



STATE PROCUREMENT OFFICE

RELEASE DATE: May 3, 2023

INVITATION FOR BIDS
(IFB) No. 23008

SEALED BIDS
FOR
FURNISHING AND DELIVERING
STATE OF HAWAII INVENTORY DECALS
(POLYESTER BAR CODE LABELS)

WILL BE RECEIVED UP TO 2:30 P.M. (HST) ON

MAY 24, 2023

OR AS REVISED THROUGH ADDENDA, IF APPLICABLE, THROUGH THE STATE OF HAWAII ELECTRONIC PROCUREMENT SYSTEM (HiePRO). DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO CAREY ANN SASAKI AT (808) 586-0575 OR careyann.r.sasaki@hawaii.gov.

Donna Tsuruda-Kashiwabara
Procurement Officer

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SECTION ONE: SPECIFICATIONS

1.1 SCOPE OF WORK

The furnishing and delivering of Inventory Decals (Polyester Bar Code Labels) as ordered by the various agencies Statewide shall be in accordance with this solicitation, including its attachments and any addenda.

A State Procurement Office (SPO) price list contract will be issued as a result of any award made for this Invitation for Bid (IFB).

1.2 SPECIFICATIONS OF POLYESTER BAR CODE LABELS

A. Material and Size

1. Dull (matte) silver polyester, 0.002" thick;
2. Size: 2" x 3/4" rectangle;
3. Rounded corners.

B. Pressure Sensitive Adhesive

1. 0.002 permanent pressure sensitive 3M adhesive or equivalent;
2. Suitable for application on most surfaces.

C. Bar Code Symbology "39 Standard"

1. Eight or nine positions, as specified by agencies;
2. Alphanumeric/blank with human readable printing.

D. Style and color

1. "STATE OF HAWAII" in Black;
2. Bar code 39 Black (bar code shall match the human readable);
3. Human Readable approximately 1/8" in Bold Black alphanumeric.

E. Sample of Decal:



Sample of the Polyester Bar Code Label material and the format of the Bar Code Symbology "39 Standard" and style of label may be inspected at the SPO.

F. Orders from State Agencies will be in multiples (increments) of 100 each.

G. Bid Prices

1. Prices for decals shall be per 100 each;

2. Prices shall be based on agencies ordering on an as-needed basis during the contract term.

1.3 QUALITY OF PRODUCT

The decals furnished under these specifications shall be new and of the best quality of its respective kind. It shall be free from defects which may render it unfit for use. Damaged or rejected decals shall be immediately replaced with decals of the quality required by these specifications.

Failure to replace any unacceptable decal shall not relieve the Contractor from the responsibility imposed upon him by the contract.

No payment, whether partial or final, shall be construed to be an acceptance of unacceptable decals.

The State may, at any time, by written order, stop delivery of decals not conforming to these specifications. Such stop order shall not relieve the Contractor of his obligation to complete his contract within the contract time limits, nor shall it in any way terminate, cancel or abrogate the contract or any part thereof.

1.4 CONTRACT ADMINISTRATOR

For the purpose of this contract, Carey Ann Sasaki is designated as the Contract Administrator, and can be reached at (808) 586-0575 and careyann.r.sasaki@hawaii.gov.

**SECTION TWO:
BID SUBMITTAL AND CONTENT**

2.1 ELECTRONIC PROCUREMENT

The State has established the HlePRO [pronounced 'HI-PRO'] to electronically solicit and receive bids for procurements. Bidders interested in responding to this electronic solicitation must be registered on the HlePRO in order to participate in this procurement. Registration information is available at the State Procurement Office (SPO) website: <http://spo.hawaii.gov>, click on HlePRO, then click on the link to sign up and create an account.

Award(s) resulting from this solicitation, if any, shall be conducted through HlePRO and subject to a mandatory .75% (.0075) transaction fee of the award, not to exceed \$5,000 for the award. This transaction fee shall be based on the initial award amount or estimated amount, and awarded Contractor shall be responsible for payment of the fee to Tyler Hawaii, who is the vendor administering the HlePRO. Refer to "Section 3.12, Payment to Tyler Hawaii."

2.2 BIDDER QUALIFICATIONS

Samples and Brochure submittal. Bidder shall submit, at his own expense, brochures and specification literature and bid samples of the decals being considered for award, and it shall be received by the State Procurement Office within ten (10) calendar days from bid due date (bid opening date). See Section 2.9.7 BID PREPARATION – Bidder's Samples and Brochures. Award shall not be made to any Bidder not meeting this qualification requirement.

2.3 BIDDER'S AUTHORITY TO SUBMIT A BID

The State will not participate in determinations regarding a Bidder's authority to sell a product or service. If there is a question or doubt regarding a Bidder's right or ability to obtain and sell a product or service, the Bidder shall resolve that question prior to submitting a bid.

2.4 CERTIFICATION OF INDEPENDENT COST DETERMINATION

By submission of a bid in response to this Solicitation, Bidder certifies as follows:

- A. The costs quoted have been arrived at independently, without consultation, communication, or agreement with any other Bidder, as to any matter relating to such costs for the purpose of restricting competition.
- B. Unless otherwise required by law, the cost quoted in response to this Solicitation has not been knowingly disclosed by the Bidder, directly or indirectly, to any other Bidder or competitor prior to the award of the contract.

- C. No other attempt has been made or will be made by the Bidder to indicate any other person or firm to submit or not to submit for the purpose of restricting competition.

2.5 REQUIRED REVIEW

- 2.5.1 Before submitting a bid, each Bidder must thoroughly and carefully examine this solicitation, any attachment, addendum, and other relevant document, to ensure Bidder understands the requirements of the solicitation. Bidder must also become familiar with State, local, and federal laws, statutes, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work required.
- 2.5.2 Should the Bidder find defects and questionable or objectionable items in the solicitation, Bidder shall notify the State Procurement Office as soon as possible.

2.6 BID PREPARATION COSTS

Any and all costs incurred by the Bidder in preparing or submitting a bid shall be the Bidder's sole responsibility whether or not any award results from this solicitation. The State shall not reimburse such costs.

2.7 BID GUARANTY

A bid security deposit is NOT required for this IFB.

2.8 TAX LIABILITY

- 2.8.1 Work to be performed under this solicitation is a business activity taxable under Hawaii Revised Statutes (HRS) Chapter 237, and if applicable, taxable under HRS Chapter 238. Contractor is advised that they are liable for the Hawaii General Excise Tax (GET) at the current 4.5% for transactions made on the islands of Oahu, Kauai, and Hawaii, and at the 4% rate for the islands of Maui, Molokai, and Lanai. If, however, a Bidder is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Bidder shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption. For additional information and assistance, Bidders may call the State of Hawaii Department of Taxation, telephone 1-800-222-3229 (Toll-Free) or 808-587-4242.
- 2.8.2 Federal I.D. Number and Hawaii General Excise Tax License I.D. Bidder shall submit its current Federal I.D. No. and Hawaii General Excise Tax License I.D. number in the space provided on Offer Form, page OF-1, thereby attesting that the Bidder is doing business in the State and that Bidder will pay such taxes on all sales made to the State.

2.9 BID PREPARATION

- 2.9.1 Offer Form, Page OF-1. Bidder is requested to submit its bid using Bidder's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on Offer Form page OF-1. Failure to do so may delay proper execution of the contract.

The Offeror's authorized signature on the Offer Form, OF-1 shall be an electronically signed signature with audit trail or upon Notice of Award, bidder will be required to submit the Offer Form with an original ink signature. The submission of the bid on HlePRO shall indicate Bidder's intent to be bound.

- 2.9.2 Bidder Information and References (Offer Form, Page OF-2). Bidder is requested to provide office location and contact information on the appropriate Offer Form (Page OF-2). Bidder shall also list two (2) companies or government agencies that Bidder was or is providing inventory decals or similar products, and who can attest to the reliability of Bidder's services and products. The State reserves the right to contact the listed references to inquire about Bidder's past and/or current performance.

- 2.9.3 Bid Quotation (OF-3). Unit bid prices shall be based on "delivery to destination" and include the following pricing inclusions and conditions:

- A. Unit prices shall be firm for the term of the contract, including mutually agreed upon extension period(s), except for increases allowed under the Price Adjustment provision herein.
- B. Include all applicable taxes, including the GET and county surcharge, currently 4.5% for all transactions made on the islands of Oahu, Kauai, and Hawaii and/or 4% for all transactions made on the islands of Maui, Molokai and Lanai.
- C. Include all other costs, including but not limited to freight, transportation, warehousing, packaging, and delivery of the products to destination specified.
- D. Submit prices in terms of the unit shown.

Bidders are advised that no other charges will be honored, except as specified herein. Unit bid prices are all-inclusive, including GET and county surcharge.

- 2.9.4 Hawaii Vendors. A vendor doing business in the State of Hawaii, as evidenced by its Hawaii General Excise Tax (GET) license number, is liable for the Hawaii GET, currently either 4% or 4.5%*, and the applicable use tax, currently 1/2%, resulting from this solicitation.

- 2.9.5 Out-of-State Vendors (Tax Equalization Certificate). If an out-of-state vendor does not possess a Hawaii GET license, but has "sufficient presence in Hawaii", then such vendor is advised that the gross receipts derived from this solicitation are

subject to the GET imposed by Chapter 237, HRS, currently either 4% or 4.5%*, and the use tax imposed by Chapter 238, HRS, at the current 1/2% rate.

To determine whether an out-of-state vendor not possessing a Hawaii GET license has "sufficient presence in Hawaii" and therefore subject to the taxes, vendor shall complete and submit with their bid, the attached *Tax Equalization Certificate*.

2.9.6 Tax-Exempt Vendors. If a Bidder is a person exempt by the HRS from paying the GET and use tax and therefore not liable for the taxes under this solicitation, Bidder shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption.

2.9.7 Bidder's Samples and Brochures. The burden of proof as to the quality and suitability of the decals offered to the specifications stated herein is on the Bidder. The Bidder shall submit brochures and specification literature and bid samples of the decals being considered for award at their own expense and the samples and brochures shall be received by the State Procurement Office within ten (10) calendar days from the date of the bid opening. Samples shall include print styles (lettering, etc.) and material. Samples will be evaluated to determine the quality and compliance with Specifications. Failure to submit samples of the decals being considered for award shall be cause for rejection of the bid. Any sample submitted for testing/evaluation purposes will become the property of the State and will not be returned to the Bidder. The State shall be the sole judge as to the suitability of the item, and its decision will be final.

The Procurement Officer reserves the right to determine acceptability of decals offered and the decision will be final.

All samples and brochures shall be sent to the State Procurement Office, 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, Attn: Carey Ann Sasaki.

2.10 QUANTITIES

Quantities listed herein (OF-3) are estimates for a 24-month period. No guarantee to purchase the exact amount is intended or implied. The State reserves the right to purchase larger or smaller quantities at the prices quoted in this solicitation. For this reason, vendors are cautioned that inventory hardships could arise from stocking materials for the State use only. In the event the estimated requirements do not materialize in the exact quantities listed herein, such failure shall not constitute grounds for equitable adjustment under this contract.

2.11 ELECTRONIC SUBMISSION OF BID

The bid shall be submitted and received electronically through the HlePRO. This electronically submitted bid shall be considered the original. Any original bids received outside of the HlePRO, including faxed or e-mailed bids, shall not be accepted or considered for award. Any bid received after the due date and time shall be rejected.

The maximum file size that HlePRO can accept is 100MB. Files larger than 100MB must be reduced into two or more files.

HlePRO Special Instructions. Bidder shall review all special instructions located on the HlePRO solicitation. Bidders are responsible for ensuring that all necessary files are included in their response upon submission on HlePRO by the due date and time.

Bidders are advised to not wait until the last minute to submit their bid on HlePRO. Bidders should allow ample time to review their submittals on HlePRO, including all attachments, prior to the due date and time. Submission must be completed and submitted by due date and time. If submission is not completed and submitted by the due date and time, HlePRO will not accept the bid.

The submission of a bid shall constitute an incontrovertible representation by the Bidder of compliance with every requirement of the solicitation, and that the solicitation documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work and products to be provided.

2.12 FORMAT INSTRUCTIONS FOR SUBMITTING BID ON HlePRO

2.12.1 Format. Bids shall be submitted as attachments on HlePRO.

2.12.2 Proprietary/Confidential Information. Proprietary information shall be contained in a separate file that is clearly identified as proprietary/confidential information.

2.13 MODIFICATION PRIOR TO SUBMITTAL DEADLINE OR WITHDRAWAL OF BIDS

2.13.1 The Bidder may modify or withdraw a bid before the due date and time.

2.13.2 Any change, addition, deletion of attachment(s) of a bid may be made prior to the deadline for submittal of bids in the electronic system.

**SECTION THREE:
CONTRACT AWARD AND TERMS**

3.1 METHOD OF AWARD

Award, if made, shall be to the responsive, responsible Bidder submitting the lowest Estimated Total Sum Bid Price (OF-3 and also entered in HlePRO).

Bidder is required to bid on all items (Price per 100 for Item No. a through k) and Bidder shall list the brand name and model no. of pressure sensitive adhesive (3M adhesive or equivalent) on OFFER FORM (OF-3). Bidder shall also submit samples to the State Procurement Office as stated in BID SUBMITTAL AND CONTENT Section 2.9.7 *Bidder's Samples and Brochures* in order to be considered for award.

3.2 RESPONSIBILITY OF BIDDERS

Bidders are advised that in order to be awarded a contract under this solicitation, Bidders will be required to be compliant with all laws governing entities doing business in the State including the following chapters and pursuant to HRS §103D-310(c):

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Worker's Compensation Law;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and
6. §103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.

3.2.1 Vendor Compliance - Hawaii Compliance Express (HCE)

3.2.1.1 Vendors may use the HCE, which is an electronic system that allows vendors/contractors/service providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department of Taxation, Federal Internal Revenue Service, Department of Labor and Industrial Relations, and Department of Commerce and Consumer Affairs.

3.2.1.2 Timely Registration on HCE. Vendors/contractors/service providers intending to use HCE to demonstrate compliance are advised to register with HCE as soon as possible at <https://vendors.ehawaii.gov>. The annual registration fee is \$12.00 and the 'Certificate of Vendor Compliance' is accepted for the execution of the contract and final payment. If a vendor/contractor/service provider is not compliant on HCE at the time of the award, a Bidder will not receive the award.

3.2.1.3 Verification of Compliance on HCE. Prior to awarding this contract, the SPO shall verify compliance of the Contractor.

3.2.2 Vendor Compliance - Paper Documents. Vendors not utilizing HCE to demonstrate compliance shall provide the paper certificates to the SPO as instructed below. All certificates must be valid on the date it is received by the SPO. All applications for applicable clearances are the responsibility of the Bidder.

3.2.2.1 HRS Chapter 237 tax clearance requirement for award. Pursuant to Section 103D-328, HRS, the lowest responsive Bidder shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate.

The *Tax Clearance Application*, Form A-6, and its completion and filing instructions, are available on the DOTAX website: <http://tax.hawaii.gov/forms/>.

3.2.2.2 HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award. Pursuant to Section 103D-310(c), HRS, the lowest responsive Bidder shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue. A photocopy of the certificate is acceptable to the SPO.

The *DLIR Form LIR#27 Application for Certificate of Compliance with Section 3-122-112, HAR*, and its filing instructions are available on the DLIR website: <http://labor.hawaii.gov/forms/>

3.2.2.3 Compliance with Section 103D-310(c), HRS, for an entity doing business in the State. The lowest responsive Bidder shall be required to submit a *Certificate of Good Standing (COGS)* issued by the State of Hawaii Department of Commerce and Consumer Affairs (DCCA) - Business Registration Division (BREG). The Certificate is valid for six (6) months from date of issue. A photocopy of the certificate is acceptable to the SPO.

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

More information regarding online business registration and the COGS is available at <http://cca.hawaii.gov/breg/>.

3.2.2.4 Timely Registration. The above certificates should be applied for and submitted to the SPO as soon as possible. If a valid certificate is not submitted at the time of the contract award, a Bidder otherwise responsive and responsible may not receive the award.

3.2.2.5 Verification of Compliance. Upon receipt of compliance documents (A-6, LIR#27, COGS), the SPO reserves the right to verify compliance with the respective departments. The Contractor shall maintain compliance throughout the term of the contract.

3.3 PROTEST PROCEDURES

Pursuant to HRS §103D-701 and HAR §3-126-3, an actual or prospective Bidder who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Procurement Officer at:

Procurement Officer
State Procurement Office
1151 Punchbowl Street, Room 416
Honolulu, HI 96813

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

The official notice of award, if any, resulting from this solicitation shall be posted on the State of Hawaii electronic procurement site.

3.4 APPROVALS

Any agreement arising out of this bid may be subject to the approval of the Department of the Attorney General, and to all further approvals, including the approval of the Governor, as required by statute, regulation, rule, order, or other directive.

3.5 CONTRACT EXECUTION

The successful Bidder receiving the award shall enter into a formal written contract to be signed by the Contractor and returned within ten (10) days.

No performance or payment bond is required for this contract.

No work is to be undertaken by the Contractor prior to the commencement date specified on the SPO Price List Contract. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official commencement date.

3.6 INSURANCE

3.6.1 Prior to the contract start date, the Contractor shall procure at its sole expense and maintain insurance coverage acceptable to the State in full force and effect throughout the term of the Contract. The Contractor shall provide proof of insurance for the following minimum insurance coverage(s) and limit(s). The type of insurance coverage is listed as follows:

1. Commercial General Liability Insurance

Commercial general liability insurance coverage against claims for bodily injury and property damage arising out of all operations, activities or contractual liability by the Contractor, its employees and subcontractors during the term of the Contract. This insurance shall include the following coverage and limits specified or required by any applicable law: bodily injury and property damage coverage with a minimum of \$1,000,000 per occurrence; and with an aggregated limit of \$2,000,000. The commercial general liability policy shall be written on an occurrence basis and the policy shall provide legal defense costs and expenses in addition to the limits of liability stated above. The Contractor shall be responsible for payment of any deductible applicable to this policy.

2. Automobile Liability Insurance

Automobile liability insurance covering owned, non-owned, leased, and hired vehicles with a combined single limit of \$1,000,000 for each accident.

3. Appropriate levels of per occurrence insurance coverage for workers' compensation and any other insurance coverage required by federal or State law.

3.6.2 The Contractor shall deposit with the SPO, on or before the effective date of the Contract, certificate(s) of insurance necessary to satisfy the SPO that the provisions of the Contract have been complied with, and to keep such insurance in effect and provide the certificate(s) of insurance to the SPO during the entire term of the Contract. Upon request by the SPO, the Contractor shall furnish a copy of the policy or policies.

3.6.3 The Contractor will immediately provide written notice to the SPO and contracting department or agency should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

3.6.4 The certificates of insurance shall contain the following clauses:

1. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."

2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

3.6.5 Failure of the Contractor to provide and keep in force such insurance shall constitute a material default under the Contract, entitling the State to exercise any or all of the remedies provided in the Contract (including without limitation terminating the Contract). The procuring of any required policy or policies of insurance shall not be construed to limit the Contractor's liability hereunder, or to fulfill the indemnification provisions of the Contract. Notwithstanding said policy or policies of insurance, the Contractor shall be responsible for the full and total amount of any damage, injury, or loss caused by the Contractor's negligence or neglect in the provision of services under the Contract.

3.7 STATE'S COMMITMENT

The following purchasing jurisdictions may purchase their requirements for items listed herein from the successful low Bidder(s):

Executive Departments/Agencies
Department of Education
School Facilities Authority
University of Hawaii
Office of Hawaiian Affairs
Hawaii Health Systems Corporation
Judiciary
Senate
House of Representatives

3.8 TERM OF CONTRACT

Contract shall be for the twenty-four (24) month period commencing from the official date on the SPO Price List Contract but no earlier than July 1, 2023. Agencies will order on an as-needed basis during the contract period.

Unless terminated, the contract may be extended without re-bidding, upon mutual agreement in writing between the State and the Contractor, prior to the expiration date, for not more than three (3) additional twelve (12) month periods, or parts thereof. Provided, however, the contract price for the extended period shall remain the same or lower than the initial contract price.

The State may terminate any extended contract period at any time upon ninety (90) days prior written notice.

3.9 ORDERING

The State will place orders with the Contractor on an "as-needed" basis during the contract period and will use either the pCard or purchase order when placing its order(s).

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Quantities ordered shall be in multiples of 100. The Contractor shall honor all orders received during the contract period and deliver according to the contract terms and within the required delivery time.

Agency shall notify Contractor of the sequence numbers to be used on decals at time of order. If sequence numbers are not specified, Contractor shall contact the ordering agency to obtain sequence numbers.

Agencies shall be charged appropriately on a per order basis.

3.10 DELIVERY

Decals shall be delivered to the ordering agency within forty-five (45) calendar days after receipt of the order.

Contractor shall make shipment to the agency designated on the order. On orders subject to quantity discounts, the Contractor is required to make delivery to one address only. On orders where the delivery address is not stated, the Contractor shall contact the appropriate agency to obtain the delivery address.

Any products, damaged, defective or spoiled, will not be accepted by the ordering agencies and the Contractor shall be responsible for replacing them.

Contractor will be required to deliver all items outstanding at the end of the contract period on orders received during the term of the contract.

3.11 INVOICING AND PAYMENT

3.11.1 The State's purchasing card (pCard) shall be used for all orders totaling less than \$2500. This requirement is for all agencies of the Executive branch departments with the exception of the University of Hawaii (UH), the Department of Education (DOE), the Hawaii Health Systems Corporation (HHSC), and the Office of Hawaiian Affairs (OHA). Agencies may continue to issue purchase orders for their transactions with contract vendors who assess fees to customers for credit card usage. Agencies have also been instructed to indicate on the purchase order(s) that vendor assesses a fee for credit card usage.

Contractor(s) shall forward invoices, original and three (3) copies, directly to the ordering agency for those agencies issuing purchase orders.

3.11.2 Hawaii GET. For all orders placed against this contract, Contractor(s) may assess the ordering agency the Hawaii GET as a separate line item.

HRS §103-10, provides that the State shall have thirty (30) calendar days after receipt of invoice or satisfactory delivery of goods to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by HRS §103-10, as amended.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute.

3.12 PAYMENT TO TYLER HAWAII

HlePRO is administered by Hawaii Information Consortium, LLC dba Tyler Hawaii. Upon award in HlePRO, Tyler Hawaii shall invoice the awarded vendor directly for payment of transaction fees. Payment must be made to Tyler Hawaii within thirty (30) days from receipt of invoice. Tyler Hawaii is an intended third-party beneficiary of transaction fees, which are used to fund the operation, maintenance and future enhancements of the HlePRO system.

The amount of the transaction fees shall be .75% (.0075) of the award or estimated award as stated in the notice of award, not to exceed \$5,000 for any single award to a vendor.

Termination/Rescission of an Award. If an agreement is terminated or rescinded through no fault of the vendor at the beginning of the contract or within 60 days of notice of award, and no amount paid on the contract, the vendor will become eligible to receive a credit for administrative fees paid for that award to the vendor's account with Tyler Hawaii. To receive the credit, the vendor must make a request to Tyler Hawaii for a credit.

3.13 SALES REPORT

Quarterly summary sales report shall be submitted to the SPO indicating the total quantity and sales purchased by the State agencies. The report shall include department/agency name, date of purchase, product description, quantity, price, sales total, and grand total. Sales reports are due no later than 30 days after the end of each fiscal quarter (November 1, February 1, May 1, August 1), or as required and shall be emailed to the Contract Administrator listed in section 1.4 or sent to the following address:

State Procurement Office
1151 Punchbowl Street, Room 416
Honolulu, HI 96813
Attn: Carey Ann Sasaki

Failure of the Contractor to submit the reports as required may result in termination of the contract.

3.14 FAILURE TO DELIVER

Contractor shall be obliged to deliver products awarded in accordance with this solicitation stated herein. If a Contractor is unable to deliver products under contract, it shall be the Contractor's responsibility to obtain prior approval of the ordering agency to deliver an acceptable substitute at the contract price quoted. It shall be the Contractor's responsibility to obtain such substitute. In the event a Contractor consistently needs to

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substitute or refuse to substitute products, the Procurement Officer reserves the right to terminate the contract and/or initiate suspension and debarment procedures pursuant to HAR Chapter 3-126, Legal and Contractual Remedies.

3.15 PRICE ADJUSTMENT

During the contract period, the Contractor may request an increase in contract price when there is a substantial increase in the cost of materials or freight or labor. Such requests must be made in writing to the Procurement Officer and shall meet the following conditions:

1. Request for a price increase shall be limited to the costs imposed upon the Contractor by the manufacturer or supplier of the materials.
2. Request for a price increase due to higher transportation costs shall be limited to the cost imposed upon the Contractor by the freight forwarder.
3. Request for price increase due to labor costs shall be limited to the cost imposed upon the Contractor due to state law regarding minimum wage.
4. Contractor shall submit at the time of such written request, documentation or verification that the increase is the result of manufacturer or supplier increase in cost of materials or transportation or labor.
5. No price increase adjustment shall be allowed within the first twenty-four (24) months of the contract unless there are extenuating circumstances. Within the remaining contract extension periods, the Contractor may submit a price increase adjustment request once every twelve (12) months for item(s) awarded provided proper documentation is submitted to substantiate the increase as detailed in items 1 thru 3. The State shall make the final determination for allowance of price increase requests beyond that allowed.

In the event of a general price decrease, the State will be entitled to reductions. Contractor shall notify the State within five (5) business days of such price decrease.

3.16 VENDOR AND PRODUCT EVALUATION

The Vendor and Product Evaluation form, SPO-012, is made available to the user agencies for the purpose of addressing their concerns on the price list resulting from this solicitation.

Product Evaluation. Upon receipt by the SPO, Contractor shall be sent a copy of the complaint(s) regarding product quality. Contractor shall follow up the complaint(s) with the manufacturer and respond to the SPO as to what remedies have or will be taken to correct the problem. If product quality is not corrected and the complaint(s) persist, steps will be taken to delete product from the price list.

Vendor Evaluation. In the event of a complaint regarding a Contractor's service (i.e. constant pick-up/delivery delays, unresponsiveness to agency inquiries, etc.), Contractor

shall be sent a copy of the complaint(s). Contractor shall meet with the agency at the agency's place of business or contact the agency that issued the complaint to resolve the problem. This shall take place within one (1) week of notification. Contractor shall contact and inform the SPO specialist as to the corrective measures taken to resolve the complaint.

Should the Contractor consistently receive complaints for poor service or refuse to resolve the complaints, the Procurement Officer reserves the right to terminate the contract and/or initiate the debarment process pursuant to HAR Chapter 3-126, Legal and Contractual Remedies.

Resolution of complaints pursuant to product and vendor evaluation notifications shall be done at no additional charge to the State.

SECTION FOUR: SPECIAL PROVISIONS

4.1 RECEIPT, OPENING, AND RECORDING OF BIDS

All bids received in HlePRO will be considered for award. Any bids received outside of HlePRO (i.e. email, facsimile, etc) shall be rejected and not considered for award.

Bids shall be automatically opened at the time and date specified in the Solicitation. The name of each Bidder, the bid price(s), and the title of attachments, if any, shall be made available in HlePRO. Documents posted as attachments will not be accessible, only the name of the uploaded file will be viewable.

All information pertaining to the bids shall be available for public inspection, upon request, after bid opening except to the extent that the Bidder designates trade secrets or other proprietary data to be confidential. Bidders shall ensure that material so designated as confidential is readily separable from the bid (i.e. uploaded as a separate document) in order to facilitate public inspection of the non-confidential portion of the bid. Prices and makes and model or catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available regardless of any designation to the contrary.

The Procurement Officer, or designated representative, shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, such data shall be subject to written determination by the attorney general for confidentiality. If the attorney general determines in writing that the material so designated as confidential is subject to disclosure, the Bidder submitting the material under review shall be so notified in writing and the material shall be open to public inspection unless the Bidder protests under HAR chapter 3-126.

Bids shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

When a purchasing agency denies a person access to a State procurement record, the person may appeal the denial to the Office of Information Practices in accordance with HRS §92F-42(12).

Bids shall be unconditionally accepted without alteration or correction, except as allowed in Section 4.2.

4.2 MISTAKES IN BID

4.2.1 When the Procurement Officer knows or has reason to conclude before the award that a mistake has been made, the Procurement Officer should request the Bidder to confirm the bid. If the Bidder alleges mistake, the bid may be corrected or withdrawn pursuant to this section.

Technical irregularities are minor informalities that have no effect on price, quantity, quality, delivery, or contractual conditions. These irregularities/informalities can be waived or corrected without prejudice to other Bidders.

- 4.2.2 Correction or withdrawal of a bid after the time and date set for the bid opening because of an inadvertent, nonjudgmental mistake in the bid requires careful consideration to protect the integrity of the competitive bidding system, and to ensure fairness. If the mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of a nonjudgmental mistake is permissible but only to the extent that it is not contrary to the interest of the governmental agency or fair treatment of other Bidders.
- 4.2.3 When, after the bid opening but before the award, the Procurement Officer knows or has reason to conclude that a mistake has been made, including obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids is submitted, such Officer should request the Bidder to confirm the bid. If the Bidder alleges a mistake, the bid may be corrected or withdrawn by the Bidder if the conditions under subsections “4.2.4” and “4.2.5” of this section are met and if the mistake is a minor informality which is a matter of form rather than substance evident from the bid document, or an insignificant mistake that can be waived by the Procurement Officer or corrected by the Bidder without prejudice to other Bidders depending on which is in the best interest of the governmental jurisdiction soliciting the bid; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. Examples include the failure of a Bidder to acknowledge receipt of an amendment to the IFB (if such acknowledgement is required by the IFB) but only if it is clear from the bid that the Bidder received the amendment and intended to be bound by its terms, or the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 4.2.4 If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of such mistakes include: typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors. In the event of a discrepancy between unit bid prices and extensions, the unit price shall govern. In the case of an error in addition, the sum of the total amount bid for each item added shall govern.
- 4.2.5 A Bidder may be permitted to withdraw a low bid if a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or the Bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.
- 4.2.6 A Bidder may not correct a mistake in a bid discovered after the award of the contract except where the Chief Procurement Officer or the Head of the Purchasing Agency makes a written determination that it would be unreasonable not to allow the mistake to be corrected.
- 4.2.7 When a bid is corrected or withdrawn, or a correction or withdrawal is denied, under “4.2.3” or “4.2.4,” the Chief Procurement Officer or the Head of a

Purchasing Agency shall prepare a written determination showing that the relief was granted or denied in accordance with HAR §3-122-31, subchapter 5 except that the Procurement Officer shall prepare the determination required under subsection (C).

4.3 BID INSPECTION

Bids to competitive sealed bids may be inspected only as provided for in Section 4.1 and after award of contract.