

HAWAII STATE DEPARTMENT OF EDUCATION  
PROCUREMENT AND CONTRACTS BRANCH

AUGUST 7, 2024

INVITATION FOR BIDS

**Number IFB D24-144**

SEALED BIDS

TO

**PROVIDE MAINTENANCE AND REPAIR OF  
INDIVIDUAL WASTEWATER SYSTEMS (IWS) FOR VARIOUS  
SCHOOLS OF THE HAWAII STATE DEPARTMENT OF EDUCATION  
ON THE ISLANDS OF OAHU, MAUI, AND KAUAI**

**will be received through the State of Hawaii eProcurement System (HlePRO) at  
<https://hiepro.ehawaii.gov/welcome.html> until 4:30 p.m., Hawaii Standard Time (HST)**

on

**AUGUST 22, 2024**

Offerors interested in responding to this electronic solicitation must be registered on the HlePRO (<https://hiepro.ehawaii.gov/welcome.html>) in order to participate in this procurement. Registration is free. Once registered, Offerors can login to view and respond to the HlePRO solicitation.

Questions relating to this solicitation may be directed to Ms. Kanako Tamashiro, Procurement and Contracts Support Specialist, at telephone (808) 675-0130, via facsimile (808) 675-0133, or via email at [kanako.tamashiro@k12.hi.us](mailto:kanako.tamashiro@k12.hi.us).

PROVIDE MAINTENANCE AND REPAIR OF INDIVIDUAL WASTEWATER SYSTEMS (IWS)  
 FOR VARIOUS SCHOOLS OF THE HAWAII STATE DEPARTMENT OF EDUCATION  
 ON THE ISLANDS OF OAHU, MAUI AND KAUAI  
 IFB D24-144

OFFER PAGE OF-1

Exact Legal Name of Offeror, including "dba" or "division" of a corporation (furnish the exact legal name of the entity under which an awarded contract, if any, will be executed):			
Address: Principal Place of Business (may not be a P.O. Box):			
Mailing Address (only if different):			
Payment Address (only if different)			
Offeror's Primary Contact Person: Name			
Title			
Telephone Number		Fax Number	
Email Address			
Federal Tax Identification Number:			
State of Hawaii General Excise Tax License Number:			
Type of Business Entity (check one):	<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Other _____		
If other than a Sole Proprietorship:	Offeror is either:  <input type="checkbox"/> A <b>Hawaii business</b> incorporated or organized under the laws of the State of Hawaii; <b>OR</b>  <input type="checkbox"/> A <b>Compliant Non-Hawaii business</b> incorporated or organized under the laws of the State of _____ on (date) _____, and, if applicable, registered with the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawaii.  Names of all Offeror's parent, affiliate and subsidiary organizations: _____		

The undersigned has carefully read and understands the terms and conditions specified herein and hereby submits the following offer to provide the goods and/or perform the work specified herein, all in accordance with the true intent and meaning thereof, and further that the Offeror shall comply with all terms, conditions and requirements of the solicitation. The undersigned further understands and agrees that by submitting this offer, 1) the undersigned is declaring the undersigned's offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) the undersigned is certifying that the price(s) submitted was (were) independently arrived at without collusion.

\_\_\_\_\_  
 Authorized (Original in ink) Signature

\_\_\_\_\_  
 Name (printed)

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

The following is hereby submitted:

**GROUP 1: ISLAND OF OAHU**

	Location	Item	Number of Units	Capacity	Model	Monthly Service Unit Bid Price (12 cycles per year)  (a)	Quarterly Service Unit Bid Price (4 cycles per year)  (b)	Semi-Annual Service Unit Bid Price (2 cycles per year)  (c)	Annual Service Unit Bid Price (1 cycle per year)  (d)	Total Bid Price  (a x 12) + (b x 4) + (c x 2) + (d x 1)
<b>PART A - Recurring Maintenance</b>										
<b>Group A: Island of Oahu - Aerobic Treatment Unit, Septic Tank and WWPS</b>										
1	Kaaawa Elementary School	ATU-1	1	4,000 gallon	CBT4.0KFX 200	\$ -	n/a	n/a	n/a	\$ -
2	Kaaawa Elementary School	Septic Tank	1	4 feet-1,000 gallon	FRP	n/a	n/a	\$ -	n/a	\$ -
3	Kaaawa Elementary School	WWPS-1	1	2-33 GPM Submers. Sewage Grinder Pumps	HPGLX200CD	n/a	\$ -	n/a	\$ -	\$ -
<b>TOTAL SUM BID - PART A Subtotal</b>										\$ -

	Description	Estimated Number of Hours (a)	Unit Bid Price per Hour (b)	Total Estimated Repair Work (axb)
<b>PART B - Authorized IWS Repair</b>				
1	Authorized IWS Repairs	250	\$ -	\$ -
<b>TOTAL SUM BID - PART B Subtotal</b>				\$ -
<b>TOTAL SUM BID PRICE - GROUP 1 (PART A and B)</b>				\$ -

The following is hereby submitted:

**GROUP 2: ISLAND OF MAUI**

	Location	Item	Capacity	Model	Monthly Service Unit Bid Price (12 cycles per year) (a)	Quarterly Service Unit Bid Price (4 cycles per year) (b)	Semi-Annual Service Unit Bid Price (2 cycles per year) (c)	Annual Service Unit Bid Price (1 cycle per year) (d)	Total Bid Price (a x 12) + (b x 4) + (c x 2) + (d x 1)
<b>PART A</b>									
<b>GROUP 2: Island of Maui - Recurring Maintenance Septic Tanks, Sewage Sump Pumps, Leach Fields &amp; Sewer Lift Stations</b>									
1	Haiku Elementary School, Near Portables	Septic Tank	5,116 gallon	Parallel tank flow configuration	n/a	n/a	\$ -	n/a	\$ -
2	Haiku Elementary School, Near Leachfield	Septic Tank	5,116 gallon	2 compartment each tank	n/a	n/a	\$ -	n/a	\$ -
3	Hana High and Elementary School, Building A	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
4	Hana High and Elementary School, Building Library	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
5	Hana High and Elementary School, Building L	Septic Tank	8 feet - 8,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
6	Hana High and Elementary School, Building E-C	Septic Tank	8 feet - 9,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
7	Hana High and Elementary School, Building GYM	Septic Tank	8 feet - 9,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
8	Hana High and Elementary School, Building I	Septic Tank	8 feet - 10,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
9	Hana High and Elementary School, Building F	Septic Tank	6,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
10	Hana; 5071 Uakea Road, Longhouse Cottage	Septic Tank	1,000 gallon	Jensen Precast Model JP 1000	n/a	\$ -	n/a	n/a	\$ -
11	Hana; 4334 Hana Hwy, Duplex Cottages A-B	Septic Tank	1,000 gallon	Jensen Precast Model JP 1001	n/a	\$ -	n/a	n/a	\$ -
12	Hana; 4334 Hana Hwy, Duplex Cottages C-D	Septic Tank	1,000 gallon	Jensen Precast Model JP 1001	n/a	\$ -	n/a	n/a	\$ -
13	Hana; 4334 Hana Hwy, Cottage E	Septic Tank	1,000 gallon	Jensen Precast Model JP 1001	n/a	\$ -	n/a	n/a	\$ -
14	Hana; 4111 Hana Hwy, Cottage F	Septic Tank	1,000 gallon	Jensen Precast Model JP 1002	n/a	\$ -	n/a	n/a	\$ -
15	Kalama Intermediate School, Building Q	Septic Tank	17,400 gallon	1 compartment tank. Parallel tank flow. 2 compartment each tank	n/a	n/a	\$ -	n/a	\$ -
16	Kalama Intermediate School, Building Q	Septic Tank	17,400 gallon	1 compartment tank. Parallel tank flow. 2 compartment each tank	n/a	n/a	\$ -	n/a	\$ -
17	King Kekaulike High, Unit 1	Septic Tank	22,000 gallon	Cement	n/a	n/a	\$ -	n/a	\$ -

The following is hereby submitted:

18	King Kekaulike High, Unit 2	Septic Tank	22,000 gallon	Cement	n/a	n/a	\$ -	n/a	\$ -
	<b>Location</b>	<b>Item</b>	<b>Capacity</b>	<b>Model</b>	<b>Monthly Service Unit Bid Price (12 cycles per year)</b>	<b>Quarterly Service Unit Bid Price (4 cycles per year)</b>	<b>Semi-Annual Service Unit Bid Price (2 cycles per year)</b>	<b>Annual Service Unit Bid Price (1 cycle per year)</b>	<b>Total Bid Price</b>
					<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(a x 12) + (b x 4) + (c x 2) + (d x 1)</b>
19	King Kekaulike High, Unit 3	Septic Tank	22,000 gallon	Cement	n/a	n/a	\$ -	n/a	\$ -
20	Kula Elementary School, Building P-2	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
21	Kula Elementary School, Building B	Septic Tank	8 feet - 8,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
22	Kula Elementary School, Building P-11	Septic Tank	10 feet - 12,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
23	Makawao Elementary School, Building A, Number 3	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
24	Makawao Elementary School, Building P-13, Number 2	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
25	Makawao Elementary School, Cafeteria, Number 1	Septic Tank	8 feet - 7,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
26	Paia Elementary School, Building A	Septic Tank	3000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
27	Paia Elementary School, Building H	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
28	Paia Elementary School, Building D	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
29	Paia Elementary School, Building B	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
30	Paia Elementary School, Building F-G	Septic Tank	8 feet - 11,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
31	Paia Elementary School, Building B	Leach Field	154 chamber	ADS	n/a	n/a	\$ -	n/a	\$ -
32	Paia Elementary School, Building A	Leach Field	56 chamber	ADS	n/a	n/a	\$ -	n/a	\$ -
33	Paia Elementary School, Building D	Leach Field	54 chamber	ADS	n/a	n/a	\$ -	n/a	\$ -
34	Puunene Elementary School, Building D and F	Septic Tank	6 feet - 2,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
35	Puunene Elementary School, Building D and F	Septic Tank	6 feet - 2,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
36	Puunene Elementary School, Building A	Septic Tank	6 feet - 6,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
37	Puunene Elementary School	Leach Field	144 chamber	ADS	n/a	n/a	\$ -	n/a	\$ -
38	Waihee Elementary School	Septic Tank	6 feet - 1,500 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
39	Waihee Elementary School	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -

The following is hereby submitted:

	Location	Item	Capacity	Model	Monthly Service Unit Bid Price (12 cycles per year) (a)	Quarterly Service Unit Bid Price (4 cycles per year) (b)	Semi-Annual Service Unit Bid Price (2 cycles per year) (c)	Annual Service Unit Bid Price (1 cycle per year) (d)	Total Bid Price (a x 12) + (b x 4) + (c x 2) + (d x 1)
<b>Island of Maui - Sewage Sump Pump</b>									
40	Baldwin High School (Back of Band Room)	Sewage Sump Pump	2 motors w/ control box	Unknown	n/a	\$ -	n/a	\$ -	\$ -
41	King Kekaulike High Stadium	Sump pumps	2 motors with control box	Unknown	n/a	\$ -	n/a	\$ -	\$ -
<b>Island of Maui - Lift Stations</b>									
42	Haiku Elementary School (monthly inspection)	Lift Station	1/2 HP	Unknown	\$ -	n/a	\$ -	\$ -	\$ -
43	Kalama Intermeddiate School (weekly inspection; clean as needed)	Lift Station	2-3HP	Unknown	\$ -	n/a	\$ -	\$ -	\$ -
<b>TOTAL SUM BID PRICE - PART A Subtotal</b>									\$ -

The following is hereby submitted:

	Location	Item	Number of Units (a)	Capacity	Model	Unit Bid Price Per Pump Out Location* (b)	Total Pump Out Bid Price (a x b)
<b>PART B</b>							
<b>GROUP 2 - ISLAND OF MAUI - PUMPOUT PRICING</b>							
1	Haiku Elementary School (Near Portables)	Septic Tank	1	5,116 gallon	Parallel tank flow configuration	\$ -	\$ -
2	Haiku Elementary School (Near Leachfield)	Septic Tank	1	5,116 gallon	2 compartment each tank	\$ -	\$ -
3	Hana High & Elementary School, Building A	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	\$ -	\$ -
4	Hana High & Elementary, Building Library	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	\$ -	\$ -
5	Hana High & Elementary, Building L	Septic Tank	1	8 feet - 8,000 gallon	Xerxes	\$ -	\$ -
6	Hana High & Elementary, Building E-C and Building GYM	Septic Tank	2	8 feet - 9,000 gallon	Xerxes	\$ -	\$ -
7	Hana High & Elementary, Building I	Septic Tank	1	8 feet - 10,000 gallon	Xerxes	\$ -	\$ -
8	Hana High & Elementary, Building F	Septic Tank	1	6,000 gallon	n/a	\$ -	\$ -
9	Hana; 5071 Uakea Road Cottage, Longhouse	Septic Tank	1	1,000 gallon	Jensen Precast Model JP 1000	\$ -	\$ -
10	Hana; 4334 Hana Hwy, Duplex Cottages A-B , C-D, and Cottage E	Septic Tank	3	1,000 gallon	Jensen Precast Model JP 1001	\$ -	\$ -
11	Hana; 4111 Hana Hwy, Cottage F	Septic Tank	1	1,000 gallon	Jensen Precast Model JP 1002	\$ -	\$ -
12	Kalama Intermediate School, Building Q	Septic Tank	2	17,400 gallon	1 compartment tank. Parallel tank flow. 2 compartment each tank	\$ -	\$ -
13	King Kekaulike High, Unit 1	Septic Tank	1	22,000 gallon	Cement	\$ -	\$ -
14	King Kekaulike High, Unit 2	Septic Tank	1	22,000 gallon	Cement	\$ -	\$ -
15	King Kekaulike High, Unit 3	Septic Tank	1	22,000 gallon	Cement	\$ -	\$ -
16	Kula Elementary School, P-2	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	\$ -	\$ -
17	Kula Elementary School, Building B	Septic Tank	1	8 feet - 8,000 gallon	Xerxes	\$ -	\$ -
18	Kula Elementary School, P-11	Septic Tank	1	10 feet - 12,000 gallon	Xerxes	\$ -	\$ -
19	Makawao Elementary School, Building A Number 3	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	\$ -	\$ -
20	Makawao Elementary School, Building P-13 Number 2	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	\$ -	\$ -

The following is hereby submitted:

	Location	Item	Number of Units (a)	Capacity	Model	Unit Bid Price Per Pump Out Location* (b)	Total Pump Out Bid Price (a x b)
21	Makawao Elementary School, Cafeteria Number 1	Septic Tank	1	8 feet - 7,000 gallon	Xerxes	\$ -	\$ -
22	Paia Elementary School, Building H	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	\$ -	\$ -
23	Paia Elementary School, Cafeteria	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	\$ -	\$ -
24	Paia Elementary School, Building B	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	\$ -	\$ -
25	Paia Elementary School, Building F-G	Septic Tank	1	8 feet - 11,000 gallon	Xerxes	\$ -	\$ -
26	Puunene Elementary School, Building D and F	Septic Tank	2	6 feet - 2,000 gallon	Xerxes	\$ -	\$ -
27	Puunene Elementary School, Building A	Septic Tank	1	6 feet - 6,000 gallon	Xerxes	\$ -	\$ -
28	Waihee Elementary School	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	\$ -	\$ -
29	Waihee Elementary School	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	\$ -	\$ -
<b>TOTAL SUM BID - PART B Subtotal</b>							\$ -
				<b>Estimated Annual Percentage of Sites Requiring Pumpout*</b> (a)		<b>Total Sum Bid - Part B Subtotal</b> (b)	<b>Total Estimated Annual Pumpout Charges**</b> (a x b)
				40%		\$ -	\$ -

\*Annual pump out frequency is estimated at 40 percents of the total septic tank inventory in the group. The pumpout frequency is estimated and is not intended to reflect a guaranteed yearly pump out service amount.

\*\* This total will be included in contract amount

	Description	Estimated Number of Hours (a)	Unit Bid Price per Hour (b)	Total Estimated Repair Work (a x b)
<b>PART C - Authorized IWS Repair</b>				
1	Authorized IWS Repairs	250	\$ -	\$ -
<b>TOTAL SUM BID - PART C Subtotal</b>				\$ -
<b>TOTAL SUM BID PRICE - GROUP 2 (PART A, B AND C)</b>				\$ -



The following is hereby submitted:

**GROUP 3: ISLAND OF KAUAI**

	Location	Item	Capacity	Model	Monthly Service Unit Bid Price (12 cycles per year)	Quarterly Service Unit Bid Price (4 cycles per year)	Semi-Annual Service Unit Bid Price (2 cycles per year)	Annual Service Unit Bid Price (1 cycle per year)	Total Bid Price
					(a)	(b)	(c)	(d)	(a x 12) + (b x 4) + (c x 2) + (d x 1)
<b>PART A</b>									
<b>GROUP 3: Island of Kauai - Recurring Maintenance</b>									
<b>Septic and/or Dosing Tanks, Sewage Pumps, Preloader Tanks and Leach Fields</b>									
1	Anahola Elementary School, Building C	Septic Tank	8 feet - 8,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
2	Hanalei Elementary, Building C, Cafeteria	Septic Tank	4,847 gallon	concrete	n/a	n/a	\$ -	n/a	\$ -
3	Halalei Elementary, Courtyard, Building A and D	Septic Tank	3,366 gallon	concrete	n/a	n/a	\$ -	n/a	\$ -
4	Kalaheo Elementary School, Building M (Cafeteria) and Portable P-1	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
5	Kalaheo Elementary School, Building C	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
6	Kalaheo Elementary School, Building M (Cafeteria)	Septic Tank	8 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
7	Kalaheo Elementary School, New Administration Building (Building E)	Septic Tank	1000 gallon	JP1000 Concrete	n/a	n/a	\$ -	n/a	\$ -
8	Kalaheo Elementary School, Building I and J	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
9	Kalaheo Elementary School, Building A and G	Septic Tank	6 feet - 5, 000 gallon	Xerves	n/a	n/a	\$ -	n/a	\$ -
10	Kapaa Middle School, Building PB2	Septic Tank	16,814 gallon	concrete	n/a	n/a	\$ -	n/a	\$ -
11	Kapaa Middle School, Building PB2	Septic Tank	16,814 gallon	concrete	n/a	n/a	\$ -	n/a	\$ -
12	Kapaa Middle School, Building PB2	Dosing Tank	8,584 gallon	concrete	n/a	n/a	\$ -	n/a	\$ -
13	Kappa Middle School, Building PB2	Sewage Pump	5 HP	460 GPM, 35 TDH	n/a	n/a	\$ -	n/a	\$ -
14	Kappa Middle School, Building PB2	Sewage Pump	5 HP	460 GPM, 35 TDH	n/a	n/a	\$ -	n/a	\$ -
15	Kauai High School, Building A	Septic Tank	5,000 gallon	Concrete	n/a	n/a	\$ -	n/a	\$ -
16	Kauai High School, Building B	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
17	Kauai High School, Building C	Septic Tank	8 feet - 14,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
18	Kauai High School, Farm Shop	Septic Tank	6 feet - 1,500 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -

The following is hereby submitted:

	Location	Item	Capacity	Model	Monthly Service Unit Bid Price (12 cycles per year)	Quarterly Service Unit Bid Price (4 cycles per year)	Semi-Annual Service Unit Bid Price (2 cycles per year)	Annual Service Unit Bid Price (1 cycle per year)	Total Bid Price $(a \times 12) + (b \times 4) + (c \times 2) + (d \times 1)$
					(a)	(b)	(c)	(d)	
19	Kauai High School, Building G	Septic Tank	6 feet - 1,500 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
20	Kauai High School, Building H	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
21	Kauai High School, Building I	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
22	Kauai High School, Building I (2)	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
23	Kauai High School, Building J	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
24	Kauai High School, Building J (2)	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
25	Kauai High School, Building K	Septic Tank	8 feet - 9,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
26	Kauai High School, Building L	Septic Tank	8 feet - 11,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
27	Kauai High School, Building L (2)	Septic Tank	10 feet - 22,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
28	Kauai High School, Building M	Septic Tank	6 feet - 1,500 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
29	Kauai High School, Building O	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
30	Kauai High School, Portable P4045 (P20)	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
31	Kauai High School, Building Q	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
32	Kauai High School, Building T	Septic Tank	10 feet - 20,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
33	Kauai High School, Building U	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
34	Kauai High School, Building V	Septic Tank	6 feet - 1,500 gallon	concrete	n/a	n/a	\$ -	n/a	\$ -
35	Kauai High School, Building Y	Septic Tank	6 feet - 5,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
36	Kilauea Elementary School, Classroom D	Septic Tank	6 feet - 1,500 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
37	Kilauea Elementary School, Building A	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
38	Kilauea Elementary School, Building F	Septic Tank	1,800 gallon	round concrete	n/a	n/a	\$ -	n/a	\$ -
39	Kilauea Elementary School, Building E	Septic Tank	3,112 gallon	twin, multi-chamber, concrete	n/a	n/a	\$ -	n/a	\$ -

The following is hereby submitted:

	Location	Item	Capacity	Model	Monthly Service Unit Bid Price (12 cycles per year)	Quarterly Service Unit Bid Price (4 cycles per year)	Semi-Annual Service Unit Bid Price (2 cycles per year)	Annual Service Unit Bid Price (1 cycle per year)	Total Bid Price (a x 12) + (b x 4) + (c x 2) + (d x 1)
					(a)	(b)	(c)	(d)	
40	Kilauea Elementary School, Building B	Septic Tank	1,000 gallon	JP1000 Concrete	n/a	n/a	\$ -	n/a	\$ -
41	Kilauea Elementary School, Cafeteria	Septic Tank	5,000 gallon	Concrete	n/a	n/a	\$ -	n/a	\$ -
42	Koloa Elementary School, Building I	Septic Tank	4 feet - 1,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
43	Koloa Elementary School, Building I	Septic Tank	6 feet - 1,500 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
44	Koloa Elementary School, Building C	Septic Tank	6 feet - 3,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
45	Koloa Elementary School, Building G	Septic Tank	6 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
46	Koloa Elementary School, Building PT-1	Septic Tank	8 feet - 4,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
47	Koloa Elementary School, Building I and J	Septic Tank	8 feet - 11,000 gallon	Xerxes	n/a	n/a	\$ -	n/a	\$ -
<b>Island of Kauai - Preloader Tanks</b>									
48	Kekaha Elementary School at ATU-1 and ATU-2	Preloader Tanks	1,000 gallon	Orenco	n/a	\$ -	n/a	n/a	\$ -
49	Kekaha Elementary School at ATU-1 and ATU-2	Preloader Tanks	1,000 gallon	Orenco	n/a	\$ -	n/a	n/a	\$ -
<b>Island of Kauai - Waste Water Pump Stations</b>									
50	Eleele Elementary School, Building O-Near Preschools	WWPS-1	2HP	HPGX200CD	n/a	\$ -	n/a	\$ -	\$ -
51	Eleele Elementary School, Building I	WWPS-2	5HP	HPGHX500	n/a	\$ -	n/a	\$ -	\$ -
52	Kapaa High School, Portable P4031	WWPS-1	3HP	HPGHX300DD	n/a	\$ -	n/a	\$ -	\$ -
53	Kekaha Elementary School, Building B and Port P-2	WWPS-1	3HP	HPGLX200CD	n/a	\$ -	n/a	\$ -	\$ -
<b>Island of Kauai - Aerobic Treatment Units</b>									
54	Kekaha Elementary School, Building F	ATU-1	8,000 gallon	CBT8.0KFX 200	\$ -	n/a	n/a	n/a	\$ -
55	Kekaha Elementary School, Building B and Port P-2	ATU-2	12,500 gallon	CBT12.5KFX 200	\$ -	n/a	n/a	n/a	\$ -
<b>TOTAL SUM BID - PART A Subtotal</b>									\$ -

The following is hereby submitted:

	Location	Item	Number of Units (a)	Capacity	Model	Unit Price Per Pump Out Location (b)	Total Pump Out Price (a x b)
<b>PART B</b>							
<b>GROUP 3 - ISLAND OF KAUAI - PUMPOUT PRICING</b>							
1	Anahola Elementary School, Building C	Septic Tank	1	8 foot - 8,000 gallon	Xerxes	\$ -	\$ -
2	Hanalei Elementary, Building C, Cafeteria	Septic Tank	1	4,847 gallon	concrete	\$ -	\$ -
3	Halalei Elementary, Courtyard, Building A/D	Septic Tank	1	3,366 gallon	concrete	\$ -	\$ -
4	Kalaheo Elementary School, Building C	Septic Tank	1	6 foot - 3,000 gallon	Xerxes	\$ -	\$ -
5	Kalaheo Elementary School, Building M/ Cafeteria	Septic Tank	1	6 foot - 4,000 gallon	Xerxes	\$ -	\$ -
6	Kalaheo Elementary School, New Admin Building	Septic Tank	1	8 foot - 4,000 gallon	Xerxes	\$ -	\$ -
7	Kalaheo Elementary School, Building I/J	Septic Tank	1	1000 gallon	JP1000	\$ -	\$ -
8	Kalaheo Elementary School, Building A/G	Septic Tank	2	6 foot - 5,000 gallon	Xerxes	\$ -	\$ -
9	Kapaa Middle School, Building PB2	Septic Tank	2	16,814 gallon	concrete	\$ -	\$ -
10	Kauai High School, Building V, G, Farm Shop, M	Septic Tank	4	6 foot - 1,500 gallon	Xerxes	\$ -	\$ -
11	Kauai High School, Building I	Septic Tank	1	6 foot - 3,000 gallon	Xerxes	\$ -	\$ -
12	Kauai High School, Building I (2), J O	Septic Tank	4	6 foot - 4,000 gallon	Xerxes	\$ -	\$ -
13	Kauai High School, Building B,H,J,U,Y, A/K	Septic Tank	6	6 foot - 5,000 gallon	Xerxes	\$ -	\$ -
14	Kauai High School, Building L	Septic Tank	1	8 foot - 9,000 gallon	Xerxes	\$ -	\$ -
15	Kauai High School, Building C	Septic Tank	1	8 foot - 11,000 gallon	Xerxes	\$ -	\$ -
16	Kauai High School, Building T	Septic Tank	1	8 foot - 14,000 gallon	Xerxes	\$ -	\$ -
17	Kauai High School, Building L	Septic Tank	1	10 foot - 20,000 gallon	Xerxes	\$ -	\$ -
18	Kauai High School, Building L	Septic Tank	1	10 foot - 22,000 gallon	Xerxes	\$ -	\$ -
19	Kauai High School, Building A	Septic Tank	1	5,000 gallon	concrete	\$ -	\$ -
20	Kilauea Elementary School, Classroom D	Septic Tank	1	6 foot - 1,500 gallon	Xerxes	\$ -	\$ -
21	Kilauea Elementary School, Building A	Septic Tank	1	6 foot - 3,000 gallon	Xerxes	\$ -	\$ -
22	Kilauea Elementary School, Building F	Septic Tank	1	1,800 gallon	round concrete	\$ -	\$ -
23	Kilauea Elementary School, Building E	Septic Tank	1	3,112 gallon	twin, multi-chamber,	\$ -	\$ -

The following is hereby submitted:

	Location	Item	Number of Units (a)	Capacity	Model	Unit Price Per Pump Out Location (b)	Total Pump Out Price (a x b)
24	Kilauea Elementary School, Building B	Septic Tank	1	1000 gallon	JP1000	\$ -	\$ -
25	Kilauea Elementary School, Cafeteria	Septic Tank	1	5,000 gallon	concrete	\$ -	\$ -
26	Koloa Elementary School, Building I	Septic Tank	1	4 foot - 1,000 gallon	Xerxes	\$ -	\$ -
27	Koloa Elementary School, Building I	Septic Tank	1	6 foot - 1,500 gallon	Xerxes	\$ -	\$ -
28	Koloa Elementary School, Building C	Septic Tank	1	6 foot - 3,000 gallon	Xerxes	\$ -	\$ -
29	Koloa Elementary School, Building G	Septic Tank	1	6 foot - 4,000 gallon	Xerxes	\$ -	\$ -
30	Koloa Elementary School, Building PT-1	Septic Tank	1	8 foot - 4,000 gallon	Xerxes	\$ -	\$ -
31	Koloa Elementary School, Building I/J	Septic Tank	1	8 foot - 11,000 gallon	Xerxes	\$ -	\$ -
<b>TOTAL SUM BID PRICE - PART B Subtotal</b>							\$ -
			Estimated Annual Percentage of Sites Requiring Pumpout* (a)		Total Sum Bid - Part B Subtotal (b)	Total Estimated Annal Pumpout Charges** (a x b)	
			15%		\$ -	\$ -	

\*Annual pump out frequency is estimated at 15 percent of the total septic tank inventory in the group. The pumpout frequency is estimated and is not intended to reflect a guaranteed yearly pump out service amount.

\*\* This total will be included in contract amount

	Description	Estimated Number of Hours (a)	Unit Bid Price per Hour (b)	Total Estimated Repair Work (a x b)
<b>PART C - Authorized IWS Repair</b>				
1	Authorized IWS Repairs	250	\$ -	\$ -
<b>TOTAL SUM BID PRICE - PART C Subtotal</b>				\$ -
<b>TOTAL SUM BID PRICE - GROUP 3 (PART A, B AND C)</b>				\$ -

**WAGE CERTIFICATE**

Subject:

Project Number      IFB D24-144

Project Description    Provide Maintenance and Repair of Individual of Wastewater Systems (IWS) for  
Various Schools of the Hawaii State Department of Education on the Islands of Oahu, Maui and  
Kauai

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Pursuant to §103-55, HRS, I hereby certify that, if awarded a contract in excess of \$25,000.00, the services to be performed will be performed in accordance with the following conditions:

1. The services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to the public officers and employees for similar work, if similar positions are listed in the classification plan of the public sector.

Services Performed by Laborers and Mechanics:

The Contractor or the Contractor's subcontractor shall give a copy of the rates of wages to each laborer and mechanic employed under the contract by the Contractor at the time each laborer and mechanic is employed; provided that the Contractor does not have to provide the Contractor's employees the wage rate schedules where there is a collective bargaining agreement.

2. 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.

Contractor shall be obliged to notify its employees performing work under this contract of the provisions of §103-55, HRS, and the current wage rate for public employees performing similar work. The Contractor may meet this obligation by posting a notice to this effect in the Contractor's place of business accessible to all employees, or the contractor may include such notice with each paycheck or pay envelope furnished to the employee

I understand that, in addition to the base wages required by §103-55, HRS, all payments required by Federal and State laws that employers must make for the benefit of their employees shall be paid.

Offeror \_\_\_\_\_  
Signature \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

## **SPECIFICATIONS**

### **1. GENERAL SCOPE**

Work under this agreement shall consist of the furnishing of all labor, supervision, materials and equipment, and transportation necessary to perform complete operations, inspections, trouble shooting and recurring maintenance of IWSs listed in Exhibit B, Schedule of Individual Wastewater Systems. Components of an IWS include, but are not limited to:

1. Septic tanks, Dosing tanks and Effluent filters;
2. Aerobic Treatment Units (ATU);
3. Seepage Pits and Leach Fields;
4. Distribution Boxes and Connecting Drain Pipes;
5. All Piping and Components that are part of the Septic Systems;
6. Sewage Pumps;
7. Preloader Tanks;
8. Sump Pumps; and
9. Sewer Lift Stations.

In all cases, the CONTRACTOR shall guarantee the satisfactory operation of the IWSs in accordance with this agreement.

### **2. DESCRIPTION OF WORK**

The three (3) major components of this agreement are as follows:

- I. IWS recurring maintenance and servicing;
- II. ATU operations, recurring maintenance and servicing;
- III. Authorized IWS Repairs.

#### **I. IWS Recurring Maintenance and Servicing**

After the issuance of the notice to proceed, the CONTRACTOR shall submit for approval by the CA, a proposed recurring maintenance schedule that includes schedule dates for all systems in each school district. The proposed schedule shall be in sufficient detail to show their adequacy in carrying out the terms of this contract. CONTRACTOR shall include for approval any forms and/or reports to be used in the performance of the contract requirements. The STATE reserves the right to provide the CONTRACTOR with preprinted maintenance forms or worksheets to be completed by the CONTRACTOR.

The CONTRACTOR shall perform regularly scheduled maintenance and inspections on all equipment listed in Exhibit B, Schedule of Individual Wastewater Systems. This shall include recurring maintenance and servicing, and responding to all trouble or emergency calls. The services shall be performed in accordance with the best commercial practices governing the maintenance of IWSs, including but not limited to, septic tanks, dosing tanks, seepage pits, leach fields, and preloader tanks. All services shall be performed in accordance with these specifications and shall be subject to inspection and approval by the Contract Administrator (CA). The CONTRACTOR shall also be responsible for all piping and components leading up to the building (buildings being serviced by the IWS) line.

The CONTRACTOR shall be responsible for all costs necessary to operate, maintain and trouble shoot all systems (equipment, piping and components) to ensure the complete and satisfactory operation of the systems. Any questions as to the satisfactory performance of maintenance services, including the satisfactory operation of all equipment and systems, shall be determined by the CA.

The CONTRACTOR shall replace all worn, failed or doubtful components and parts, during scheduled maintenance and inspections to ensure satisfactory operation of the IWSs. Replacement parts shall be of similar design and quality to maintain system integrity and serviceability. The CONTRACTOR shall also be responsible for the clearing of clogged lines downstream from buildings.

All services performed by the CONTRACTOR shall be subject to inspection, testing, and approval by the CA and shall include but not be limited to the following tasks:

**A. Semi Annual Services**

CONTRACTOR shall:

1. Inspect and check all connecting piping, valves, septic tanks, manholes, seepage pits and leach fields for proper operation. Inspect and clean or replace (if required) effluent filters on septic tanks feeding seepage pits;
2. Measure scum and sludge levels;
3. Record scum and sludge levels, meter readings, pumping data, et cetera for each system and complete the on-site systems maintenance logbook; and
4. Provide a semiannual service report for each system. School representative must sign service reports for validation.

**B. Pumpout Services for Septic Tanks**

1. Pumpouts will be scheduled when:
  - a. the sludge level is within 12 inches of the bottom of the inlet or outlet tee;
  - b. the scum bottom is within 3 inches above the bottom of the inlet or outlet tee;
  - c. the scum top is within 1 inch of the top of the inlet or outlet tee; or
  - d. the scum thickness is more than 6 inches thick.
2. The CONTRACTOR shall send a notification with the measurement and/or readings of the scum and sludge levels to the CA or designated point of contact within forty-eight (48) hours of completing the inspection and/or upon determination that pumpout is required. The CONTRACTOR shall obtain the approval of the CA's or their appointed representative before pumping out.
3. Tanks shall not be disinfected after pumping. A small residue of sludge shall be left in the tank for seeding purposes.

**C. Sewage Sump Pumps and Waste Water Pump Stations**

Quarterly

CONTRACTOR shall:

1. Lubricate motor and pump if necessary and/or in accordance with manufacturer's recommendations;
2. Check for vibration, noise and leakage in system;
3. Check float switch operation;
4. Inspect all valves for proper operation and tightness;
5. Check for general operation of system;
6. Check shaft for scoring and wear;
7. Inspect motor to pump coupling for alignment and security to shaft;



8. Check high level alarm and alternator switch;
9. Inspect associated accessories examples: panels, switches, fans, elevator or lighting as applicable; and
10. Certify performance of quarterly maintenance service and correct and report all discrepancies.

Annually

CONTRACTOR shall:

1. Scrape and sand to bare metal and paint all rusted areas for preventative maintenance, color to match existing;
2. Check condition of wiring and conduit from motor to starter and float wiring;
3. Clean and scrape out or pumpout the residue buildup on the bottom of the sump and/or pits. If pumpout is required the CONTRACTOR shall invoice it separately from recurring maintenance and a purchase order will be issued for payment of the pumpout; and
4. Certify performance of annual maintenance service and correct and report all discrepancies.

**D. Sewer Lift Stations – Electrical (Controls, Starters, Motors)**

Monthly

CONTRACTOR shall:

1. Clean contacts; replace if necessary; and
2. Check all sensors, gauges, monitors, and control devices for calibration and proper operation.

Semi-annually

CONTRACTOR shall:

1. Thoroughly clean out all dust and dirt from inside of electrical panels and starters. Seal tight all openings or other means of access and/or entrance to control devices or panels from all types of insects or vermin, immediately upon discovery or notification; and
2. Check and operate all release and automatic operating mechanisms to see that they are in proper working order.

Annually

CONTRACTOR shall:

1. Megger motor and submit numerical tabulated and written report for each motor at each location with recommendations to the CA with invoice for annual service payment.

**E. Trouble or Emergency Call Procedures**

1. School calls CA or point of contact (POC) to report IWS problem.
2. CONTRACTOR shall not respond to calls from schools, without the CA's prior approval, but shall instruct the school to call the CA or POC.
3. CA or POC notifies CONTRACTOR of problem.
4. CONTRACTOR shall call CA or POC the same day or within twenty four (24) hours of the trouble call notification and report the status of the trouble call.
  - a. If completed, CONTRACTOR shall inform the CA or POC of their evaluation of the trouble and the action taken to remedy the situation.

- b. If not completed and a repair is required, CONTRACTOR shall inform the CA or designated POC of the problem and provide a cost proposal for the repair (refer to Specifications, Item III – Authorized IWS Repairs) with an estimated completion date.
5. Once a week the CONTRACTOR shall report the status of all outstanding trouble calls and their estimated completion date and/or action pending.
6. The CA or designated POC will inform School of pending actions.
7. Unauthorized extra work and/or repairs performed on a trouble call will not be compensated as determined by the CA.

#### **F. Annual Written Report**

For each IWS, the CONTRACTOR shall submit to the CA a written report describing in detail any problems or malfunctions and the steps taken to remedy or correct the problems. The initial report shall be submitted 12 months after issuance of the notice to proceed and then continue thereafter every 12 months for each renewal period, if any. It shall include recommendations for preventing future occurrences and shall provide details regarding the repair or replacement of parts or equipment.

#### **G. Work Schedule**

All services described herein shall be performed between the hours of 7:30 a.m. to 4:00 p.m. H.S.T., during days that schools are open, excluding State holidays. All work shall be scheduled in such a manner to minimize negative impact to school operations.

Quarterly services, shall be performed during the last week of the months of June, September, December and March or as coordinated by the CA. Quarterly service reports shall be certified by a school representative.

#### **H. Maintenance Checklist and Logbook**

The CONTRACTOR shall prepare and maintain a maintenance checklist (service report) and logbook and also post the information in the administration office at each school site. The checklist and the logbook shall include the maintenance tasks indicated herein, shall include the service date, name of mechanic performing service, service performed, readings, levels and other maintenance service data or pertinent information for each system. It will be the CONTRACTOR's responsibility to maintain the checklists and logbooks by recording the above data after each scheduled service. A service report or job ticket must be provided for each service visit and must be certified (signed) by a school representative. A copy of all service reports must accompany invoices for payment. Unsigned service reports will not be honored for payment.

#### **I. Parts and Materials**

Where parts are worn out and cannot be restored, the CONTRACTOR shall replace these parts with new parts. Only new, standard parts manufactured by original equipment manufacturer or parts of equal quality shall be used. Replacement parts shall be of similar design and quality to maintain system integrity and serviceability.

The effluent filters for septic tanks, feeding seepage pits and leach fields shall be inspected during cleaning; broken filters shall be repaired or replaced with new filters that are compatible with the existing systems. The particle filtration size on new filters shall be the same as the existing filter unless otherwise allowed by the CA.

All worn out parts or components and filters found during a scheduled maintenance service shall be replaced and cost shall be incidental to recurring maintenance and servicing.

## **J. Safety and Cleanup**

The CONTRACTOR shall perform the work in a safe and cautious manner, since work is usually performed during school hours with the work site being accessible to school children. The CONTRACTOR shall comply with all applicable safety regulations issued by Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), and other governmental agencies.

CONTRACTOR shall exercise caution while servicing septic waste systems to prevent damage to any buildings and site structures. CONTRACTOR shall repair all damage caused by the CONTRACTOR at CONTRACTOR's own expense.

The CONTRACTOR shall have an established *Confined or Enclosed Space Program* in accordance with Occupational Safety and Health Administration (OSHA) standards. The CONTRACTOR shall insure contract personnel take all prudent, proper and standard safety precautions while servicing the septic waste systems.

First aid supplies shall be available in the CONTRACTOR's service vehicle. The CONTRACTOR shall keep the work site free of debris, litter, discarded parts and supplies during the progress of the work and shall remove all upon completion of the work. The CONTRACTOR shall maintain a clean, healthy and safe work environment and area. The CONTRACTOR shall comply with all applicable safety regulations promulgated by HIOSH, OSHA, EPA and other governmental agencies.

## **II. ATU Operations, Recurring Maintenance and Servicing Requirements**

The CONTRACTOR shall be responsible for all costs necessary to operate and maintain ATU systems (including all equipment, piping, and components) to ensure the complete and satisfactory operation of each system. The CONTRACTOR shall provide a full range of technical services in the operational control, maintenance, and regulatory compliance for these systems at the following schools:

1. Kekaha Elementary School, Kauai:
  - CBT8.0KFX 200, Waste Water Treatment Plant
  - CBT12.5KFX 200, Waste Water Treatment Plant
2. Kaaawa Elementary School, Oahu:
  - CBT4.0KFX 200, Waste Water Treatment Plant

Any issues regarding the satisfactory performance of maintenance service, including the satisfactory operation of all equipment and systems, shall be determined by the CA.

Services shall be performed in accordance with the following requirements:

### **A. CONTRACTOR's Certification**

Operation and maintenance of the ATU Systems shall be performed and supervised by personnel certified by the Hawaii State Board of Certification of Operating Personnel in Wastewater Treatment Facilities. CONTRACTOR's personnel shall act as Direct Responsible Charge (DRC) Operator of the facilities. The CONTRACTOR shall designate a Hawaii State Board certified Operations Manager to coordinate and oversee the operation and maintenance of the facilities. The Operations Manager shall maintain direct involvement with designated operator. CONTRACTOR shall provide certification documentation immediately upon STATE's request pursuant to this IFB.

**B. Staffing and/or Emergency Response**

CONTRACTOR's personnel shall be physically present at the ATUs on a weekly basis and shall respond and address emergency calls immediately but no later than twenty four (24) hours after the call. Work hours will vary relative to operational needs, and shall be determined by the CONTRACTOR. The CONTRACTOR shall conduct weekly routine maintenance inspections and operations and maintenance process control testing of the ATUs. Test results shall be recorded in a facility log which will be maintained by the CONTRACTOR. A copy of the facility log will be provided to the CA once a month. The CONTRACTOR shall provide the additional services of its engineers, process specialists, electricians, mechanics, and trainers as needed.

**C. Regulatory Communications**

The CONTRACTOR shall provide the Department of Health (DOH) all applicable communications and correspondence as required relative to the operation and maintenance of the facilities, sampling, reporting, compliance with applicable regulations, and general regulatory matters.

**D. Spare Parts and Consumables**

The CONTRACTOR shall prepare and keep current a manufacturer's recommended spare parts inventory to minimize equipment downtime. Spare parts shall include but not be limited to fuels, lubricants, filter elements, drive belts, and miscellaneous laboratory and shop supplies. CONTRACTOR shall also supply all required chemicals for process control.

**E. Sludge Removal**

Based on monitoring and tests results, the CONTRACTOR shall schedule and arrange for wastewater sludge removal from the treatment facilities and its subsequent transportation to its final destination after dewatering. CONTRACTOR shall be responsible for all costs for this task.

**F. Limits of Responsibility**

The CONTRACTOR's physical limits of operational responsibility shall be the perimeter of these two individual schools. Maintenance of onsite electrical controls necessary for the operation of the facility shall also be included. Maintenance and operation of the onsite wastewater pump station shall be the CONTRACTOR's responsibility and is covered by Part I, "IWS Recurring Maintenance and Servicing" above.

**G. Parts and/or Component Replacement**

CONTRACTOR shall clean, lubricate, and adjust equipment as necessitated by normal operation and according to manufacturer's instructions. CONTRACTOR shall provide and replace defective equipment components, including parts which are expected to require replacement due to normal wear and tear per manufacturer's recommendations.

CONTRACTOR shall immediately correct any sudden equipment failure which, in the opinion of CONTRACTOR, poses a threat to public health or safety, or jeopardizes the operation of other equipment or processes if not corrected quickly.

**H. Detailed Requirements**

All services performed by the CONTRACTOR shall include, but not be limited to, the following tasks:

1. The CONTRACTOR will maintain the premises in a secure and clean condition at all times.

2. The CONTRACTOR shall provide a twenty four (24) hour emergency call-out service to respond to plant alarms and trouble calls.
3. The CONTRACTOR shall provide the following services on a weekly basis, unless specified otherwise, including but not limited to:
  - a. Check Decanter for proper operation;
  - b. Clean Decanter Screen at least every quarter or as needed;
  - c. Check and clean float tree and float switches;
  - d. Check sludge transfer pumps for proper operation and adjust flow rates if necessary;
  - e. Check effluent chlorination system for proper operation and adjust application rates as necessary;
  - f. Perform routine equipment servicing including air filter changes;
  - g. Chlorine for effluent disinfection;
  - h. Maintain a log of plant operations and test results;
  - i. Log Blower voltage and amperage readings;
  - j. Log Blower Pressure gauge readings weekly;
  - k. Clean Air Diffusers Annually. Replace if either stiff, or damaged;
  - l. Log Blower(s) and Decanter Pump(s) EMT and CT;
  - m. Log Estimated flow based on EMT;
  - n. Log High Level Alarm CT; and
  - o. Test High Level Alarm weekly.
4. The CONTRACTOR shall also provide the following services, including but not limited to:
  - a. As required, collect and transport biochemical oxygen demand ("BOD"), suspended solids, and coliform bacteria analysis (not a standard DOH requirement and analysis to be performed by an outside laboratory);
  - b. Collect samples and perform analysis for dissolved oxygen ("DO"), pH, solids settle-ability, and chlorine residual in accordance with applicable DOH regulations on a monthly basis;
  - c. Pumpout preloader tanks quarterly; and
  - d. Depending on the settleability, when a tank reaches about 55 percent the tank shall be pumped and liquid sludge hauled away. This could be twice a year or every five years, depending on usage.

#### **I. Additional Provisions**

The CONTRACTOR shall be the sole authority in decisions regarding process control, equipment utilization, operational strategies, personnel matters, and work scheduling, provided that the CONTRACTOR is otherwise satisfying the STATE's requirements, and the requirements of all regulatory agencies.

The ATUs do not contain functional alarm telemetry systems. As such, the CONTRACTOR shall not be responsible for wastewater spills caused directly or indirectly by the lack of such telemetry.

Not included in the contract are the costs for the following items (as needed or as required by the CONTRACTOR or the DOH):

1. Grounds maintenance. The STATE shall maintain landscaping surrounding the aerobic treatment units.
2. Electrical and water use. The STATE shall pay for water and power service to its facilities.

### **III. Authorized IWS Repairs**

Authorized repairs shall include, but are not limited to, IWS equipment malfunctions or breakdowns as determined during trouble shooting following a trouble call or an emergency call, including repairs due to vandalism, fire, storm, or other damage attributable to causes beyond the CONTRACTOR's control. However, the CONTRACTOR shall be responsible for such repairs, including repair costs, if damage is caused by the CONTRACTOR's failure to properly maintain and service the equipment. Should repair be required, the CONTRACTOR shall immediately notify the CA or their appointed representative and shall promptly provide the CA within twenty-four (24) hours of the notification of the repair, with an estimated cost and shall receive advance approval from CA prior to performing any such work over four (4) hours labor or \$500.00 total cost. If the CONTRACTOR and the CA cannot agree on the price, the STATE reserves the right to bid out the repair work.

An itemized written quotation shall be submitted to the CA within thirty-six (36) hours of repair notification and shall contain the following minimum information:

- A. Description and breakdown of material, parts and labor costs. The labor cost shall reflect the unit bid price per hour submitted on the applicable Offer Page – Authorized IWS Repairs. For materials or parts , please refer to Special Conditions, Item 43 - Allowable Costs For Parts; and
- B. Estimated repair completion date.

Unless the CONTRACTOR is given a separate purchase order authorizing him to make such repairs, the STATE shall not be held responsible for any work performed by the CONTRACTOR.

If a subcontractor's service is required, subcontractor must be duly licensed for the portion of work to be subcontracted. All subcontractors shall be subject to CA's approval.

If a subcontractor is required for authorized repairs, hourly labor rate submitted by the CONTRACTOR on the applicable offer page shall apply.

### **3. SECURITY REQUIREMENTS**

The CONTRACTOR must be aware of the heightened security conditions at all STATE facilities under this contract. The CONTRACTOR shall be aware of and must report to the CA any suspicious activity or obvious breach of security in relation to, or during the course of, their work at any of the STATE facilities. The report must contain as much detailed information as possible. The CONTRACTOR must keep their work areas closed and secure, before, during, and after performing work. CONTRACTOR may be liable for security breaches due to any doors and/or gates left open and unsecured.

The STATE requires that background security checks must be provided for each employee assigned to service this contract. Background checks shall be done at no additional cost to the STATE. Any employee found to have a history of sexual abuse, drug abuse, or felony conviction shall not be allowed on school premises or allowed to perform the work under this contract.

The CONTRACTOR's vehicles and personnel shall be properly identified with the CONTRACTOR's name, through company signage and/or logos, uniforms, name tags and/or identification cards, as appropriate, to comply with this requirement.

## SPECIAL CONDITIONS

### **GENERAL INFORMATION**

#### **1. Addenda and Interpretations**

Discrepancies, omissions, or questions related to this solicitation shall be communicated in writing to the Hawaii State Department of Education, Procurement and Contracts Branch (PCB) via facsimile at (808) 675-0133 or e-mail to [kanako.tamashiro@k12.hi.us](mailto:kanako.tamashiro@k12.hi.us) for interpretation and must be received no later than seven (7) calendar days prior to the date fixed for the close of bids.

Interpretation(s), if any, and any supplemental instructions will be in the form of written addenda that will be made available to all HlePRO registered Offerors prior to the date fixed for the close of bids. Failure of any Offeror to receive any such addenda or interpretations shall not relieve the Offeror of any obligation under this solicitation. All addenda issued shall be incorporated into the resulting contract.

#### **2. Scope**

Work under this agreement shall consist of Maintenance and Repair of Individual Wastewater Systems (IWS) for Various Schools of the Hawaii State Department of Education (Department) on the Islands of Oahu, Maui and Kauai and shall be in accordance with these Special Conditions, the attached Specifications, and the State of Hawaii's General Conditions AG-008 (latest revision).

#### **3. Contract Administrator**

For purposes of this contract, Ryan Ichimura, Program Manager or the Program Manager's successor, is designated Contract Administrator (CA). The CA can be contacted by telephone at (808) 831-7950, via facsimile at 808-837-8429, or via e-mail at [ryan.ichimura@k12.hi.us](mailto:ryan.ichimura@k12.hi.us).

The CA is responsible for:

1. the terms, conditions, quantities, specifications, scope of services, other contract terms, and all decisions relating to the contract;
2. monitoring the CONTRACTOR's work, documenting that CONTRACTOR maintains the required insurance coverage (if applicable), resolving contract disputes and discrepancies, evaluating the work of the CONTRACTOR, assuring the services or goods are delivered as required in the contract, and processing payment for services rendered; and
3. notifying the Hawaii State Department of Education, PCB in the event of change in scope of work, change in the performance period, increase or decrease in total compensation, and/or changes in any other contract terms.

Notwithstanding the responsibilities set forth hereinabove, any coordination of services falling outside those articulated above shall remain with the head of the purchasing agency, as set forth in the attached General Conditions (see General Conditions, paragraph 1, entitled "Coordination of Services by the STATE.").

The CA has designated following persons as Point-of-Contact (POC) for this contract. As such, the POC, or their successor, should be the initial contact on all matters related to this contract. The POC can be as follows:

POC for Island of Oahu:	Cheng-Hsin, Chang (DOE-FMB)
Phone:	(808) 382-5166
E-mail Address:	<a href="mailto:cheng-hsin.chang@k12.hi.us">cheng-hsin.chang@k12.hi.us</a>

POC for Island of Oahu: Todd Kaulukukui (DOE-FMB)  
Phone: (808) 831-7324  
E-mail Address: [todd.kaulukukui@k12.hi.us](mailto:todd.kaulukukui@k12.hi.us)

POC for Islands of Maui: Jeffrey T. Pearson (DAGS-Maui)  
Phone: (808)873-3026  
E-mail Address: [jeff.pearson@hawaii.gov](mailto:jeff.pearson@hawaii.gov)

POC for Island of Kauai: Eric Agena (DAGS-Kauai)  
Phone: (808) 274-3033  
E-mail Address: [eric.m.agena@hawaii.gov](mailto:eric.m.agena@hawaii.gov)

#### **4. Contract Period**

This contract shall commence on November 1, 2024 and shall end on October 31, 2025, subject to availability of funds as specified in the General Conditions.

Beyond October 31, 2025, this contract may be extended for not more than three (3) additional twelve (12)-month periods upon mutual written agreement of the parties, prior to expiration. As each option(s) to extend is mutually agreed upon, the CONTRACTOR shall be required to execute a supplement to the contract for each additional period. The contract price for the extended period shall remain the same or lower than the initial contract price, subject to any price adjustment allowed by the contract.

### **OFFEROR INFORMATION**

#### **5. Offeror's Authority to Bid**

The STATE will not participate in determinations regarding an Offeror's authority to sell a product or perform a service. If there are any questions or doubts regarding an Offeror's right or ability to obtain and sell a product or to render a service, the Offeror should resolve those issues prior to submitting a bid. If the Offeror's offer meets specifications and is acceptable and the bid price submitted is the lowest bid, the contract will be awarded to that Offeror.

#### **6. Offeror Qualifications**

In addition to meeting legal and any other requirements of this solicitation, Offeror must meet these qualifications to be considered for award.

A. License and/or Permit

At the time of bidding and throughout the contract period, Offeror must have a current State of Hawaii Contractor's C-37, C-43, or Wastewater Operator License to provide the wastewater treatment on file with/as issued by Hawaii State Board of Certification of Operating Personnel in Wastewater Treatment Facilities. Offeror shall provide the information requested on Exhibit A.

B. Company Experience

Offeror shall have a minimum of five (5) consecutive years of experience in maintaining septic systems. Offeror must be able to produce documentation to substantiate both experience and compliance requirements upon request. Prior to contract execution, Offeror shall provide the information requested on Exhibit A regarding company experience.

C. Office Location

At the time of bid submittal, Offeror shall have an office location located in the State of Hawaii from where business is conducted and from where the company is accessible to telephone calls for complaints, trouble calls, and emergency services or requests that need immediate attention are received and processed, and where personnel are dispatched. An answering machine is not



acceptable. Offeror shall list the information regarding the office and/or the service facility on the Exhibit A.

D. Point-of-Contact

Offeror shall designate at least one (1) employee as the STATE point of contact (POC) for this contract. This individual shall be based in Hawaii and available during regular business hours, Monday through Friday excluding holidays, and shall be capable of answering questions, resolving problems, and providing sales, ordering, and follow-up assistance. Offeror shall provide the information requested on Exhibit A.

E. Personnel

Offeror shall have an adequate number of employees assigned to provide services included in this contract, all who are qualified to perform IWS maintenance and service under this contract. All employees must be regular and full-time employees of the Offeror and must have a minimum of two (2) consecutive years of IWS maintenance and service experience immediately prior to bid opening date. For each employee, Offeror shall provide names and other requested information. Offeror shall provide the information requested on Exhibit A.

Failure on the Offeror's part to meet these requirements may result in rejection of bid. These requirements must remain in effect during the entire contract period. Failure to maintain these requirements may result in cancellation of award.

## 7. References

Offeror shall list on the Exhibit A at least three (3) companies or government agencies to whom Offeror was or is providing maintenance and repair of wastewater treatment systems and who can attest to the reliability of Offeror's services and personnel. Exhibit A shall be provided within three (3) working days from STATE's request. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

## 8. Site Inspection

Prior to submittal of bid, Offeror may inspect the service sites listed in Exhibit B, Schedule of Individual Wastewater Systems attached, and thoroughly familiarize themselves with existing conditions, rules and regulations, and the extent and nature of work to be performed.

Offeror inspection is not mandatory; however, bid submission shall be evidence that the Offeror understands the scope of the project and shall comply with all requirements stated herein, if awarded the contract. Offerors must contact the CA to arrange for an inspection visit. No additional compensation, subsequent to bid opening, shall be allowed by reason of any misunderstanding or error regarding site conditions or work to be performed.

## 9. Responsibility of Offerors

Offeror is advised that if awarded a contract under this solicitation, Offeror must furnish proof of compliance with the requirements of §103D-310(c), HRS as a pre-requisite to receiving a contract:

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

Offeror should refer to the "Contract Execution" provision for further information regarding the above-mentioned requirements.

## **BID PREPARATION**

### **10. Offer Page OF-1**

Offeror is requested to submit the bid under the company'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 Page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the hard copy Offer Page OF-1 shall be an **original signature in ink**. Ink signatures are not required for electronic submission of a bid on HlePRO. The submission of the bid on HlePRO shall indicate the Offeror's intent to be bound.

### **11. Taxable Transaction**

Unless the HRS exempts a person from paying the applicable general excise tax, work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii-based companies are advised that the gross receipts derived from this contract are subject to the general excise tax imposed by Chapter 237, HRS, at the current rate and, where applicable, to tangible property imported into the State of Hawaii for resale, subject to the applicable use tax imposed by Chapter 238, HRS.

Information on the Hawaii State Taxes administered by the Department of Taxation is available online at <http://tax.hawaii.gov>.

### **12. Tax Exempt Transaction**

If, however, an Offeror is a person exempt by the HRS from paying the general excise tax and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

For evaluation purposes, pursuant to §103D-1008, HRS, a tax-exempt bid submitted in response to a solicitation shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

### **13. Bid Price**

Unit Bid Price shall include labor, equipment, materials, transportation, overhead, profit, all applicable taxes and any other incidental and operational expenses incurred in the performance of all obligations hereunder. Unit Bid price shall be the all-inclusive cost to the STATE and no other charges will be honored. In case of error in extension of bid price, unit bid price shall govern. Offeror shall bid on all items within a group to qualify for award.

The Unit Bid Price per Hour hourly rate for Authorized IWS Repair shall reflect the CONTRACTOR's hourly rate submitted on the applicable Offer Page. The hourly rate shall be a standard hourly rate, not an overtime rate, and shall include all applicable fringe benefits, travel, mileage and tax costs.

The annual pumpout frequency has been estimated based on the previous year's pumpout frequency of the total septic tank inventory in the awarded group(s). Pumpout necessity will be calculated according to the following:

#### **Group 1 - Island of Oahu, Aerobic Treatment Unit, Septic Tank and Waste Water Pump Station**

Not anticipated.

## **Group 2 - Island of Maui, Septic Tanks, Sewage Sump Pumps, Leach Fields & Sewer Lift Stations**

Annual pumpout frequency is estimated at 40% of the total septic tank inventory in the group. The pumpout frequency is estimated and is not intended to reflect a guaranteed yearly pumpout service amount.

## **Group 3 - Island of Kauai, Septic/Dosing Tanks, Sewage Pumps, Preloader Tanks & Leach Fields, Waste Water Pump Stations and Aerobic Treatments Units**

Annual pumpout frequency is estimated at 15% of the total septic tank inventory in the group. The pumpout frequency is estimated and is not intended to reflect a guaranteed yearly pumpout service amount.

### **14. Offeror Information**

Offeror shall provide information regarding its office location, company experience, STATE's point-of-contact, and any other requested information on the Exhibit A. Exhibit A shall be provided within three (3) working days from STATE's request.

### **15. License and/or Permit**

License and/or permit number shall be provided on the Exhibit A. If requested by the STATE, Offeror shall also submit a copy of their license/permit with their Exhibit A within three (3) working days from STATE's request.

### **16. References**

Offeror shall list on the Exhibit A at least three (3) companies or government agencies to whom Offeror was or is providing maintenance and repair of wastewater treatment systems and who can attest to the reliability of Offeror's services and personnel. Exhibit A shall be provided within three (3) working days from STATE's request. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

### **17. Wage Certificate**

Offeror shall complete and submit a *Wage Certificate* by which the Offeror certifies that services required will be performed pursuant to §103-55, HRS. Accordingly, Offeror should consider the public sector wage rates and/or benefits when preparing this bid, **as applicable**.

Although **Item 1** of the *Wage Certificate* may not be applicable to this solicitation if there are no STATE or public sector employees performing work similar to the requirements herein or if services are not performed by laborers and mechanics, **Item 2** of the certificate is applicable in all situations. Offeror is therefore advised that submission of the *Wage Certificate* is required.

Offeror shall refer to the *Wage Certificate* clause for additional information regarding this requirement.

### **18. Liability Insurance**

Work included under this agreement requires the provision of liability and property damage insurance, to remain in full force and effect during the life of this contract. Offeror shall refer to the *Liability Insurance* clause for additional information regarding this requirement. Accordingly, Offeror should consider these insurance requirements when preparing their offer.

### **19. Offer Guaranty**

An offer guaranty (bid bond) is not required for this IFB.

## **BID SUBMITTAL**

### **20. Submission of Bid**

**Offers will be received through the State of Hawaii eProcurement System (HlePRO) Public Procurement Notices Website at <https://hiepro.ehawaii.gov/welcome.html> no later than the date and time stated on the HlePRO.**

Submission of a bid shall constitute an incontrovertible representation by the Offeror of compliance with every requirement of this IFB, and that the IFB documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work.

Before submitting a bid, each Offeror must:

1. examine the solicitation documents thoroughly for defects and questionable or objectionable material. Solicitation documents include this IFB, any attachments, plans referred to herein, and any other relevant documentation. Comments must be submitted in writing and received by the Hawaii State Department of Education, PCB no later than seven (7) calendar days prior to the date fixed for the close of bids. This will allow for issuance of addenda, if necessary.
2. become familiar with state, local, and federal laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work.

All bids shall be made through the HlePRO (<https://hiepro.ehawaii.gov/welcome.html>) on the solicitation document(s) available on the HlePRO. Offers shall be completed in accordance with the solicitation instructions, and addenda, if any.

The Specifications, Special Conditions, General Conditions and other documents referenced in or attached to the offer shall be considered a part of the offer submitted, whether or not attached to the offer at the time of submission. Such documents shall not be altered in any way; any alterations so made by the Offeror may result in rejection of the offer.

Offers will be received only until the hour and date set for the close of bids. Unless otherwise stated, Offeror shall submit only one (1) offer. If more than one offer is submitted, all offers shall be rejected for that item.

Hard copies of ALL ORIGINAL OFFER PAGES AND ANY OTHER APPLICABLE DOCUMENTS AS STATED IN THE SOLICITATION must also be received by the Hawaii State Department of Education, Procurement and Contracts Branch, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797, within five (5) working days after the bid closing date.

### **21. Confidential Information**

If an Offeror believes that any portion of Offeror's proposal contains information that should be withheld as confidential, then the Hawaii State Department of Education, PCB should be so advised in writing.

Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the bid, be clearly marked, and shall be readily separable from the bid in order to facilitate eventual public inspection of the non-confidential portion of the bid.

Pursuant to Section 3-122-58, Hawaii Administrative Rules (HAR), the head of the purchasing agency or designee shall consult with the Department of the Attorney General and make a written determination in accordance with Chapter 92F, Hawaii Revised Statutes (HRS). If the request for confidentiality is denied, such information shall be disclosed as public information, unless the Offeror appeals the denial to the Office of Information Practices in accordance with Section 92F-42(12), HRS.

## **22. Certification of Independent Cost Determination**

By submitting a bid in response to this solicitation, Offeror certifies as follows:

1. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.
2. Unless otherwise required by law, the costs which have been quoted in this IFB have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.
3. No other attempt has been made or will be made by the Offeror to solicit or implore any other person or firm to submit or not to submit a bid in response to this IFB for the purpose of restricting competition.

## **23. Acceptance of Bid**

Acceptance of bid, if any, will be made within sixty (60) calendar days after the close of bids and the prices quoted by the Offeror shall remain firm for the sixty day period.

## **BID EVALUATION**

### **24. Disqualification of Offers**

Any one or more of the following causes will be considered as sufficient for disqualification of the offer:

1. Hard copy offer not signed by an authorized individual.
2. More than one offer from an individual, partnership, firm, organization, corporation, joint venture, or other legal entity under the same or different names.
3. Evidence of collusion among Offerors or prices obviously unbalanced, lack of responsibility and cooperation as shown by past work, being in arrears on existing contracts with the State of Hawaii, or defaulting on previous contract(s).
4. Lack of proper equipment and/or sufficient experience to perform the work contemplated.
5. Offer received after specified deadline for close of offers.
6. Evidence of any noncompliance with any applicable law, any unauthorized additions or deletions, of submission of conditional offer, incomplete offer, or irregularities of any kind which may make the offer incomplete, indefinite, or ambiguous as to its meaning.

### **25. Method of Award**

Award, if made, shall be made on a Group basis to the responsive and responsible Offeror submitting the lowest Total Sum Bid Price per Group (1 through 3). Offeror must bid on all items within a group to qualify for group award; however, Offeror need not bid on all groups to qualify for award. If the Total Sum Bid Price per Group of the qualified low bid exceeds allotted funds, the STATE shall have the option to shorten the contract period to allow award to be made within the allotted funds.

In case of error in the extension of the total bid price, the unit bid price shall govern.

### **26. Protest**

Pursuant to §103D-701, HRS and §3-126, HAR, "Legal and Contractual Remedies", an actual or prospective offeror who is aggrieved in connection with the solicitation or award may submit a protest. Any protest shall be submitted in writing to the Hawaii State Department of Education's Chief Procurement Officer, c/o the Procurement Office at the Waipahu Civic Center, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797.

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 offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award.

The award(s), if any, resulting from this solicitation shall be posted on the HlePRO and shall be posted on the Hawaii Awards and Notices Data System (HANDS) website at <https://hands.ehawaii.gov/hands/awards>.

## **CONTRACT EXECUTION**

### **27. Contract Award**

CONTRACTOR receiving award(s) of \$25,000 or more shall be required to enter into a formal written contract. Performance bonds are not required for this IFB. Upon execution of contract, the Hawaii State Department of Education will issue a fully executed copy to the CONTRACTOR. No work will be undertaken by the CONTRACTOR prior to the commencement date specified on the contract. The STATE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to official starting date.

### **28. Responsibility of CONTRACTOR**

CONTRACTOR shall furnish proof of compliance with these requirements of §3-122-112, HAR:

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Workers' Compensation Law;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and
6. One of the following:
  1. That CONTRACTOR is registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business"); or
  2. That CONTRACTOR is registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

The CONTRACTOR may demonstrate compliance by submitting an original consolidated CERTIFICATE OF VENDOR COMPLIANCE issued via the online system, "Hawaii Compliance Express." Detailed information about the system and regarding this online application process can be viewed at: <http://vendors.ehawaii.gov>.

### **29. Hawaii Compliance Express.**

A *Certificate of Vendor Compliance* may be obtained through the Hawaii Compliance Express (HCE). This service allows CONTRACTORS to register online through a simple wizard interface at <http://vendors.ehawaii.gov>. The *Certificate of Vendor Compliance* provides current compliance status as of the issuance date, satisfies requirements of Chapter 103D-310(c), HRS, and is therefore acceptable for contracting purposes. CONTRACTORS that elect to use HCE services are required to pay an annual registration fee of (at least) twelve dollars (\$12.00).

### **30. Timely Submission of All Certificates**

The above certificates should be applied for and submitted to the Hawaii State Department of Education, PCB as soon as possible. If a valid certificate is not submitted on a timely basis for award, an offer otherwise responsive and responsible may not receive the award.

### **31. Failure to Execute Contract**

Normally, award shall be made within sixty (60) calendar days after the close of bids but in no case will award be made until all necessary investigations are made. After award is made, failure on the CONTRACTOR's part to execute a contract as required within ten (10) calendar days (or such further time as the Superintendent may allow) after the Offeror has received the contract for execution shall be just cause for the annulment of the award. The Superintendent reserves the right to cancel or reject this solicitation or all offers in whole or in part when it is in the best interest of the STATE or to award the contract to the next lowest Offeror or may publish another call for tenders, if the lowest bid is non-responsive to the STATE's needs.

### **32. Availability of Funds**

This contract is subject to the availability of funds. Pursuant to Section 103D-309, HRS, except in certain instances, no contract entered into between the STATE and the CONTRACTOR shall be binding or of any force unless the Chief Financial Officer (CFO) certifies that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the amount required by the contract.

If the contract calls for performance or payment in more than one fiscal year (July 1 to June 30), the CFO may certify only that portion of the total funds allocated to satisfy the STATE's obligations for payments in the current fiscal year. In that event, the STATE will not be liable for the unpaid balance beyond the end of the current fiscal year, and availability of funds in excess of the amount certified shall be contingent upon future appropriations or special fund revenues. All partially-funded contracts shall be enforceable only to the extent that funds are certified as available. The STATE agrees to notify the CONTRACTOR of such non-allocation at the earliest possible time. The STATE shall not be penalized in the event this provision is exercised. This provision is not meant to permit the STATE to terminate the contract in order to acquire similar equipment from a third party.

### **33. Wage Certificate**

Section 103-55, HRS, provides that the services to be performed shall be performed by employees paid at wages not less than wages paid to public officers and employees for similar work. CONTRACTOR is advised that in the event of an increase in wage rates to public employees performing similar work during the contract period, employees shall be paid wages no less than those increased wages.

CONTRACTOR is obliged to notify its employees performing work under this contract of the provisions of Section 103-55, HRS, and of the current wage rate for public employees performing similar work. CONTRACTOR may meet this obligation by posting a notice to this effect in the CONTRACTOR's place of business in an area accessible to all employees, or CONTRACTOR may include such notice with each paycheck or pay envelope furnished to the employee.

For more information on the Class Specifications and Minimum Qualifications of the above-referenced Class title, please visit the State of Hawaii Department of Human Resources Development at the following website: <http://dhrd.hawaii.gov/>.

The STATE reserves the right to inspect the CONTRACTOR's wage records to ensure compliance with Section 103-55, HRS.

#### **33.1 Services Performed by Laborers and Mechanics.**

1. The CONTRACTOR or the CONTRACTOR's subcontractor shall give a copy of the rates of wages to each laborer and mechanic employed by the CONTRACTOR at the time each laborer and mechanic is employed; provided that the CONTRACTOR does not have to provide the CONTRACTOR's employees the wage rate schedules where there is a collective bargaining agreement.





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

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements. Each insurance policy shall be written by 1) an insurance company licensed to do business in the State of Hawaii, or 2) if not licensed by the State of Hawaii, an insurance company which meets §431:8-301, Hawaii Revised Statutes.

Upon CONTRACTOR's execution of the contract, the CONTRACTOR agrees to deposit with the STATE certificate(s) of insurance necessary to satisfy the STATE that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the STATE during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the STATE, CONTRACTOR shall be responsible for furnishing a copy of the policy(ies).

Failure of the CONTRACTOR to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the STATE to exercise any or all of the remedies provided herein.

The procuring of such required insurance shall not be construed to limit CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy(ies) of insurance, CONTRACTOR shall be obligated for the full and total amount of any damage, injury, or loss caused by the CONTRACTOR, its employees, officers, or agents, in connection with this Contract.

CONTRACTOR shall notify the STATE, via written notice within twenty-four (24) hours should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

### **35. Workmanship**

All work shall be executed in a professional manner, and shall present a neat appearance when completed. All work done shall be subject to inspection and approval of the Contract Administrator; all services rendered shall be in accordance with these specifications and provisions.

### **CONTRACT PRICE ADJUSTMENTS**

**All requests for contract price adjustments shall be in writing and shall be addressed and submitted to the Contract Administrator in accordance with the following conditions:**

#### **36. Adjustment Pursuant to Section 103-55, HRS – Wage Rates**

At the time of contract award, only the current wages of STATE employees performing similar work were known. Should these wages increase during the period of the contract, the CONTRACTOR may request an increase in contract price. The increase requested must result in increase in wages to the CONTRACTOR's employees performing the work under this agreement, including any increase in benefits required by law that are automatically increased as a result of increased wages, such as federal old age benefits, workers' compensation, temporary disability insurance, unemployment insurance, and prepaid public health insurance.

CONTRACTOR's request for increase must meet the following criteria:

1. At the time of request, CONTRACTOR shall provide documentation to show that the CONTRACTOR is in compliance with §103-55, HRS, i.e., the employees are being paid no less than the known wages of the State of Hawaii position listed herein. Documentation shall include the employees' payroll records and a statement that the employees' services are being engaged for this contract.

2. The Hourly Labor Rate for Repairs and Other Authorized Reimbursable Work may be adjusted, provided the wages paid to a State of Hawaii is adjusted due to contract negotiations for STATE workers during the contract period previous to the extension.
3. Adjustment of the contract price shall be limited to the dollar amount of adjustment in wages paid to the aforementioned STATE position.

Note that if a price adjustment is not requested by the CONTRACTOR for any extended contract period, it cannot be requested during a future extension period. For example, if a price adjustment is requested during the second contract extension period but not during the first contract extension period, the price adjustment, if approved, will include an adjustment for the second extension period only, not both the first and second extension period – it is not retroactive.

The increase shall be reflected in either a contract modification or in the supplemental agreement issued for any extended period of the initial contract.

### **37. New Locations and Equipment**

The STATE reserves the right to add to the contract new locations and equipment. The CONTRACTOR shall inspect, maintain, and repair on-site waste systems at any new school or on any system not identified herein, when services are required. The STATE further reserves the right to add new equipment to schools within a Group. The new locations and equipment shall be serviced only upon authorization by the CA and approved via issuance of a Contract Modification, and the additional cost shall be based on similarly situated locations and equipment within the Group(s) awarded to CONTRACTOR.

## **PERFORMANCE OF CONTRACT**

### **38. Authority of the Hawaii State Department of Education**

The Hawaii State Department of Education shall decide all questions which may arise as to the work performed, as to the manner of such performance, as to the interpretation of any term, condition or provision, as to the applicability and interpretation of any law, rule or regulation, policies and procedures, as to compensation, or additional reason to service, and as to any other matter which may arise under the contract. The decision of the Hawaii State Department of Education in such matters shall be final provided that decision is not in violation of law and not arbitrary, capricious or characterized by abuse of discretion.

### **39. Time of Completion**

All work under this contract shall be completed within (specify number) of working days (excluding Saturdays, Sundays, and holidays). Upon receipt of CONTRACTOR's written notice of completion, the STATE will schedule an inspection of work; inspection shall be completed within one week of notification by CONTRACTOR. CONTRACTOR must correct any deficiencies or unsatisfactory work within one (1) week of STATE's notification.

### **40. Inspections**

All work done and all materials furnished shall be subject to random periodic inspection and approval by the CA to verify that the services rendered are in accordance with requirements and intentions of the Specifications, Special Conditions, and the General Conditions. The CA may require additional information as necessary to maintain a record of the service rendered, and also request that the CONTRACTOR accompany the CA on field inspections to be scheduled periodically.

#### **41. Relief Available to STATE**

In addition to all rights and remedies available to the STATE provided in this Contract or otherwise provided under law, if the CONTRACTOR is in non-compliance with contract requirements, the STATE may:

1. Suspend Payments – Temporarily withhold or disallow all or part of the billing cost and/or payments pending correction of a deficiency or a non-submission of a required deliverable by the CONTRACTOR;
2. Suspend Referrals – Suspend referrals to the CONTRACTOR should the CONTRACTOR fail to comply with any of the requirements or other term(s) or condition(s) of this Contract and, further, the STATE may maintain the suspension of referrals until such time as the deficiency or non-compliance is corrected and the CONTRACTOR's corrective actions are determined to be acceptable by the STATE; and
3. Seek Reimbursement – Seek reimbursement from the CONTRACTOR or withhold future payments for any funds paid to the CONTRACTOR subsequent to a determination that such was unauthorized, fraudulently obtained, or inappropriately billed.
4. Seek Market Value – In the event the CONTRACTOR fails, refuses or neglects to perform the services in accordance with the requirements of these Special Conditions, the Scope of Services or the General Conditions, the STATE reserves the right to purchase, in the open market, a corresponding quantity of the services specified herein and to deduct from any monies due or that may thereafter become due to the CONTRACTOR, the difference between the price named in the contract and the actual cost to the STATE. In case any money due the CONTRACTOR is insufficient for said purpose, the CONTRACTOR shall pay the difference upon demand from the STATE. The STATE may also utilize all other remedies provided by law.

#### **42. Confidentiality Obligations**

While performing under this agreement, the CONTRACTOR may receive, be exposed to or acquire confidential information. Such information may include names, addresses, telephone numbers, birthdates, social security numbers, medical information, and other educational, student, or personal employment information. The information may be in written or oral form, fixed in hard copy or contained in a computer database or computer readable form. Hereinafter, such language shall be collectively referred to as "Confidential Information."

The CONTRACTOR, including its employees, agents, representatives, and assigns shall abide by the following with regards to Confidential Information: (i) They shall not disclose to any unauthorized party any Confidential Information, except as specifically permitted by the STATE and subject to the STATE's limitations on confidentiality of information and relevant legal requirements of the State to include, but not limited to the Family Educational Rights and Privacy Act ("FERPA"). Permission will be granted through a formal written agreement concerning the disclosure of personally identifiable information (PII) from student education records, signed by the STATE and the CONTRACTOR, and must be provided as an attachment to this agreement; (ii) They shall only permit access to Confidential Information to employees, agents, representatives, and assigns having a specific need to know in connection with performance under this agreement; and (iii) They shall advise each of their employees, agents, representatives, and assigns of their obligations to keep such Confidential Information confidential in compliance with all relevant state and federal laws.

CONTRACTOR, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The CONTRACTOR shall provide the STATE with a list of individuals (by name and position) who are authorized to handle the Confidential Information (hereinafter referred to as "Authorized Handlers"). Authorized Handlers shall ensure the security

of the Confidential Information. Only Authorized Handlers shall have access to the Confidential Information, which will be kept on password protected computers with the hard copy documents kept in a locked file cabinet. CONTRACTOR shall ensure that procedures exist to prohibit access to the Confidential Information by anyone other than an Authorized Handler.

CONTRACTOR will be responsible for safeguarding the confidentiality of all Confidential Information it receives from the STATE and shall safeguard and protect such documents from unauthorized use, handling, or viewing. CONTRACTOR shall be liable to the STATE and to any person whose records the CONTRACTOR receives custody of under this agreement for records protection for any unpermitted release, viewing, or loss of such records. CONTRACTOR shall assume liability responsibility for records protection and for the inappropriate or unlawful release of Confidential Information. CONTRACTOR shall return all documents containing Confidential Information upon completion of the services CONTRACTOR is contracted to provide under this agreement.

- 42.1 Prior Written Approval: CONTRACTOR may not i) share Confidential Information or any other data received under this agreement, ii) publish, or iii) distribute such information without the prior written approval of the STATE.
- 42.2 In the event of termination of this agreement, CONTRACTOR shall return to STATE all Confidential Information, including student information, received under this agreement and further agrees to destroy any and all copies of, or references to, any Confidential Information, including student information, shared by STATE as a result of this agreement. CONTRACTOR shall certify in writing that all such copies have been destroyed or returned to the STATE.

#### **43. Allowable Costs For Parts**

If parts or materials are required for authorized repairs, the STATE shall compensate the CONTRACTOR for the part(s) at the CONTRACTOR's costs plus markup which shall not exceed twenty percent (20%). The CONTRACTOR's costs shall include cost of materials, shipping costs if applicable, and applicable taxes. If a subcontractor's service is required (subcontractor shall be duly licensed and subject to CA's approval), the CONTRACTOR's markup shall be limited to ten percent (10%), which shall include all the above mentioned expenses. Copies of CONTRACTOR's or subcontractor's invoices for material, shipping, and related costs shall be submitted along with the invoice for the completed work.

The CONTRACTOR shall notify the STATE when parts are not readily available to accomplish the repairs. The STATE reserves the right to have the parts sent by air freight or may supply the parts to the CONTRACTOR at the expense of the STATE.

#### **44. Exclusion of Specific Workers**

The STATE reserves the right to require the CONTRACTOR to remove an employee, agent, subcontractor or volunteer (Worker) from performing work under this contract. The Contract Administrator shall notify the CONTRACTOR in writing and this exclusion of a specific Worker(s) shall take effect as indicated on the notice. The CONTRACTOR may appeal this decision to the Contract Administrator, in writing within ten (10) working days of receipt of the notice. Removal of the employee, agent, subcontractor or volunteer shall remain in effect pending the outcome of the appeal. This provision shall not infringe upon the right of the CONTRACTOR to employ the removed individual, but shall apply to any work requiring interaction with the STATE, its employees or students.

#### **45. Records Retention**

Should the CONTRACTOR be aware of or be made aware of any dispute, disagreement, or request relating to the files, books, or records prior to their destruction, the CONTRACTOR shall retain the files, books, and records until said dispute, disagreement, or request has been fully resolved, including any

potential lawsuits or appeals. Said files, books, and records may thereafter be destroyed upon obtaining the agreement of the STATE.

## **PAYMENT**

### **46. Invoicing**

CONTRACTOR shall submit an original certified invoice, including the Project Name and appropriate District, contract number and the service period (Month/Year) to appropriate POCs listed below:

POC for Island of Oahu: Cheng-Hsin, Chang (DOE-FMB)  
Phone: (808) 382-5166  
E-mail Address: [cheng-hsin.chang@k12.hi.us](mailto:cheng-hsin.chang@k12.hi.us)

POC for Island of Oahu: Todd Kaulukukui (DOE-FMB)  
Phone: (808) 831-7324  
E-mail Address: [todd.kaulukukui@k12.hi.us](mailto:todd.kaulukukui@k12.hi.us)

POC for Islands of Maui: Jeffrey T. Pearson (DAGS-Maui)  
Phone: (808)873-3026  
E-mail Address: [jeff.pearson@hawaii.gov](mailto:jeff.pearson@hawaii.gov)

POC for Island of Kauai: Eric Agena (DAGS-Kauai)  
Phone: (808) 274-3033  
E-mail Address: [eric.m.agena@hawaii.gov](mailto:eric.m.agena@hawaii.gov)

Invoice shall include an itemized listing of schools, dates of service, type of service, and total price.

No payment shall be made for services not performed or for services without backup information such as school certified service report(s) to substantiate the required work was completed.

### **47. Payment**

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

The **final payment** on the contract shall be for services rendered during the billing period just prior to the contract anniversary date.

The following shall accompany the final payment invoice:

1. A valid (not over 2 months old) and **original** *Tax Clearance Certificate* (TCC) must accompany the final payment invoice. In accordance with Section 103-53, HRS, all CONTRACTORS must provide a TCC from the State of Hawaii Department of Taxation and the U.S. Internal Revenue Service as a prerequisite to receipt of final payment.
2. The *Certification of Compliance for Final Payment* (DOE Form-22) with an original signature of an authorized representative of the CONTRACTOR.
3. In lieu of the above, CONTRACTOR may submit an original *Certificate of Vendor Compliance* as issued via the online system, also referred to as "Hawaii Compliance

Express". Details regarding this online application process can be viewed at:  
<http://vendors.ehawaii.gov/hce/>.

## **APPROVALS**

### **48. State of Hawaii's General Conditions**

The Special Conditions shall serve to supplement the General Conditions; both documents remain part of the contract with full force and effect. In the case of a conflict between the General Conditions and Special Conditions, the Special Conditions shall control to the extent necessary to resolve the conflict.

### **49. Approvals**

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

Offeror: \_\_\_\_\_

**EXHIBIT A**

**OFFEROR INFORMATION**

Offeror shall provide the Exhibit A, including attachments if applicable, within three (3) working days from STATE's request.

**A. LICENSE AND/OR PERMIT**

At the time of bidding and throughout the contract period, Offeror must have a current State of Hawaii Contractor's C-37, C-43, or Wastewater Operator License to provide the wastewater treatment on file with/as issued by Hawaii State Board of Certification of Operating Personnel in Wastewater Treatment Facilities.

State of Hawaii C-37, C-43, or  
Wastewater Operator Plumbing  
Contractor License Number: \_\_\_\_\_

**B. COMPANY EXPERIENCE**

Offeror shall have a minimum of five (5) consecutive years of experience in maintaining septic systems. Offeror must be able to produce documentation to substantiate both experience and compliance requirements upon request.

Number of consecutive years of  
experience in the field of inspection,  
testing, certification and repair of  
backflow prevention devices \_\_\_\_\_ Years

**C. OFFICE LOCATION**

At the time of bid submittal, Offeror shall have an office location located in the State of Hawaii from where business is conducted and from where the company is accessible to telephone calls for complaints, trouble calls, and emergency services or requests that need immediate attention are received and processed, and where personnel are dispatched. An answering machine is not acceptable.

**Office Location**

Address Line 1 \_\_\_\_\_

Address Line 2 \_\_\_\_\_

Telephone Number \_\_\_\_\_

Facsimile Number \_\_\_\_\_

Normal Business Hours \_\_\_\_\_

Offeror: \_\_\_\_\_

**D. POINT OF CONTACT**

Offeror shall designate at least one (1) employee as the STATE point of contact (POC) for this contract. This individual shall be based in Hawaii and available during regular business hours, Monday through Friday excluding holidays, and shall be capable of answering questions, resolving problems, and providing sales, ordering, and follow-up assistance.

Name of POC and Cellular No. \_\_\_\_\_

E-mail Address (if available) \_\_\_\_\_

**E. PERSONNEL**

Offeror shall have an adequate number of employees assigned to provide services included in this contract, all who are qualified to perform IWS maintenance and service under this contract. All employees must be regular and full-time employees of the Offeror and must have a minimum of two (2) consecutive years of IWS maintenance and service experience immediately prior to bid opening date. For each employee, Offeror shall provide names and other requested information.

1 Employee Name \_\_\_\_\_

IWS Maintenance Qualification: \_\_\_\_\_

Regular and Full Time Employee? \_\_\_\_\_

Two (2) Consecutive Years IWS  
Maintenance and Service Experience? \_\_\_\_\_

2 Employee Name \_\_\_\_\_

IWS Maintenance Qualification: \_\_\_\_\_

Regular and Full Time Employee? \_\_\_\_\_

Two (2) Consecutive Years IWS  
Maintenance and Service Experience? \_\_\_\_\_



Offeror: \_\_\_\_\_

- 3 Employee Name \_\_\_\_\_
- IWS Maintenance Qualification: \_\_\_\_\_
- Regular and Full Time Employee? \_\_\_\_\_
- Two (2) Consecutive Years IWS  
Maintenance and Service Experience? \_\_\_\_\_

**F. REFERENCES**

Offeror shall list at least three (3) companies or government agencies to whom Offeror was or is providing maintenance and repair of wastewater treatment systems and who can attest to the reliability of Offeror's services and personnel. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

**Reference 1**

POC Name \_\_\_\_\_

Address Line 1 \_\_\_\_\_

Address Line 2 \_\_\_\_\_

Business Phone Number \_\_\_\_\_

Email Address \_\_\_\_\_

**Reference 2**

POC Name \_\_\_\_\_

Address Line 1 \_\_\_\_\_

Address Line 2 \_\_\_\_\_

Business Phone Number \_\_\_\_\_

Email Address \_\_\_\_\_

**Reference 3**

POC Name \_\_\_\_\_

Offeror: \_\_\_\_\_

Address Line 1 \_\_\_\_\_

Address Line 2 \_\_\_\_\_

Business Phone Number \_\_\_\_\_

Email Address \_\_\_\_\_

**EXHIBIT B**  
**Schedule of Individual Wastewater Systems**

Location	Item	No. of Units	Capacity	Model	Date Completed
<b>GROUP 1 - Island of Oahu</b>					
<b>Aerobic Treatment Unit, Septic Tank and Waste Water Pump Station</b>					
Kaaawa Elementary School	ATU-1	1	4,000 gallon	CBT4.0KFX 200	2/5/2010
Kaaawa Elementary School	Septic Tank	1	4 feet - 1,000 gallon	FRP	6/1/2010
Kaaawa Elementary School	WWPS-1	1	2-33 GPM Submers. Sewage Grinder Pumps	HPGLX200CD	6/1/2010
<b>GROUP 2 - Island of Maui</b>					
<b>Septic Tanks, Sewage Sump Pumps, Leach Fields and Sewer Lift Stations</b>					
Baldwin High School, Back of Band Room	Sewage Sump Pump	1	2 motors with control box	Unknown	Unknown
Haiku Elementary School, Near Portables	Septic Tank	1	5,116 gallon	Parallel tank flow configuration	Unknown
Haiku Elementary School, Near Leachfield	Septic Tank	1	5,116 gallon	2 compartment each tank	Unknown
Haiku Elementary School, Monthly inspection	Lift Station	1	1/2 HP	Unknown	Unknown
Hana High and Elementary School, Building A	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	5/29/2009
Hana High and Elementary School, Building Library	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	5/29/2009
Hana High and Elementary School, Building L	Septic Tank	1	8 feet - 8,000 gallon	Xerxes	5/29/2009
Hana High and Elementary School, Building E, C and Gymnasium	Septic Tank	2	8 feet - 9,000 gallon	Xerxes	5/29/2009
Hana High and Elementary School, Building I	Septic Tank	1	8 feet - 10,000 gallon	Xerxes	5/29/2009
Hana High and Elementary School, Building F	Septic Tank	1	6,000 gallon	Xerxes	
Hana; 5071 Uakea Road, Longhouse Cottage	Septic Tank	1	1,000 gallon	Jensen Precast Model JP 1000	9/1/2009
Hana; 4334 Hana Highway, Cottage A, B, C, D and E	Septic Tank	3	1,000 gallon	Jensen Precast Model JP 1001	9/1/2009
Hana; 4111 Hana Highway, Cottage F	Septic Tank	1	1,000 gallon	Jensen Precast Model JP 1002	9/1/2009
Kalama Intermediate School, Building Q	Septic Tank	2	17,400 gallon	1 compartment tank. Parallel tank flow. 2 compartment each tank	Unknown
Kalama Intermediate School, Weekly inspection-Clean as needed	Lift Station	1	2-3HP	Unknown	Unknown
King Kekaulike High School, Unit 1	Septic Tank	1	22,000 gallon	Cement	Unknown
King Kekaulike High School, Unit 2	Septic Tank	1	22,000 gallon	Cement	Unknown
King Kekaulike High School, Unit 3	Septic Tank	1	22,000 gallon	Cement	Unknown
King Kekaulike High School, Stadium	Sump pumps	1	2 motors with control box	Unknown	Unknown
Kula Elementary School, Building P-2	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	2/20/2009
Kula Elementary School, Building B	Septic Tank	1	8 feet - 8,000 gallon	Xerxes	2/20/2009
Kula Elementary School, Building P-11	Septic Tank	1	10 feet - 12,000 gallon	Xerxes	2/20/2009
Makawao Elementary School, Building A, Number 3	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	3/16/2009
Makawao Elementary School, Building P-13, Number 2	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	3/16/2009
Makawao Elementary School, Cafeteria, Number 1	Septic Tank	1	8 feet - 7,000 gallon	Xerxes	3/16/2009

**EXHIBIT B**  
**Schedule of Individual Wastewater Systems**

<b>Location</b>	<b>Item</b>	<b>No. of Units</b>	<b>Capacity</b>	<b>Model</b>	<b>Date Completed</b>
Paia Elementary School, Building A	Septic Tank	1	3,000 gallon	Xerxes	Unknown
Paia Elementary School, Building H	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	1/26/2010
Paia Elementary School, Building D	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	1/26/2010
Paia Elementary School, Building B	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	1/26/2010
Paia Elementary School, Building F-G	Septic Tank	1	8 feet - 11,000 gallon	Xerxes	1/26/2010
Paia Elementary School, Building B	Leach Field	1	154 chamber	ADS	1/26/2010
Paia Elementary School, Building A	Leach Field	1	56 chamber	ADS	1/26/2010
Paia Elementary School, Building D	Leach Field	1	554 chamber	ADS	Unknown
Puunene Elementary School, Building D and F	Septic Tank	2	6 feet - 2,000 gallon	Xerxes	6/2/2008
Puunene Elementary School, Building A	Septic Tank	1	6 feet - 6,000 gallon	Xerxes	6/2/2008
Puunene Elementary School	Leach Field	1	144 chamber	ADS	6/2/2008
Waihee Elementary School	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	10/1/2009
Waihee Elementary School	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
<b>GROUP 3 - Island of Kauai</b>					
<b>Septic Tanks and/or Dosing Tanks, Sewage Pumps, Preloader Tanks, Leach Fields, Wastewater Pump Station and Aerobic Treatment Units</b>					
Anahola Elementary School, Building C	Septic Tank	1	8 feet - 8,000 gallon	Xerxes	10/8/2008
Eleele Elementary School, Building O-Near Preschools	WWPS-1	1	2HP	HPGX200CD	7/1/2009
Eleele Elementary School, Building I	WWPS-2	1	5HP	HPGHX500	7/1/2009
Hanalei Elementary, Building C, Cafeteria	Septic Tank	1	4,847 gallon	concrete	8/12/1996
Hanalei Elementary, Courtyard, Building A and D	Septic Tank	1	3,366 gallon	concrete	10/20/1987
Kalaheo Elementary School, Building M (Cafeteria) and Portable P-1	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	1/8/2009
Kalaheo Elementary School, Building C	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	1/8/2009
Kalaheo Elementary School, Building M (Cafeteria)	Septic Tank	1	8 feet - 4,000 gallon	Xerxes	1/8/2009
Kalaheo Elementary School, New Administration Building (Building E)	Septic Tank	1	1000 gallon	JP1000 Concrete	7/21/2014
Kalaheo Elementary School, Building I and J	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	1/8/2009
Kalaheo Elementary School, Building A and G	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	1/8/2009
Kapaa High School, Portable P4031	WWPS-1	1	3HP	HPGHX300DD	6/2/2009
Kapaa Middle School, Building PB2	Septic Tank	2	16,814 gallon	concrete	7/5/1997
Kapaa Middle School, Building PB2	Dosing Tank	1	8,584 gallon	concrete	7/5/1997
Kapaa Middle School, Building PB2	Sewage Pump	2	5 HP	460 GPM, 35 TDH	7/5/1997
Kauai High School, Building A	Septic Tank	1	5,000 gallon	Concrete	12/20/2000
Kauai High School, Building B	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
Kauai High School, Building C	Septic Tank	1	8 feet - 14,000 gallon	Xerxes	10/1/2009
Kauai High School, Farm Shop	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	10/1/2009
Kauai High School, Building G	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	10/1/2009

**EXHIBIT B**  
**Schedule of Individual Wastewater Systems**

<b>Location</b>	<b>Item</b>	<b>No. of Units</b>	<b>Capacity</b>	<b>Model</b>	<b>Date Completed</b>
Kauai High School, Building H	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
Kauai High School, Building I	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	10/1/2009
Kauai High School, Building I (2)	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	10/1/2009
Kauai High School, Building J	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	10/1/2009
Kauai High School, Building J (2)	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
Kauai High School, Building K	Septic Tank	1	8 feet - 9,000 gallon	Xerxes	10/1/2009
Kauai High School, Building L	Septic Tank	1	8 feet - 11,000 gallon	Xerxes	10/1/2009
Kauai High School, Building L (2)	Septic Tank	1	10 feet - 22,000 gallon	Xerxes	10/1/2009
Kauai High School, Building M	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	10/1/2009
Kauai High School, Building O	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	10/1/2009
Kauai High School, Portable P4045 (P20)	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	10/1/2009
Kauai High School, Building Q	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
Kauai High School, Building T	Septic Tank	1	10 feet - 20,000 gallon	Xerxes	10/1/2009
Kauai High School, Building U	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
Kauai High School, Building V	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	10/1/2009
Kauai High School, Building Y	Septic Tank	1	6 feet - 5,000 gallon	Xerxes	10/1/2009
Kekaha Elementary School, at ATU-1 and ATU-2	Preloader Tanks	2	1,000 gallon	Orenco	3/10/2010
Kekaha Elementary School, Building B and Port P-2	WWPS-1	1	3HP	HPGLX200CD	3/10/2010
Kekaha Elementary School, Building F	ATU-1	1	8,000 gallon	CBT8.0KFX 200	3/10/2010
Kekaha Elementary School, Building B and Port P-2	ATU-2	1	12,500 gallon	CBT12.5KFX 200	3/10/2010
Kilauea Elementary School, Classroom D	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	5/16/2007
Kilauea Elementary School, Building A	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	5/16/2007
Kilauea Elementary School, Building F	Septic Tank	1	1,800 gallon	round concrete	7/22/1998
Kilauea Elementary School, Building E	Septic Tank	1	3,112 gallon	twin, multi-chamber, concrete	11/22/1991
Kilauea Elementary School, Building B	Septic Tank	1	1000 gallon	JP1000 Concrete	4/13/2018
Kilauea Elementary School, Cafeteria	Septic Tank	1	5,000 gallon	concrete	12/1/2000
Koloa Elementary School, Building I	Septic Tank	1	4 feet - 1,000 gallon	Xerxes	3/7/2009
Koloa Elementary School, Building I	Septic Tank	1	6 feet - 1,500 gallon	Xerxes	3/7/2009
Koloa Elementary School, Building C	Septic Tank	1	6 feet - 3,000 gallon	Xerxes	3/7/2009
Koloa Elementary School, Building G	Septic Tank	1	6 feet - 4,000 gallon	Xerxes	3/7/2009
Koloa Elementary School, Building PT-1	Septic Tank	1	8 feet - 4,000 gallon	Xerxes	3/7/2009
Koloa Elementary School, Building I and J	Septic Tank	1	8 feet - 11,000 gallon	Xerxes	3/7/2009

# GENERAL CONDITIONS

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## GENERAL CONDITIONS

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

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

3. Personnel Requirements.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

### 13. Termination for Default.

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

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

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

#### 14. Termination for Convenience.

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

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

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

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

- d. Compensation.

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

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

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

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

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

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

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or

- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

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

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

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

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

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

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

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

17. Payment Procedures; Final Payment; Tax Clearance.

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

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

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

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

proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

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

21. Price Adjustment.

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

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

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

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



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

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
  - b. A state contract, including subcontracts, other than a firm fixed-price contract.

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

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

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

31. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

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

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

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
  - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

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

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

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

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

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.