any delay in the submission and approval of insurance certificates shall not be justification of or grounds for a request by the Contractor postponing the issuance of a notice to proceed notwithstanding the fact that the Contractor shall not be allowed to proceed with the work until said certificates are submitted and approved.

Failure to obtain insurance in accordance with the Section, on the part of the Contractor, shall be considered a major breach of the contract; and should the State be forced to expend funds which would have been covered under the insurance, the Contractor agrees to assume the liability for such funds and to indemnify and hold the State harmless.

SECTION 8 - PROSECUTION AND PROGRESS

8.1 NOTICE TO PROCEED - A "Notice to Proceed" letter will be written to the Contractor by the Director. Such letter will indicate the date the Contractor is to begin work and from which date the contract time will commence to run.

The Contractor shall diligently perform the required duties during the term of the contract, or if the work is to be completed within a specified time limit, the Contractor shall diligently prosecute the work to completion within the specified time limit.

8.2 SUBCONTRACTING - The Contractor shall give its personal attention to the fulfillment of the contract and shall keep the work under its control.

Subject to Section 103D-302, H.R.S., the Contractor may subcontract a portion of the work pursuant to the provisions of this section, but the Contractor shall be primarily responsible for the work so subcontracted. The Contractor shall not subcontract any work to any subcontractor who has been suspended by the State.

Before any work is started under a subcontract, the Contractor shall have the written approval of the Director on a written statement on forms furnished by the Department, indicating the work to be subcontracted, the names of the subcontractors and the description of each portion of the work to be so subcontracted and showing that the subcontractors are particularly experienced and equipped to do the work subcontracted. The Contractor shall give assurance that the minimum wage rate schedule as stated in the contract shall apply to labor performed on the work so subcontracted. Consent of the Director to the subcontracting of work shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract.

When any portion of the work which has been subcontracted by the Contractor is not prosecuted in a manner satisfactory to the Director, the Contractor, upon receipt of a notice thereof in writing from the Director, shall remove the subcontractor immediately from the project and the subcontractor shall not again be employed on the work.

8.3 ASSIGNMENT OF CONTRACT - The performance of the contract may be assigned only with the prior written consent of the Director and when applicable, the Contractor's surety. Consent to any assignment shall not relieve the Contractor or the Contractor's surety of any obligations of the contract.

8.4 INSUBORDINATION - If any subcontractor or person employed by the Contractor shall fail or refuse to carry out the directions of the Director or shall appear to the Director to be incompetent or to act in a disorderly or improper manner, the subcontractor or person shall be removed immediately upon request by the Director and shall not again be employed on the work, nor shall it be employed upon any other Department project currently under contract to the same Contractor or subcontractor.

8.5 TEMPORARY SUSPENSION OF WORK

A. Order to stop work. The Director, 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 work 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 work order issued pursuant to this section. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Director shall either:

1. Cancel the stop work order; or
2. Terminate the work covered by such order as provided in the "termination for default clause" or the "termination for convenience clause" of this contract.

B. Cancellation or expiration of the order. If a stop work order issued under this section is canceled or if the period of the order or any extension thereof expires, the contractor shall have the right to resume work. 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 work 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 work stoppage; provided that, if the Director 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 work. If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowable by adjustment or otherwise.

D. Adjustment of price. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the price adjustment clause of this contract.

8.6 LIQUIDATED DAMAGES - It is mutually understood and agreed by and between the parties to the contract that the performance by the Contractor of its duties every calendar/working day is an essential part of the contract and in case of failure on the part of the Contractor to perform its duties for the time specified in the contract, the State will be damaged thereby and the amounts of said damages being difficult, if not impossible of definite ascertainment and proof, shall be estimated, agreed upon and fixed at the sum shown in the proposal for each and every calendar/working day that the Contractor fails to perform its duties during the period the contract is in effect; and the Contractor shall pay the liquidated damages as provided for in the proposal and, in case the same are not paid, the Department may deduct the amount thereof from any monies due or that may become due the Contractor under the contract.

8.7 DEFAULT AND TERMINATION OF CONTRACT

A. Termination by 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 Director 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 Director, 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 Director may procure similar goods or services in the manner and upon terms deemed appropriate by the Director. 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.

1. Contractor's duties. Notwithstanding termination of the contract and subject to any directions from the Director, the contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the contractor in which the State or county has an interest.
2. Compensation. Payment for completed goods delivered and accepted by the State shall be at the contract price. Payment for the protection and preservation of property shall be in an amount agreed upon by the contractor and Director; if the parties fail to agree, the Director 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 Director deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
3. Excuse for nonperformance or delayed performance. Except with respect to defaults of subcontractors, 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 work hereunder which endangers such performance, if the contractor has notified the Director within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the 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 or services to be furnished by the subcontractor were unreasonably obtained from other sources in sufficient time to permit the contractor to meet the contract requirements. Upon request of the contractor, the Director 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 the clause entitled "Termination for Convenience". As used in this paragraph of this clause, the term "subcontractor" means subcontractor at any tier.

4. Erroneous termination for default. If, after notice of termination of the contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contractor was not in default under the provisions of the clause, or that the delay was excusable under the provisions of paragraph 3 above, Excuse for nonperformance or delayed performance of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

5. Additional rights and remedies. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

B. Termination for convenience. The Director may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Director shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.

1. Contractor's obligation. The contractor shall incur no further obligations in connection with the terminated work and on the dates set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Director 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 work not terminated by the notice of termination and may incur obligations as are necessary to do so.

2. Right to goods. The Director may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Director:

- a. Any completed goods; and
- b. 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 Director, protect and preserve property in the possession of the contractor in which the State has an interest. If the Director does not exercise this right, the contractor shall use the Contractor's best efforts to sell such goods and manufacturing materials. Use of this section in no way implies that the State has breached the contract by exercise of the termination for convenience clause.

3. Compensation:

- a. The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data to the extent required by subchapter 15, chapter 3-122, HAR, bearing on such claim. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the Director may pay the Contractor, if at all, an amount set in accordance with subparagraph c. below.
- b. The Director and the Contractor may agree to settlement provided the Contractor has filed a termination claim supported by cost or pricing data to the extent required by subchapter 15, chapter 3-122, HAR, 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 paragraph (2) of this clause, and the contract price of the work not terminated.

c. Absent complete agreement under subparagraph b above, the Director shall pay the Contractor the following amounts, provided payments agreed to under subparagraph b shall not duplicate payments under this subparagraph for the following:

(i) Contract prices for goods or services accepted under the contract;

(ii) Costs incurred in preparing to perform and performing the terminated portion of the work plus a fair and reasonable profit on such portion of the work, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided 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;

(iii) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to paragraph 1 of this clause. These costs must not include costs paid in accordance with subparagraph (ii) above.

(iv) 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 cost of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph b of this paragraph, and the contract price of work not terminated.

d. Cost claimed, agreed to, or established under subparagraphs b and c shall be in accordance with chapter 3-123, HAR. bearing on such claim.

8.8 FINAL INSPECTION - Upon notice from the Contractor of the completion of the work or contract, the Director shall make an inspection. If the contract is found completed to the Director's satisfaction, such inspection shall constitute the final inspection and acceptance of the work.

If the work is unsatisfactory in whole or in part, the Director shall notify the Contractor of the work necessary for final completion and acceptance and the Contractor shall forthwith perform the work required by the Director. Upon performance of such required work by the Contractor, another inspection shall be made which shall constitute the final inspection if the work is completed satisfactorily.

Within ten (10) days after final inspection and acceptance of the work, or as soon thereafter as is practicable, the Contractor shall be notified by the Director in writing of such acceptance.

8.9 TERMINATION OF CONTRACTOR'S RESPONSIBILITY - The contract will be considered complete when all work has been completed, the final inspection made, the work accepted by the Director, and the final estimate paid. The Contractor will then be released from further obligation except as set forth in the contract and bond, when applicable.

SECTION 9 - PAYMENT

9.1 SCOPE OF PAYMENT - The Contractor's bid price shall be inclusive of all costs, direct or indirect, including all taxes, required for the fulfillment of the contract.

Contract payments to the Contractor by the State shall be full payment for the furnishing of all labor, tools, equipment, and other incidentals, including all taxes, necessary for performing all work and services contemplated and embraced under the contract.

9.2 RETAINAGE/DEDUCTION FROM PAYMENT - The Director may at any time retain or deduct out of any sums due the Contractor to cover claims of the State against the Contractor, or such sums sufficient to cover any unpaid claims of others supported by sworn statements filed in the office of the Director, without any liability for damages, interest or otherwise to the Contractor for such retention or deduction.

Provided the work of the Contractor is progressing satisfactorily in the judgment of the Director and in accordance with the provisions of this contract, monthly payments, less five percent (5%), will be made to the Contractor. The amount of such monthly payments shall be determined by the Director based on the Director's estimate of the items of work performed and materials incorporated in the work and the value therefor at the unit prices or lump sum prices set forth in the contract. All monthly payments are shall be subject to correction at any time prior to or in the final payment.

At any time after fifty per cent (50%) of the work has been completed, if the State determines that the work contracted to be performed is progressing satisfactorily, the State may make any of the remaining monthly payments in full.

If the Director finds that unsatisfactory progress is being made, the State may, from the beginning of such unsatisfactory progress, withhold any amount up to five per cent (5%) of any subsequent monthly payment.

9.3 ASSIGNMENT OF PAYMENTS - All monies payable under the contract, or any part thereof, shall be paid to the Contractor in accordance with the provisions of this Section and no assignment or order executed by the Contractor directing payment of any portion or all of such funds to any other person or persons shall be recognized by the State unless such assignment or order specifies the amounts to be so paid and the purposes for which the assignment or order is given. Such assignment or order shall have attached thereto, by endorsement or otherwise, the consent of the surety, when

applicable. No such assignment or order shall be binding on the State.

Any assignment of money shall, however, be subject to all proper set-offs in favor of the State, to all deductions provided for in the contract and to all liens and rights conferred by law on the State. All money withheld, whether assigned or not, shall be subject to being used by the State for the completion of the work in the event of the Contractor's default.

9.4 PROGRESS PAYMENTS - Payments under this contract shall be made only upon submission by the Contractor of an original invoice and 2 copies. The invoice shall specify the amount due less retainage and shall also certify that services requested under the contract have been performed by the Contractor according to the contract.

9.5 FINAL PAYMENT - Final payment will only be made after the Contractor receives final acceptance by the Director as provided in Section 8.8, and until the Contractor has filed with the Department the following:

- A. Consent of the surety, when applicable, to payment of the final estimate;
- B. Satisfactory evidence by affidavit that all debts resulting from the contract have been fully paid or satisfactorily secured;
- C. A current "Certificate of Vendor Compliance" issued by the Hawaii Compliance Express (HCE). The Certificate of Vendor Compliance is used to certify the Contractor's compliance with (a) Section 103D-328, HRS (for all contracts \$25,000 or more) which requires a current tax clearance certificate issued by the Hawaii State Department of Taxation and the Internal Revenue Service; (b) Chapters 383, 386, 392, and 393, HRS; and (c) Subsection 103D-310(c), HRS. The State reserves the right to verify that compliance is current prior to the issuance of final payment. Contractors are advised that non-compliance status will result in final payment being withheld until compliance is attained.

The filing of willfully false affidavits will disqualify the Contractor from bidding on future work of the Department.

SECTION 10 – FURNISHING UNARMED SECURITY SERVICES FOR
NAWILIWILI HARBOR ON THE ISLAND OF KAUAI HAWAII

10.1 GENERAL - The CONTRACTOR shall furnish unarmed security officer services for Nawiliwili Harbor on the island of Kauai as specified.

10.2 CONTRACT REQUIREMENTS - The CONTRACTOR shall provide the services of security officers 24 hours per day, seven days per week, and 52 weeks per year to control access into and out of the Nawiliwili Harbor facility. Perform roving patrols of specific facilities within Nawiliwili Harbor and other areas under the control of the Harbors Division, Department of Transportation. Security officers shall be assigned to designated security posts (hereinafter “posts”), at times, and numbers pursuant to its Facility Security Plan (FSP) or as required by the STATE. The STATE reserves the sole right to add or delete posts and facilities from the Contract.

The CONTRACTOR shall be required to take the necessary precautions to secure any relevant provisions of the STATE’s Facility Security Plan (FSP) provided by the FSO, which is sensitive security information as provided in 49 CFR 1520, when reading and implementing the FSP as assigned by the STATE, including training requirements, preparedness, response to an event, and to provide additional security officers services in the event of elevated levels such at MARSEC LEVEL 2 and MARSEC LEVEL 3.

The STATE may require the CONTRACTOR to provide additional services for special events, change in operations, or circumstances that require security services such as traffic control, other security services, and supervisory services at various locations within Kauai District. Neither the number of unplanned requirements nor the length of the requirements is assured. Hours to staff security posts for security officers at other facilities shall be in accordance with the STATE’s FSP, as amended or allowed under the Maritime Transportation Security Act. It is the intent of the project for the CONTRACTOR to:

- A. Provide traffic control, security services, and supervisory services within Nawiliwili Harbor upon notification by the Kauai FSO or person designated by the Kauai FSO.
- B. Provide additional security officers at specific facilities within Nawiliwili Harbor at elevated MARSEC levels as specified herein;

10.3 PERSONNEL QUALIFICATION - In addition to the security officers minimum qualifications as provided herein, the CONTRACTOR shall comply with the requirements of Act 208, 2010 Session Law of Hawaii and assign only personnel that have been registered with the Board of private detectives and guards and personnel that have met the registration, instruction and training requirements prior to acting as a “guard” as defined in §463-1, Hawaii Revised Statutes.

A. Minimum Personnel Qualifications. Approval must be given by the STATE prior to the use of any security officer at any STATE Harbor

1. Traffic Control Officers. The following minimum qualifications apply to Traffic Control Officers (TCO). The CONTRACTOR shall only select those persons that have obtained a security guard certificate/license to service as a TCO who can demonstrate the following:
 - a. Have received training or possess the required job experience in meeting the qualifications for “facility personnel with security duties” pursuant to 33 CFR 105.210.
 - b. Ability to exercise good judgment.
 - c. Maturity in conduct and attitude.
 - d. Ability to accept and assume responsibility.
 - e. Alertness, attentiveness and professional conduct.
 - f. Strong moral character.
 - g. Ability to communicate in English.
 - h. Courtesy in their inter-relationships with the public, Harbor employees and tenants, as well as being tolerant in their interactions with others. Be well-groomed and neat in appearance as official commissioned representatives of the State of Hawaii.
 - i. A complete one-time physical examination within the past six (6) months, to include drug testing and retain the doctor's certification (copies of the certification for each officer shall be available for inspection in the CONTRACTOR’s office in Hawaii) that the officer's general health is satisfactory for security work. The following are the minimum physical requirements (the FSO can impose additional requirements to meet the local district’s needs):
 - 1) Correctable vision to 20/20 each eye.
 - 2) The TCO must be able to hear at a normal conversational level. A hearing aid may be used to meet the requirement.

- 3) TCO must be physically able to serve a normal shift walking and standing to direct and manage traffic, enforce rules, Harbor Master notices, and other applicable laws.
 - 4) TCO must be able to lift or carry up to fifty pounds (50 lbs), if required, in the execution of their official duties.
- j. Any TCO commissioned under the Contract shall have been issued a Transportation Worker Identification Credential (TWIC) in accordance with 33 CFR 101.514.
 - k. No TCO shall be assigned to any part of the Contract if the TCO has been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the provision of security services, unless the conviction has been annulled or expunged by court order pursuant to §463-8(b)(3), HRS.
 - l. The CONTRACTOR shall have a drug testing program to include annual random drug testing as a condition of the TCO continued assignment to perform work under the Contract.
 - m. TCO shall not have a record of a deferred admission of guilt or conviction of an offense moral turpitude as defined by the Contract for one or more of the following:
 - 1) Fraud or false pretenses in obtaining something of value.
 - 2) Larceny or a misdemeanor theft by taking.
 - 3) Larceny after trust.
 - 4) Murder.
 - 5) Soliciting for prostitutes.
 - 6) Voluntary manslaughter.
 - 7) Sale of narcotics or other illegal drugs.
 - 8) Pattern or failure to file federal tax returns in years in which taxes are due.
 - 9) Criminal issuance of a bad check.
 - 10) Making a false report of a crime.
 - n. Minimum age of 20 years.
 - o. High school graduate or equivalent. Copies of their high school diploma, GED or proof of applicable life and work experience shall be made available in the CONTRACTOR's office in Hawaii for inspection by the STATE.

- p. State of Hawaii driver's license. The CONTRACTOR shall obtain copies of the TCO's valid State of Hawaii driver's license and copy of the TCO's Hawaii traffic abstract; copies shall be retained and made available in the CONTRACTOR's office in Hawaii for inspection by the STATE. Any TCO who is required to operate a CONTRACTOR provided vehicle inside the Commercial Harbors facilities shall have a valid Hawaii Driver's License. If the TCO has his or her Hawaii Driver's License suspended or revoked, the CONTRACTOR shall replace the TCO with a qualified TCO to the assigned post or duties.
 - q. Not have any disqualifying felony convictions that would disqualify the TCO from obtaining a Transportation Worker Identification Card (TWIC) prior to or during the TCO's assignment under the Contract.
 - r. The CONTRACTOR shall be responsible for implementing an annual monitoring program whether a TCO assigned to work under the Contract has been arrested for any charge of moral turpitude, TWIC-disqualifying offense, or a felony. The CONTRACTOR shall notify the FSO immediately of the arrest of the TCO. The CONTRACTOR shall provide the STATE with a recommendation to the FSO whether the arrest of the TCO is of a nature that would reflect unfavorably on the fitness of the person to continue to be assigned work under the Contract. The FSO or designee shall have the final authority to determine in the best interest of the STATE whether the TCO shall continue to be assigned to perform security duties under the Contract pending a final determination from the court.
2. Contract Security Officers. The following minimum qualifications apply to Contract Security Officers (CSO). Due to the sensitive nature of the work and because security officers shall be in constant contact with the public, the STATE has established stringent qualification standards for security officers performing work under the Contract. The CONTRACTOR shall only select those persons that have obtained a security guard certificate/license to service as CSO who can demonstrate the following:
- a. Have received training or possess the required job experience in meeting the qualifications for "facility personnel with security duties" pursuant to 33 CFR 105.210

- b. Ability to exercise good judgment.
- c. Maturity in conduct and attitude.
- d. Ability to accept and assume responsibility.
- e. Alertness, attentiveness and professional conduct.
- f. Strong moral character.
- g. Ability to communicate in English.
- h. Courtesy in their inter-relationships with the public, Harbor employees and tenants, as well as being tolerant in their interactions with others. Be well-groomed and neat in appearance as official commissioned representatives of the State of Hawaii.
- i. A complete one-time physical examination within the past six (6) months, to include drug testing and retain the doctor's certification (copies of the certification for each officer shall be available for inspection in the CONTRACTOR's office in Hawaii) that the CSO general health is satisfactory for security work. The following are the minimum physical requirements (the FSO can impose additional requirements to meet the local district's needs):
 - 1) Correctable vision to 20/20 each eye.
 - 2) The CSO must be able to hear at a normal conversational level. A hearing aid may be used to meet the requirement.
 - 3) CSO must be physically able to serve a normal shift walking; standing; manning security gates and checkpoints; using stairs, operating motor vehicles; and directing and managing traffic.
 - 4) CSO must be able to lift or carry up to fifty pounds (50 lbs), if required, in the execution of their official duties.
- j. Any CSO commissioned under the Contract shall have been issued a Transportation Worker Identification Credential (TWIC) in accordance with 33 CFR 101.514.

- k. No CSO shall be assigned to any part of the Contract if the CSO has been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the providing of security services, unless the conviction has been annulled or expunged by court order pursuant to §463-8(b)(3), HRS.
- l. The CONTRACTOR shall have a drug testing program to include annual random drug testing as a condition of the CSO continued assignment to perform work under the Contract.
- m. CSO shall not have a record of a deferred admission of guilt or conviction of an offense moral turpitude as defined by the Contract for one or more of the following:
 - 1) Fraud or false pretenses in obtaining something of value.
 - 2) Larceny or a misdemeanor theft by taking.
 - 3) Larceny after trust.
 - 4) Murder.
 - 5) Soliciting for prostitutes.
 - 6) Voluntary manslaughter.
 - 7) Sale of narcotics or other illegal drugs.
 - 8) Pattern or failure to file federal tax returns in years in which taxes are due.
 - 9) Criminal issuance of a bad check.
 - 10) Making a false report of a crime.
- n. Minimum age of 21 years for CSO.
- o. High school graduate or equivalent. Copies of their high school diploma, GED or proof of applicable life and work experience shall be made available in the CONTRACTOR's office in Hawaii for inspection by the STATE.
- p. State of Hawaii driver's license. The CONTRACTOR shall obtain copies of the CSO's valid State of Hawaii driver's license and copy of the CSO's Hawaii traffic abstract; copies shall be retained and made available in the CONTRACTOR's office in Hawaii for inspection by the STATE. Any CSO who is required to operate a CONTRACTOR provided vehicle inside the Commercial Harbors facilities shall have a valid Hawaii Driver's License. If the CSO has his or her Hawaii Driver's License suspended or revoked, the CONTRACTOR shall replace the CSO with a qualified CSO to the assigned post or duties.

- q. Not have any disqualifying felony convictions that would disqualify the CSO from obtaining a Transportation Worker Identification Card (TWIC) prior to or during the security officer's assignment under the Contract.
 - r. The CONTRACTOR shall be responsible for implementing an annual monitoring program whether a CSO assigned to work under the Contract has been arrested for any charge of moral turpitude, TWIC-disqualifying offense, or a felony. The CONTRACTOR shall notify the FSO immediately of the arrest of the CSO. The CONTRACTOR shall provide a recommendation to the FSO whether the arrest of the CSO is of a nature that would reflect unfavorably on the fitness of the person to continue to be assigned work under the Contract. The FSO or designee shall have the final authority to determine in the best interest of the STATE whether the CSO shall continue to be assigned to perform security duties under the Contract pending a final determination from the court.
3. Contract Security Supervisor. The following minimum qualifications apply to the Contract Security Supervisor (CSS). Each CSS shall possess the following minimum qualifications:
- a. Meet all requirements for TCO and CSO (as provided above).
 - b. At least two (2) years of supervisory experience, and/or pass interview board upon the request of the CSM.
 - c. Have received training or possess the required job experience in meeting the qualifications as a "facility security officer" pursuant to 33 CFR 105.205 or have training scheduled as deemed appropriate by the STATE.
 - d. The supervisor shall possess a CONTRACTOR issued cellular phone in order to be contacted by and respond to Harbors management.
 - e. Any CSS commissioned under the Contract shall have been issued a Transportation Worker Identification Credential (TWIC) in accordance with 33 CFR 101.514.
 - f. No CSS shall be assigned to any part of the Contract if the CSS has been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the providing of security services, unless the conviction has

been annulled or expunged by court order pursuant to §463-8(b)(3), HRS.

- g. The CONTRACTOR shall be responsible for implementing an annual monitoring program whether a CSS assigned to work under the Contract has been arrested for any charge of moral turpitude, TWIC-disqualifying offense, or a felony. The CONTRACTOR shall notify the FSO immediately of the arrest record of the CSS and of the CONTRACTOR's recommendation to the FSO whether the arrest of the CSS is of a nature that would reflect unfavorably on the fitness of the person to continue to be assigned work under the Contract. The FSO or designee shall have the final authority to determine in the best interest of the STATE whether the CSS shall continue to be assigned to perform security duties under the Contract pending a final determination from the court.

4. Contract Security Manager. The following minimum qualifications apply to Contract Security Manager (CSM). Each Manager shall possess the following minimum qualifications:

- a. Meet all requirements for CSS.
- b. At least three (3) years of experience as a supervisor at the middle-management level comparable to a lieutenant in a security organization.
- c. At least seven (7) years of professional experience as a security or security official in a recognized, bona fide security or screening organization.
- d. The CSM commissioned under the Contract shall have been issued a Transportation Worker Identification Credential (TWIC) in accordance with 33 CFR 101.514.
- e. No CSM shall be assigned to any part of the Contract if the CSM has been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the providing of security services, unless the conviction has been annulled or expunged by court order pursuant to §463-8(b)(3), HRS.
- f. The CONTRACTOR shall be responsible for implementing an annual monitoring program whether a CSM assigned to work under the Contract has been arrested for any charge of moral turpitude, TWIC-disqualifying offense, or a felony. The

CONTRACTOR shall notify the FSO immediately of the arrest of the CSM. The CONTRACTOR shall provide a recommendation to the FSO whether the arrest of the CSM is of a nature that would reflect unfavorably on the fitness of the person to continue to be assigned work under the Contract. The FSO has final authority to determine in the best interest of the STATE whether the CSM shall continue to be assigned to perform security duties under the Contract pending a final determination from the court

- g. Have received training or possess the required job experience in meeting the qualifications as a “facility security officer” pursuant to 33 CFR 105.205
- h. Be able to plan, direct, and supervise the work of all Contract employees in the performance of the requirements established by the Contract.
- i. Be able to resolve problems which may arise in the execution of the Contract.
- j. The manager shall possess a CONTRACTOR issued personal data assistant (PDA) in order to be contacted by and respond to Harbors management.

B. Instructor/Training Program. The instructor shall have the knowledge and experience that demonstrates the instructor’s or instructors’ proficiency to be a trainer in the area the instructor is providing the training as required herein (e.g. directing traffic and traffic management and security pursuant to 33 CFR 105.) For each program subject, the successful bidder shall certify that the instructor or instructors have the necessary credentials to meet the training requirements provided herein. Copies of certificates must be submitted to substantiate the instructors’ credentials and qualifications to teach each subject for approval from the STATE before any instructor is used.

The training program must be approved in writing by the FSO prior to training and certification of security officers.

C. The CONTRACTOR shall submit an official written request to the FSO to Commission every TCO, CSO, CSS, and CSM assigned to perform work under the Contract. The FSO will confirm the experience, training, credentials, criminal background checks, and qualifications of the security officer prior to any TCO, CSO, CSS, and CSM is authorized to perform work under the contract. The written request will be transmitted to the FSO on the

“REQUEST TO COMMISSION SECURITY OFFICERS” form for his/her signature and approval.

- D. After receiving approval of the FSO to assign a TCO, CSO, CSS, and CSM to work under the contract, the CONTRACTOR shall provide a list of the approved TCO, CSO, CSS, and CSM who are to be assigned to perform work under the Contract. The CONTRACTOR shall provide an updated list of TCO, CSO, CSS, and CSM to the FSO on the first day of the month.
- E. Records are to be maintained in accordance with 33CFR 105.225. Certifications, training and training records may be audited by the STATE at any time. Copies of training records shall be accessible to the STATE either electronically or in the CONTRACTOR’s office on the island of Kauai. Training will be recorded on the “TRAINING CERTIFICATE” form at a minimum and all other training records will be maintained as stated above.
- F. Additional Training for TCO, CSO, and CSS training shall include, but not be limited to:
1. The CONTRACTOR will provide equivalent traffic management and control training as it would be taught by the county police department in the jurisdiction in which the harbor is located.
 2. Training to understand and execute the requirements of 33 CFR 105.245, “DECLARATION OF SECURITY”.
 3. Training in the operation of hand-held imaging equipment.
 4. Training and certification in CPR and First Aid, including Automatic External Defibrillators.
 5. Training in hand-wand, vehicle inspection and pat-down search methods.
 6. Federal Emergency Management Agency (FEMA) sponsored training AWR 1 Seaport Security for Port Employees or Natural Disaster Awareness for Security Professionals.
 7. National Incident Management and Command System training as follows:
 - a. TCO, CSO, and CSS. On-line NIMS training in ICS 100 and 200.
 - b. CSM. Same as a TCO, CSO, and CSS, and ICS 300 and 400.
- G. Exercise and Drills. The STATE may require the TCO, CSO, CSS or CSM to participate in training exercises and drills during their normal work hours, and at no cost to the CONTRACTOR.
- H. Special Training. The CONTRACTOR shall be paid at the regular unit cost rates for any additional training attendance by CONTRACTOR employees as required in writing by the FSO.

10.4 SCOPE OF WORK - The CONTRACTOR is responsible to meet its duty of providing a safe work environment for the TCO, CSO, CSS, and CSM (hereinafter “security officers”) the CONTRACTOR assigns to work under the Contract pursuant to Chapter 396, Hawaii Revised Statutes. The CONTRACTOR shall furnish the necessary management, administrative support, security officers, supervision, STATE-approved uniforms, vehicles, communication equipment/relays, office telephones, office furniture, supplies, materials, incidentals, office fax/copy equipment, and any other equipment necessary to provide security/safety and security services for the Kauai District, Harbors Division, Department of Transportation, State of Hawaii, at the following harbor of the District:

Nawiliwili Harbor, Lihue, Island of Kauai, Hawaii

Post orders are to be submitted by the CONTRACTOR and approved by the FSO prior to start of the Contract. No changes may be made to the Post Orders without prior written approval from the FSO or designee.

Security officer services shall only be performed within the boundaries of the harbors; i.e., there shall not be off-harbor pursuits. The security authority of security officers is only valid within harbors boundaries and shall only be used as part of the Contract. Security authority, uniforms and equipment used under the Contract shall not be used for private work including, but not limited to, providing security officers for harbor construction gates/sites.

The CONTRACTOR shall at all times employ sufficient and qualified security officers and equipment for executing the work in the manner and time required by these specifications, including additional security officers at elevated MARSEC security levels. For example, this may include a provision of up to five additional personnel for increased security officer requirements as determined by FSO and approved by the U. S. Coast Guard Captain of the Port. The STATE recognizes that the CONTRACTOR may need the support of other security firms to meet the additional security support for higher MARSEC levels. Therefore the STATE shall permit the CONTRACTOR to add personnel through a subcontract at a mark-up fee of five percent (5%) on the total cost of the subcontractor’s invoice to an equally qualified security firm that meets the qualifications and training requirements as provided herein.

Any security officer employed by the CONTRACTOR who, in the opinion of the FSO: a) does not perform work under the Contract in a proper and skillful manner; b) has reasonable suspicion that a security officer is under the influence of drugs or alcohol; c) is disorderly; is abusive; or, d) does not demonstrate tact and diplomacy in dealing with others, shall, upon written notice from the FSO, be removed immediately by the CONTRACTOR and shall not be assigned any portion of work under the Contract, provided the CONTRACTOR shall have the opportunity to present facts and mitigating circumstances to the FSO to reinstate the security officer, at the sole discretion of the FSO.

If a security officer loses his/her security clearance or certification or has his/or her security clearance or certification suspended, the security officer shall not be assigned any portion of the work under the Contract, provided the CONTRACTOR may reinstate the security officer upon providing the FSO with written documentation that the security officer has secured his/her clearance or there has been a final resolution of the suspension of his/her security clearance or suspension.

The CONTRACTOR shall provide professional and quality service at all times that ensures the safety and security of everyone at the harbor

CONTRACTOR – The CONTRACTOR shall provide one (1) full-time CSM to manage the Contract security operations in Kauai district throughout the term of the Contract. The CSM must have the authority to act on behalf of the CONTRACTOR on all the terms and conditions of the Contract with the exception of executing Contract changes for new and unforeseen work. The CONTRACTOR shall provide the CSM with an email address and a personal data assistant (PDA) to receive email and access to email on a 24 hours a day, seven days a week basis to receive email and other attached documents, as needed, in order to follow orders given by the FSO.

The CSM shall not be scheduled to perform TCO, CSO, or CSS security services described herein. CSM must be available to attend all harbors and cruise ship security committee meetings, inspections, exercises and other activities which relate to security services.

CSM shall possess a smart phone in order to be contacted by and respond to harbors management 24 hours a day, 7 days a week. The CSM must respond immediately to the call. The manager shall attend and participate in harbors designated security meetings and be able to deal effectively with the public, vessel management, tenants, concessionaires, harbor user groups, employees and harbor management.

The CSM shall investigate and resolve all complaints made against security personnel, keep detailed records of all actions taken, and send a written report to the FSO as directed on all complaint resolution activities.

The CSM regular hours of work shall be 0745 to 1630 or as designated by the FSO.

Supervision – A minimum of one CSS shall be on duty Monday through Friday whenever security services are being provided

Supervisors (CSS) maybe scheduled to perform CSO security services to relieve an CSO under the following conditions: a) when a security officer is called to fill an open post and to report immediately to work to fulfill the post requirements; b) for the period when the replacement security officer reports to work that same day and shift; and c) when specifically authorized by the FSO. The CSS must be qualified as an CSO and shall be in uniform while on duty. CSS shall report to the FSO their location and availability at the start of the CSS's schedule of work.

Specific Duties of the various positions include:

Traffic Control Officer (TCO) - Directs traffic and traffic management in assigned areas, issues citations or traffic and parking violations and reports unusual events. The TCO may be required to patrol parking areas, stand at one location, or walk in or around parking areas. The primary duties and tasks of the TCO are at a minimum, but not strictly limited to:

1. Directs passenger and vehicular traffic within the Harbors Division properties and nearby parking areas.
2. Patrols parking lots and other Harbors Division property used for vehicle parking.
3. Enforces vehicle and parking rules by issuing citations for violations.
4. Inspect, control, and monitor vehicles that enter and parked in STATE facilities.
5. Maintains surveillance of demonstrations, strikes, protests, sit-ins, public rallies, marches, meetings, and other gatherings on STATE facilities.
6. Recognize and detect of dangerous substances and devices.
7. Recognize characteristics and behavioral patterns of persons who are likely to threaten security.
8. Recognize techniques to circumvent security measures.
9. Methods of screening personnel, personal effects, and baggage and cargo and vessel stores as required.
10. Insures fire fighting equipment, fire lanes, doors and traffic lanes are not blocked by cargo or equipment.
11. Watches for fire, trespassers, or other irregularities.
12. Reports all discrepancies and unsafe conditions for appropriate action.
13. Responds, if possible, without the use of restraints or force and without endangering self or others to emergencies, alarms, scenes break-ins, assaults, hazards, public disorders, vehicle criminal activities and other disturbances/emergencies.
14. Gathers facts and prepares reports of accidents, incidents and complaints of State officials, employees and the general public in a format or on a form approved by the STATE.
15. Checks parking permits and parking meters.
16. Prohibits unauthorized parking.
17. The security officer shall not leave the post unless (a) properly relieved by another trained security officer or (b) there is no watch scheduled immediately after the security officer's watch.

Contract Security Officer (CSO) equivalent state classification – Enforce laws, rules and regulations for the protection and security of the property and to maintain a safe environment. Security officers may be required to patrol during the night, stand at a designated location, and be able to respond to incidents. Security Officers will be trained and oriented to any specific Harbor tasks and duties that may be outside of their primary scope of training. The training and orientation may take place through “On the Job”

training (OJT) and/or classroom training as decided and executed by the CONTRACTOR. The primary duties and tasks of the Security Officer are at a minimum, but not strictly limited to, the following:

1. Patrols areas within the Harbors Division property.
2. Inspect, control, and monitor vehicles that enter and parked in STATE facilities as required.
3. Maintains surveillance of demonstrations, strikes, protests, sit-ins, public rallies, marches, meetings, and other gatherings on STATE facilities.
4. Recognize and detect of dangerous substances and devices.
5. Recognize characteristics and behavioral patterns of persons who are likely to threaten security.
6. Recognize techniques to circumvent security measures.
7. Methods of screening personnel, personal effects, and baggage and cargo and vessel stores as required.
8. Watches for fire, trespassers, or other irregularities.
9. Prevents and reports acts of theft, vandalism and security breaches.
10. Investigates suspicious persons or unusual incidents.
11. Reports all discrepancies and unsafe conditions for appropriate action.
12. Checks the security of buildings, materials, equipment, and perimeter fences.
13. Responds to complaints and takes appropriate action.
14. Checks crafts or boats to determine whether they are properly secured at moorings.
15. Detain persons who violate laws, rules and regulations for Harbor Enforcement personnel.
16. Directs passenger and vehicular traffic within the Harbors Division property and nearby parking areas.
17. Enforces vehicle and parking rules.
18. Maintains surveillance of demonstrations, strikes, protests, sit-ins, public rallies, marches, meetings, and other gatherings on State facilities.
19. Insures fire fighting equipment, fire lanes, doors and traffic lanes are not blocked by cargo or equipment.
20. Conducts searches of persons, property and vehicles.
21. Supervises evacuation procedures when directed.
22. Observes and logs docking and undocking of vessels, checking for possible damage to facilities; reports location of vessels by pier foot marking.
23. Reports all unusual incidents, irregular activities, events, or property damage.
24. Turns on lights in sheds, on piers and in storage or working areas when operations make it necessary. Turns off all lights in sheds, on piers and in storage or working areas during daylight hours or whenever such lights are no longer required for operations. Reports lights not working.
25. Prepares reports, maintains required logs, and records in a format or on a form approved by the STATE.

26. Responds to emergencies, e.g., renders first aid and performs other activities to prevent injury or protect life and property.
27. Performs any and all duties required to comply with appropriate U.S. Coast Guard and Homeland Security requirements.
28. Coordinates with security officers Contracted by ships in port.
29. Monitors Closed-Circuit Television (CCTV) for suspicious, illegal, or irregular activities and reports such activities.
30. Has ready access to a walkie-talkie, telephone, provided by the CONTRACTOR, to facilitate communications with participants and other agencies, as required.
31. As required, performs access control tasks including but not limited to vehicle and personnel inspection and screening at access control points to deter and prevent unauthorized access and introduction of unauthorized items and materials into regulated security facilities in the harbor.
32. Responds to, reports and assists other agencies in any oil spillage and other pollution, accidents and injuries.
33. Report any vessels moving about or moored at piers that are not listed on a daily schedule to the Harbor District Office for follow up.
34. Sweeps facility to insure security measures are in place prior to ship's arrival.
35. As required, serve as the representative of the FSO in performing Declarations of Security (DOS) tasks pertaining to 33 CFR 105.245
36. The security officer shall not leave the post unless (a) properly relieved by another trained security officer or (b) there is no watch scheduled immediately after the security officer's watch is over.

Contract Security Supervisor (CSS) – Provides supervision and control of the security officers. The Supervisor shall report to the FSO and Statewide Security Coordinator to receive directions, assignments, updates, and any information pertaining to the security of the harbor. The Supervisor must be able to perform all tasks and duties of the Security Officer and at a minimum the following supervisory duties:

1. Organizes, directs and supervises the work activities of assigned security officers on a rotational basis and makes assignments to provide effective security and security within the harbor.
2. Maintains and monitors work performance of assigned security officers and prepares job performance ratings in a fair and consistent manner and takes appropriate action to correct any deficiencies.
3. Issues oral and written instructions to assigned security officers. Conducts preliminary investigation of misconduct/allegations against security officers on assigned watch and prepares appropriate report to recommend appropriate actions.
4. Provides on the scene supervision involving security related incidents.
5. Reviews reports of assigned security officers for accuracy and provides constructive guidance.

6. Insures that assigned security officers are performing their duties as prescribed by law, applicable rules and regulations.
7. Conducts preliminary investigation of injuries to assigned security officers.
8. Maintains inventory of supplies and equipment.
9. Conducts regular staff meetings to discuss work related problems and to provide advice and guidance.
10. Attends and participates in security related meetings, as required
11. Provide to the FSO daily log reports

10.5 UNIFORMS AND EQUIPMENT - The CONTRACTOR shall provide uniforms and equipment to fulfill the terms of the Contract. The STATE shall be the sole judge of the adequacy of the uniforms and equipment provided by the CONTRACTOR:

- A. Uniforms - The CONTRACTOR shall provide and assure that all security officers' uniforms and equipment are standardized, clean and identical when they are on duty. The uniform style, color, material, dress standards and equipment shall be approved by the FSO. All personnel performing traffic control duties shall wear a safety vest with reflective strips which meet OSHA requirements as the outermost garment and use white gloves to direct traffic.
 1. The CONTRACTOR shall insure that all security officers maintain and wear their uniforms in a serviceable standard, clean, neat and professional manner. No visible body ornaments are allowed.
 2. All security personnel must be well groomed at all times, facial hair shall be neat and trimmed, hair shall be maintained in a safe and orderly fashion to avoid hair being caught in mechanical equipment or doors and traffic barriers (women with long hair should be pinned or kept in a bun; men with long hair shall have their hair pinned or kept under a cap.
 3. Standard badges, company insignia and personnel identification cards shall be worn by all security officers on duty at STATE harbors.
 4. Uniforms must be of a different color for STATE harbors work than for private work.
 5. All security personnel assigned as TCO's or CSO's will use black Battle Dress Uniform (BDU) style pants or shorts with a polo style shirt with a company insignia and have "security" on the back in the minimum of two (2) inch lettering.
 6. All security personnel assigned at CSS's will have a uniform that meets the criteria for the TCO's and CSO's to include visible markings to identify that individual as a CSS, i.e. Chevron stripes on the sleeve area or pin on chevron lapels to the collar area.
 7. All security personnel assigned to the contract will use Non-Slip Safety shoes with either composite or steel toe protection.
 8. All security personnel assigned to the contract will use a black belt with black buckle.

9. Rain coats will be issued and must be ANSI III compliant with Highly Visible Reflective striping to include "SECURITY" stenciled on the back in a minimum of 2 inch lettering.
 10. Any head gear issued must be black in color with the security company logo displayed. Head gear must be approved by the FSO.
 11. Security Officers that are deemed to be not to meet the dress standards as provided above, shall be removed at the direction of the FSO from the post immediately until corrections are made and approved by the FSO or designee.
- B. Vehicles - The CONTRACTOR shall provide necessary vehicles for patrolling the harbors. Vehicles shall be marked, licensed, safe, clean, and uniform in a light color and in good appearance and running condition. The CONTRACTOR shall submit a written request prior to any assignment, purchase or lease of a vehicle assigned to the Contract for FSO approval for the type of vehicle, appearance, operational condition to be in good working order, number of vehicles, and to insure that the CONTRACTOR understands and agrees that the vehicle costs and maintenance costs is limited to the Allowance amount provided in the bid proposal of the Contract prior to use. All vehicles shall have current State of Hawaii license plates, safety check and registration. The STATE shall reimburse the CONTRACTOR for the actual costs of: a) the depreciated cost of a new vehicle consistent with the prevailing accounting standards or the actual cost of a lease, b) fuel, c) vehicle maintenance, d) motor vehicle registration fees, and e) no-fault insurance not to exceed the dollar allowance for each respective year of the Contract for "Vehicles." All invoices paid for the actual costs as stated for items "a" through "e" shall be provided to the STATE with its request for payment in order to be reimbursed for the actual costs. All vehicles used in the performance of security officer's duties shall be identified as "Harbor Security" and the company name.
- C. Security Officer's Parking of Personal Vehicles - With the exception of company provided vehicles identified as provided above, all security officers parking of their personal vehicles shall be required to purchase parking permits if the security officer is parking on STATE property, rates shall be provided by Chapter 19-44-51, Hawaii Administrative Rules. Unauthorized vehicles shall be cited and or towed as provided by Chapter 19-43-24. The CONTRACTOR may request a revocable permit to rent an area for security officers parking in areas of the STATE facilities without marked parking stalls or where the location of the marked parking stalls, in the judgment of the FSO, is not practical or safe for the security officer to park.
- D. Communications - The CONTRACTOR shall provide the necessary portable radios, cellular phones, and mobile base stations to insure dissemination of information, to include reporting of incidents, be done in a timely and effective manner and to insure that the CONTRACTOR understands and

agrees that the communications devices assigned and maintenance costs is limited to the Allowance amount provided in the bid proposal of the Contract prior to use. Prior to its purchase and use the CONTRACTOR shall provide the STATE with the type of communication devices the CONTRACTOR will utilize for the reporting of incidents in a timely and effective manner and receive the STATE's approval. Upon review and approval of the CONTRACTORS proposed type of communication devices the CONTRACTOR is to utilize, the STATE shall reimburse the CONTRACTOR for start-up costs up and annual maintenance that the STATE directed the CONTRACTOR to obtain provided the costs do not exceed the dollar amounts provided in each year of the Contract for "Equipment."

In addition, the security officer shall have the communication capability to make immediate notification (may be cellular phone) to federal, state, or county security agencies. The CONTRACTOR shall install permanent shelters provided by the STATE and have a copy machine and email capability in their local office.

- E. First Aid and Safety Devices - The CONTRACTOR shall provide first aid kits and automatic external defibrillators for guard posts or for each CSS assigned a vehicle provided the costs of the first aid kits and automatic external defibrillators do not exceed the Allowance amount provided in each year of the Contract for "First Aid and Safety Devices" as determined by the FSO. The CONTRACTOR shall submit a written request before purchasing, renting, or leasing of first aid kits and automatic external defibrillators assigned to the Contract for FSO approval. And to ensure that the CONTRACTOR understands and agrees that the automatic external defibrillators cost and maintenance costs are limited to the dollars budget provided in the bid proposal of the Contract. The STATE shall reimburse the CONTRACTOR for the actual cost of the automatic external defibrillators. Except for the first year of the Contract, there shall be no reimbursement for first aid kits – only replenishment of the first aid kits in years two and three of the contract or extensions thereafter shall be allowed; provided further that the reimbursements shall not to exceed the dollar amounts provided in each year of the Contract for "First Aid and Safety Devices." At the end of the Contract, the automatic external defibrillators shall be returned to the STATE for the remaining useful economic life of the equipment, if any.
- F. Security Shelters - The CONTRACTOR may be directed to provide temporary shelters where permanent shelters are not provided by the STATE. CONTRACTOR shall submit a written request prior to any purchase, rental, or lease of a security shelters assigned to the Contract for FSO approval prior to use. The STATE shall reimburse the CONTRACTOR for the actual number of temporary shelters and its costs not to exceed the Allowance amount provided in the Contract for "Security Shelters." If the Contractor

needs more security shelters they shall submit a request to the State, and if the State agrees, the State will execute a contract amendment to increase the allowance amount for security shelters that year. The shelters, whether temporary or permanent, shall be maintained clean and orderly. The STATE shall have final approval as to the appropriateness of the structure. At the end of the Contract, the temporary shelters, when purchased, shall be returned to the State for the remaining useful economic life of the equipment, if any.

- G. Sanitary Facilities - The CONTRACTOR, as the employer of the security officers, shall provide temporary sanitary facilities at the sole cost to the CONTRACTOR next to security posts where permanent facilities are not provided by the STATE. Placement of the facilities will not interfere with harbor operations and will be placed in a manner to maintain a safe working environment and display a positive, and professional public image.
- H. Inspection Devices - The CONTRACTOR shall provide the following inspection devices not to exceed the Allowance amount provided in the Contract for "Inspection Devices" at each assigned post: a) under carriage mirrors equipment, b) hand held metal detector (e.g. the following brands are descriptive of a hand held metal detector and not an endorsement of a brand - Garrets, Rangers, Ceia, etc.), c) flashlights and inspection mirrors. The CONTRACTOR will insure that replacements are readily available in the case of broken or malfunctioning equipment as necessary. At the end of the Contract, any inspection devices, when purchased through reimbursement, shall be returned to the STATE for the remaining useful economic life of the equipment, if any.

10.6 ADDITIONAL REQUIREMENTS

- A. The CONTRACTOR shall procure and maintain in full force and effect during the course of Contract, the following insurance:
 - 1. Workers Compensation as required by law.
 - 2. CONTRACTOR's Comprehensive General Liability and Property Damage with a combined minimum single limit of \$1,000,000.00 for bodily injury and Property damage per occurrence.
 - 3. CONTRACTOR's Automobile General Liability and Personal Injury Protection with a combined minimum single limit of \$300,000.00 for bodily injury and property damage per occurrence.
- B. The CONTRACTOR shall obtain the TWIC card for personnel assigned to Harbors security officer duty at the CONTRACTOR's expense.

10.7 PAYMENT

- A. Management – All management services provided or performed by the CONTRACTOR shall be considered incidental to the security officers services being provided and shall not be paid for separately.
- B. Security Officer Services – Security Officer services shall be paid for at the hourly rate bid (unit bid price).
 - 1. The amounts in the Proposal Schedule are provided for bidding purposes only, and reflects the anticipated total number of security positions required at the various posts.
 - 2. Hourly rates (unit bid prices) shall be inclusive of all costs (labor, training, uniforms, vehicle maintenance, equipment, overhead, profit, insurance, taxes, employee benefits, ancillary personnel, etc.) incurred or to be incurred by the CONTRACTOR to fulfill the requirements of these specifications.

The CONTRACTOR is to submit a monthly billing to the following:

Department of Transportation
Harbors Division
3242 Wa'apa Road
Lihue, Hawaii 96766

Pursuant to §103-55, HRS, the CONTRACTOR shall certify that the services performed shall be paid at wages or salaries not less than the wages paid to public officers and employees for similar work. The CONTRACTOR shall submit with the CONTRACTOR'S monthly billing copies of a certified copy of all payroll that the CONTRACTOR is in compliance with §103-55, HRS and the terms of the Contract. The certification shall affirm that the payrolls are correct and complete, that the wage rates listed in the CONTRACTOR's certification are not less than the applicable rates contained in the applicable wage rate schedule, and that the classifications for each employee of the CONTRACTOR assigned to the CONTRACT conforms with the work that the public officer or employee performed.

Failure to provide monthly payment invoices as required will result in liquidated damages as referenced in PF-1.

In the event the CONTRACTOR subcontracts for security services as provided in the §103-55, HRS, the CONTRACTOR shall be responsible for the submission of the subcontractor's certified payroll and subcontractor's compliance with §103-55, HRS.

Payroll records shall be maintained by the CONTRACTOR and subcontractors for three (3) years after the day of Notice to Proceed. The records shall contain all information as required by 103-55, HRS. The records shall be made available for inspection by the STATE and any of its duly authorized representatives, who may also interview employees during working hours on the job.

10.8 TERM OF CONTRACT AND FUNDING - The services specified are to be provided by the CONTRACTOR for a period of thirty-six (36) months commencing on the date indicated in the Notice to Proceed issued by the STATE. However, the Contract may be extended for two (2) additional one (12) month extensions without the necessity for re-bidding, providing the Contract price for the extended period shall remain equal to or less than the third year, with adjustments, as provided in subsection 10.9 Escalation Clause, upon mutual agreement prior to expiration of the Contract. The mutual agreement may be verbal, as long as such verbal agreement is documented in writing by an officer of the STATE at the time the extension is processed or no more than thirty (30) days after the interim expiration date, whichever is less. The entire term of the Contract, including extensions, shall not exceed sixty (60) months.

In any event, the term of the Contract beyond the thirty-six-month (36) period is subject to the availability of funds. In case there are insufficient funds to finance the Contract beyond the first twelve (12)-month period, the STATE may, without any liability on its part, terminate the Contract upon written notice to the CONTRACTOR at least thirty (30) calendar days prior to the termination date.

10.9 ESCALATION CLAUSE - If, during the life of the Contract, the prevailing wage rates for State civil service workers performing similar work are increased, the Harbors Division shall allow the CONTRACTOR, upon request by the CONTRACTOR, to adjust the Contract price not more than the percentage increase granted to State civil service workers performing similar work. Price adjustments shall be made only at the time of extensions of the initial Contract. However, in the event Section 103-55, Hawaii Revised Statutes, as amended, is repealed or modified so that the section of the statute is no longer applicable to the Contract, the clause shall be voided.

10.10 TRANSITION PERIOD PROVISIONS - In the event the CONTRACTOR is not successful in the subsequent solicitation, the CONTRACTOR shall continue to provide the same level of services during the transition period and shall fully assist the STATE and the new Contractor in effecting a safe, orderly, and successful transition.

The current CONTRACTOR shall specifically be prohibited from working against a successful transition with negative actions, such as encouraging employees not to apply for positions with the new Contractor, and from making any changes in its methods of operation or level of services which could reasonably be considered to be aimed at cutting operating costs to maximize profits during the final stages of the contract.

The CONTRACTOR may reasonably begin to prepare for transition of service to the new Contractor during the transition period, and the STATE shall not unreasonably withhold its approval of the CONTRACTOR'S requests to begin an orderly transition process, including reasonable plans to relocate administrative staff, scale down certain inventory

items, etc., provided such transition activities do not substantially impair the CONTRACTOR'S performance during this transition period.

10.11 GOVERNMENT PENALTIES AND FINES - In the event the State is required to pay monetary fines for violations of federal, State, or County laws and regulations that are caused wholly or in part by the CONTRACTOR'S acts or omissions related to the contract, the CONTRACTOR shall reimburse the STATE for that percentage of the fine for which the CONTRACTOR is responsible pursuant to §266-28, HRS. The CONTRACTOR shall hold harmless, indemnify, defend, and ensure the State of Hawaii when there is a claim based on the violation of any federal, State, or County laws and regulations due to the CONTRACTOR'S failure to fulfill the terms of the contract.

To: FACILITY SECURITY OFFICER Date: _____

Subject: REQUEST TO COMMISSION SECURITY OFFICERS, SUBMITTED AFTER CONTRACT IS AWARDED (√ the applicable Classification):

- HARBOR SECURITY OFFICER (HSO)
- TRAFFIC CONTROL OFFICER (TCO)
- CONTRACT SECURITY SUPERVISOR (CSS)
- CONTRACT SECURITY MANAGER (CSM)

1. EMPLOYEE CERTIFICATION

I have successfully completed the training required by Contract HAR-K. D. 1-12. I shall not disclose my training, duty assignments, security techniques and procedures, security systems, personnel information, shift schedules, and other security-sensitive information to anyone who does not have an official need to know.

Printed Name and Signature

Date

2. CONTRACTOR CERTIFICATION

*I certify that Name _____ SSN. ____ - ____ - ____
Date of Birth ____/____/____ meets the personal experience and training requirements of the Contract for employment by (Company) _____ at _____ HARBOR as a TCO/HSO/CSS (Circle one). A copy of his/her training certificate as provided on the attached checklist is attached. I understand that approval by the Director of Transportation is required before this applicant may assign to perform work at the harbor under this contract.*

Signature
Contract Security Manager

Signature
State Security Manager

For FSO USE ONLY:

Approved _____ Disapproved _____ (Reason):

FACILITY SECURITY OFFICER

Date

TRAINING CERTIFICATE

NAME: _____

- TRAFFIC CONTROL OFFICER (TCO)**
- Checklist (Yes/No)
- | | | | |
|----|---|---------|--------|
| A. | Training in accordance with ACT 208 | Yes ___ | No ___ |
| B. | Harbor Security Program | Yes ___ | No ___ |
| C. | Traffic Management and enforcement (techniques) | Yes ___ | No ___ |
| D. | Harbor Rules, Regulations and Operating Procedures | Yes ___ | No ___ |
| E. | Motor Vehicle laws (State, County and Harbor) | Yes ___ | No ___ |
| F. | Report and citation writing and court appearances | Yes ___ | No ___ |
| G. | Crowd control and emergency response | Yes ___ | No ___ |
| H. | Basic First Aid, CPR and AED | Yes ___ | No ___ |
| I. | FEMA AWR 1 Seaport Security for Port Employees | Yes ___ | No ___ |
| J. | Natural Disaster Awareness for Security Professionals | Yes ___ | No ___ |
| K. | National Incident Management Training (ICS 100 & 200) | Yes ___ | No ___ |
- HARBOR SECURITY OFFICER (HSO)**
- | | | | |
|----|---|---------|--------|
| A. | Training in accordance with ACT 208 | Yes ___ | No ___ |
| B. | Harbor Security and Safety Program | Yes ___ | No ___ |
| C. | Constitutional, Federal, State and County laws | Yes ___ | No ___ |
| D. | Harbor Rules, Regulations and Operating Procedures | Yes ___ | No ___ |
| E. | Motor vehicle laws (State, County and Harbor) | Yes ___ | No ___ |
| F. | Report and Citation writing and court appearances | Yes ___ | No ___ |
| G. | Crowd control and emergency response | Yes ___ | No ___ |
| H. | Basic First Aid, CPR, and AED | Yes ___ | No ___ |
| I. | FEMA AWR 1 Seaport Security for Port Employees | Yes ___ | No ___ |
| J. | Natural Disaster Awareness for Security Professionals | Yes ___ | No ___ |
| K. | National Incident Management Training (ICS 100 & 200) | Yes ___ | No ___ |
- CONTRACT SHIFT SUPERVISOR (CSS)**
- | | | | |
|----|--|---------|--------|
| A. | Training in accordance with ACT 208 | Yes ___ | No ___ |
| B. | Harbor Security Program | Yes ___ | No ___ |
| C. | Constitutional, Federal, State and County laws | Yes ___ | No ___ |
| D. | Harbor Rules, Regulations and Operating Procedures | Yes ___ | No ___ |
| E. | Motor vehicle laws (State, County and Harbor) | Yes ___ | No ___ |
| F. | Report and citation writing and court appearances | Yes ___ | No ___ |
| G. | Laws of arrest, search and seizure | Yes ___ | No ___ |
| H. | Bombs and explosives | Yes ___ | No ___ |
| I. | Hazardous materials first responder awareness (Basic 8-hour course) | Yes ___ | No ___ |

- J. Crowd control and emergency response Yes ___ No ___
- K. Basic First Aid, CPR, and AED Yes ___ No ___
- L. FEMA AWR 1 Seaport Security for Port Employees Yes ___ No ___
- M. Natural Disaster Awareness for Security Professionals Yes ___ No ___
- N. National Incident Management Training (ICS 100 & 200) Yes ___ No ___

PROPOSAL TO THE STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION
2023

PROJECT: FURNISHING UNARMED SECURITY
SERVICES FOR NAWILIWILI HARBOR ON
THE ISLAND OF KAUAI, HAWAII

PROJECT NO: RK1014-23

COMPLETION TIME: The contract is for a term of
thirty-six (36) months from the
date indicated in the Notice to
Proceed from the Department of
Transportation with an option to
extend as provided in Section
10.8.

LIQUIDATED DAMAGES: TWO THOUSAND FIVE HUNDRED DOLLARS
(\$2,500.00) for each and every
calendar day for which the
Contractor has delayed the
completion of this project.

Failure to provide monthly
payment invoices as required in
Section 10.7 will result in a 5%
deduction for the month's
invoice. Each subsequent week the
invoice is delayed will result in
an additional 1% deduction.

ELECTRONIC SUBMITTAL: The Proposal and supporting
documents shall be uploaded
through the State of Hawaii
eProcurement System (HIePRO).

NOTE: BID, PERFORMANCE, AND PAYMENT BONDS ARE NOT REQUIRED
FOR THIS PROJECT.

Director of Transportation
AliiAIMoku Hale
869 Punchbowl Street
Honolulu, Hawaii 96813

Dear Sir:

The undersigned bidder declares the following:

1. It has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal.
2. It has not been assisted or represented on this matter by any individual who has, in a State capacity, been involved in the subject matter of this contract within the past two years.
3. It has not and will not, either directly or indirectly offered or given a gratuity (i.e. an entertainment or gift) to any State or County employee to obtain a contract or favorable treatment under a contract.

The undersigned bidder further agrees to the following:

1. If this proposal is accepted, it shall execute a contract with the Department to provide all necessary labor, machinery, tools, equipment, apparatus and any other means of construction, to do all the work and to furnish all the materials specified in the contract in the manner and within the time therein prescribed in the contract, and that it shall accept in full payment therefore the sum of the unit and/or lump sum prices as set forth in the attached proposal schedule for the actual quantities of work performed and materials furnished and furnish satisfactory security in accordance with Section 103D-324, Hawaii Revised Statutes, within 10 days after the award of the contract or within such time as the Director of Transportation may allow after the undersigned has received the contract documents for execution, and is fully aware that non-compliance with the aforementioned terms will result in the forfeiture of the full amount of the bid guarantee required under Section 103D-323, Hawaii Revised Statutes.

2. That the quantities given in the attached proposal schedule are approximate only and are intended principally to serve as a guide in determining and comparing the bids.
3. That the Department does not either expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work, as may be deemed necessary or advisable by the Director of Transportation, and that all increased or decreased quantities of work shall be performed at the unit prices set forth in the attached proposal schedule except as provided for in the specifications.
4. In case of a discrepancy between unit prices and the totals in said Proposal Schedule, the unit prices shall prevail.
5. Agrees to begin work within 10 working days after the date of notification to commence with the work, which date is in the notice to proceed, and shall finish the entire project within the time prescribed.
6. The Director of Transportation reserves the right to reject any or all bids and to waive any defects when in the Director's opinion such rejections or waiver will be for the best interest of the public.

Receipt is hereby acknowledged and complete examination is hereby expressly guaranteed of the following listed items: the specifications, the notice to bidders, the special provisions, if any, the proposal, the plans, if any, and the contract form.

The undersigned acknowledges receipt of any addendum, issued by recording in the space below the date of receipt.

Addendum No. 1 _____ Addendum No. 3 _____

Addendum No. 2 _____ Addendum No. 4 _____

The undersigned hereby certifies that the bid prices contained in the attached proposal schedule have been carefully checked and are submitted as correct, final and are net prices.

Bidder (Company Name)

By _____
Authorized Signature

Print Name and Title

Business Address

Business Telephone Email

Date

Contact Person (If different from above)

Phone: _____ Email: _____

NOTE:

If bidder is a CORPORATION, the legal name of the corporation shall be set forth above, the corporate seal affixed, together with the signature(s) of the officer(s) authorized to sign contracts on behalf of the corporation. Please attach to this page current (not more than six months old) evidence of the authority of the officer(s) to sign on behalf of the corporation.

If bidder is a PARTNERSHIP, the true name of the partnership shall be set forth above with the signature(s) of the general partner(s) authorized to sign contracts on behalf of the partnership. Please attach to this page current (not more than six months old) evidence of the authority of the partner(s) to sign on behalf of the partnership.

If bidder is an INDIVIDUAL, the bidder's signature shall be placed in the space provided therefore on page PF-4.

If signature is by an agent, other than an officer of a corporation or a partner of a partnership, a POWER OF ATTORNEY must be on file with the Department prior to the opening of bids or submitted with the bid; otherwise, the bid may be rejected as irregular and unauthorized.

CERTIFICATION OF REGISTRATION OF SECURITY GUARD
LAW ENFORCEMENT SERVICES AT KAUAI COMMERCIAL HARBOR

1. Name of Bidder: _____

2. Business Organization:

Individual _____ Partnership _____ Corporation _____

3. Principal Address:

4. State of Hawaii Guard License No. _____ Date of
Expiration _____

If a **corporation**, please answer the following items 5 through 7:

5. Date _____

6. State of incorporation:

7. Bidder is authorized to do business in Hawaii: __ Yes __ No

8. Name of the principle officers:

President _____

Vice-
President _____

Secretary _____

Treasurer _____

Others _____

If a **partnership**, please provide the following items 9 through 13:

9. Date organized: _____

10. Type of partnership: _____
(General, Limited, Other)

11. Date agreement recorded: _____

12. Location of Recordation: _____

County/State

13. Partnership registered in Hawaii: No ____Yes____
If yes, date of registration: _____

14. List name and residence address of each partner (including silent partners) and whether he/she is a general, limited, special or other kind of partner and list share of each partner:

| <u>Name</u> | <u>Address</u> | <u>Share</u> |
|-------------|----------------|--------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

15. Experience Furnishing Security Services Pursuant to 33 CFR 105:

16. Submissions with Bid:

a. TRAINING MANUAL

For each program subject listed in your TRAINING MANUAL, the bidder shall specify a qualified/certified instructor. Information containing the background, education, work and academic experiences/certifications for each instructor must be included in the Manual.

b. TRAINING AND EXPERIENCE OF CONTRACT SECURITY MANAGER

Contract Security Manager: Name: _____

The bidder shall identify the Contract Security Manager and provide a Resume of the qualifications, experience, and certifications of the person nominated as meeting the conditions and terms of the Bid Specifications. It is solely the responsibility of the bidder to provide any and all information with its bid to substantiate that the person nominated as the Contract Security Manager has the knowledge, education, work experience and specialized training to serve as the Contract Security Manager. The State is responsible to "ensure that the facility operates in compliance with the requirements" of Sub-part B – Facility Security Requirements, pursuant to 33 CFR 105.00. Therefore the determination whether the person nominated by the bidder to serve as the Contract Security Manager shall be based on the information provided by the bidder and the decision shall be made solely by the State. **If the State determines that the person nominated to serve as the Contract Security Manager does not meet the minimum qualifications of the Contract Security Manager, the bid shall be rejected as not being the lowest responsible and responsive bidder.**

16. The Director reserves the right to determine whether or not an instructor is qualified to teach under this contract. The Director reserves the right to require a bidder awarded the contract to change, modify, or upgrade its training program.
17. Bidder hereby consents to and authorizes the State to confirm all or any portion of the information listed in Items 1 through 16.

**Attachments: Resume of Contract
Manager/Resume(s) of
instructors**

Bidder: _____

Signature: _____

Title: _____

Date: _____

(Affix Corporate Seal if available)

FURNISHING UNARMED SECURITY SERVICE FOR NAWILIWILI HARBOR
PROJECT NO. RK1014-23

PROPOSAL SCHEDULE A- FIRST YEAR – NAWILIWILI HARBOR

| Bid Item No. | Description | Quantity (a) | Unit | Unit Price (b) | Amount (a x b) |
|--------------|---|--------------|--------|-------------------------|----------------|
| A1 | Total Cost for Harbor Security Officers | 12,560 | hours | \$ _____ /hr. | \$ _____ |
| A2 | Total Cost for Traffic Control | 680 | hours | \$ _____ /hr. | \$ _____ |
| A3 | Total Cost for Contract Security Supervisor | 2,080 | hours | \$ _____ /hr. | \$ _____ |
| A4 | Allowance for Security Shelter | Allowance | Allow. | Allow. | \$ 5,000.00 |
| A5 | Allowance for Equipment | Allowance | Allow. | Allow. | \$ 5,000.00 |
| A6 | Allowance for Vehicles | Allowance | Allow. | Allow. | \$ 8,000.00 |
| A7 | Allowance for First Aid and Safety Devices | Allowance | Allow. | Allow. | \$ 5,000.00 |
| A8 | Allowance for Inspection Devices | Allowance | Allow. | Allow. | \$ 5,000.00 |
| | | | | Subtotal for First Year | \$ _____ |

PROPOSAL SCHEDULE B- SECOND YEAR – NAWILIWILI HARBOR

| Bid Item No. | Description | Quantity (a) | Unit | Unit Price (b) | Amount (a x b) |
|--------------|---|--------------|--------|--------------------------|----------------|
| B1 | Total Cost for Harbor Security Officers | 12,560 | hours | \$ _____/hr. | \$ _____ |
| B2 | Total Cost for Traffic Control | 680 | hours | \$ _____/hr. | \$ _____ |
| B3 | Total Cost for Contract Security Supervisor | 2,080 | hours | \$ _____/hr. | \$ _____ |
| B4 | Allowance for Security Shelter | Allowance | Allow. | Allow. | \$ 0 |
| B5 | Allowance for Equipment | Allowance | Allow. | Allow. | \$ 1,000.00 |
| B6 | Allowance for Vehicles | Allowance | Allow. | Allow. | \$ 2,000.00 |
| B7 | Allowance for First Aid and Safety Devices | Allowance | Allow. | Allow. | \$ 1,000.00 |
| B8 | Allowance for Inspection Devices | Allowance | Allow. | Allow. | \$1,000.00 |
| | | | | Subtotal for Second Year | \$ _____ |

PROPOSAL SCHEDULE C- THIRD YEAR – NAWILIWILI HARBOR

| Bid Item No. | Description | Quantity (a) | Unit | Unit Price (b) | Amount (a x b) |
|--------------|---|--------------|--------|-------------------------|----------------|
| C1 | Total Cost for Harbor Security Officers | 12,560 | hours | \$ _____/hr. | \$ _____ |
| C2 | Total Cost for Traffic Control | 680 | hours | \$ _____/hr. | \$ _____ |
| C3 | Total Cost for Contract Security Supervisor | 2,080 | hours | \$ _____/hr. | \$ _____ |
| C4 | Allowance for Security Shelter | Allowance | Allow. | Allow. | \$ 0 |
| C5 | Allowance for Equipment | Allowance | Allow. | Allow. | \$ 1,000.00 |
| C6 | Allowance for Vehicles | Allowance | Allow. | Allow. | \$ 2,000.00 |
| C7 | Allowance for First Aid and Safety Devices | Allowance | Allow. | Allow. | \$ 1,000.00 |
| C8 | Allowance for Inspection Devices | Allowance | Allow. | Allow. | \$ 1,000.00 |
| | | | | Subtotal for Third Year | \$ _____ |

PROPOSAL SCHEDULE SUMMARY

| | |
|-------------------------------------|----------|
| SUBTOTAL FOR FIRST YEAR | \$ _____ |
| SUBTOTAL FOR SECOND YEAR | \$ _____ |
| SUBTOTAL FOR THIRD YEAR | \$ _____ |
| TOTAL AMOUNT FOR COMPARISON OF BIDS | \$ _____ |

* Bids should include all Federal, State, County, and other applicable taxes. The TOTAL AMOUNT FOR COMPARISON OF BIDS will determine the lowest responsible bidder. Bidders shall complete all unit prices and amounts. Failure to do so may be grounds for rejection of bids. If a discrepancy occurs between the unit bid price and the bid price, the unit bid price shall govern.

STATEMENT OF ATTESTATION FOR INTERNET POSTING

I, (Name) (Title)

of the Department of Transportation, do attest that in
(Agency)

(Check appropriate statement)

Chapter 103D, HRS

compliance with Section 3-122-16, Hawaii Administrative Rules, the attached procurement notice was posted to the State & County Procurement Notice System (PNS) Website, [<http://www4.hawaii.gov/bidappsi>]

Chapter 103F, HRS

compliance with Procurement Circular No. 2003-04, dated May 9, 2003, the attached procurement notice was posted to the State & County Procurement Notice System (PNS) Website, [<http://www4.hawaii.gov/bidapps/>]

on _____
(Date(s))

(Signature)

(Date)

Attached: Procurement Notice

RK1014-23

SPO Form 20 (01/10/13)

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION

FORMS

Contents:

Contract

Certificate for Performance of Services

CONTRACT

THIS AGREEMENT, made this _____ day of _____, 2023, by and between the STATE OF HAWAII, by its Director of Transportation, hereinafter referred to as "STATE", and _____ whose business/post office address is _____ hereinafter referred to as "CONTRACTOR";

WITNESSETH: That for and in consideration of the payments hereinafter mentioned, the CONTRACTOR hereby covenants and agrees with the STATE to furnish, perform and/or deliver and pay for all labor, supplies, materials, equipment and services called for in such quantities as requested by the STATE, and the STATE agrees to pay for same at the unit prices set forth in the attached proposal schedule for "FURNISHING UNARMED SECURITY SERVICES FOR NAWILIWILI HARBOR FACILITIES ON THE ISLAND OF KAUAI, PROJECT NO. RK1014-23", in lawful money, but not more than such sum as is actually earned according to STATE' s determination of the actual quantities of work performed and materials furnished by CONTRACTOR at the unit prices set forth in said attached proposal schedule, for which payment shall be by purchase orders issued from time to time by STATE during the term of this contract since Section 103D-309, Hawaii Revised Statutes, as amended, does not require the State of Hawaii Comptroller's certificate for price-term, open-end, or requirements contracts under which the total amount to be paid CONTRACTOR cannot be accurately estimated at the time the contract is awarded.

All work to be performed and materials to be furnished shall be in accordance with the

specifications, the special provisions and plans, if any, the notice to bidders, the instructions to bidders and proposal for PROJECT NO. RK1014-23, on file in the office of the Director of Transportation. These documents, together with all alterations, amendments, additions thereto and deductions there from, are attached hereto or incorporated herein by reference and made a part of this contract.

The CONTRACTOR hereby covenants and agrees to furnish, perform and/or deliver all labor, supplies, materials, equipment, and services as provided herein for a period of THIRTY-SIX (36) MONTHS commencing from the date indicated in the official notice to proceed from the STATE, with an option to extend for two (2) additional twelve (12) month periods. The total term of this contract shall not exceed SIXTY (60) MONTHS.

The CONTRACTOR further agrees to execute the attached Certification of Compliance for Final Payment form prior to payment of the final payment by the STATE.

All words used herein in the singular number shall extend to and include the plural. All words used in the plural number shall extend to and include the singular. The use of any gender shall extend to and include all genders.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

STATE OF HAWAII

Director of Transportation

Company Name: (Seal)

Signature

Title

*Signature must be acknowledged
by a notary public.

CERTIFICATE FOR PERFORMANCE OF SERVICES

The undersigned bidder does hereby certify that in performing the services required for the FURNISHING UNARMED SECURITY SERVICES FOR COMMERCIAL HARBOR FACILITIES ON THE ISLAND OF KAUAI, PROJECT NO. HAR-K 1014-23, it will fulfill the following conditions:

1. All applicable laws of the Federal and State governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and

2. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the Director of Transportation. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the Director of Transportation has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by Section 103-55, HRS.

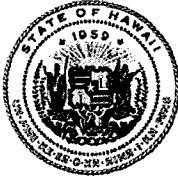
DATED at Lihue, Hawaii, this _____ day of _____.

Name of Corporation, Partnership, or Individual

Signature and Title of Signer

Subscribed and sworn before me
this _____ day of _____.

Notary Public, _____ Judicial
Circuit, State of Hawaii
My Commission Expires: _____



STATE OF HAWAII

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development (“DHRD”).*

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

(Signature)

(Date)

(Print Name)

(Print Title)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
(2) There is no employee-employer relationship; and
(3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to §76-16, HRS.

(Signature)

(Date)

(Print Name)

(Print Title, if designee of the Director of DHRD)