



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
ENVIRONMENTAL MANAGEMENT DIVISION

OCTOBER 21, 2024

INVITATION FOR BIDS  
IFB No. EMD-2025-F01

FOR THE PROVISION OF  
TEMPORARY CLASSIFICATION & REORGANIZATION STAFFING SERVICES

Bids shall be received via the Hawaii State eProcurement System (“HIePRO”) no later than the date and time stated on HIePRO and must be submitted in strict accordance with the instructions therein.

Questions relating to this solicitation may be directed to:

Nancy Bartter  
2827 Waimano Home Road, Room 310  
Pearl City, HI 96782  
Phone: (808) 586-7567  
Email: [nancy.bartter@doh.hawaii.gov](mailto:nancy.bartter@doh.hawaii.gov)

The Department of Health reserves the right to reject any or all bids and waive any defects when such rejection will be in the best interest of the public.

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## SECTION 1: ADMINISTRATIVE OVERVIEW

Bidders are encouraged to read each section of the IFB thoroughly. While sections such as the administrative overview may appear similar among IFBs, state purchasing agencies may add additional information as applicable. It is the responsibility of the Bidder to understand the requirements of *each* IFB.

- A. Bidders may submit questions to this IFB solicitation in the Q&A section in HIePRO. Written questions must be received by the date and time specified in HIePRO. The purchasing agency will respond to written questions to the IFB at the date and time specified in HIePRO.
- B. Bidders shall designate those portions of their bid that contain trade secrets or other proprietary data that are to remain confidential, subject to Hawaii Administrative Rules (“HAR”), Section 3 122-30(c) and (d). The material designated as confidential shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid.

*Note that price is not considered confidential and will not be withheld.*

- C. This IFB is issued under the provisions of the Hawaii Revised Statutes (“HRS”) Chapter 103D and its administrative rules, HAR Chapters 3-120 to 3-132. All prospective Bidders are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a bid by any prospective Bidder shall constitute admission of such knowledge on the part of such prospective Bidder.
- D. The award of a contract and any allowed renewal or extension thereof, is subject to allotments made by the Director of Finance, State of Hawaii, pursuant to HRS Chapter 37, and in accordance with §103D-309, HRS, and subject to the availability of State and Federal funds.
- E. A Notice of Award of the Contract shall be made to the lowest responsive, responsible bidder or bidders.
- F. The Notice of Award shall be made available in HIePRO. Failure by the chosen vendor to inform the Contact Person of an intent to accept the award within five (5) days of the Notice of Award will be deemed a rejection of the award. The chosen vendor shall accept award by emailing the Contact Person listed in this IFB and paying the HIePRO fee.

- G. Pursuant to HAR §3-122-97, a bid shall be rejected for reasons including but not limited to:
1. The bidder is non-responsible as determined in HAR 3-122 subchapter 33; or
  2. The bid is not responsive, that is, it does not conform in all material respects to the solicitation by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the solicitation, pursuant to HAR section 3-122-33.
- H. The Contractor shall be subject to a one-time mandatory HiePRO fee of .75% (0.0075) of the award amount or \$5,000.00, whichever is less. HiePRO is administered by Tyler Technologies, Inc. Tyler Technologies, Inc. shall invoice the Contractor directly for payment of the HiePRO fee. Payment must be made within thirty (30) days from receipt of invoice.

## SECTION 2: SPECIAL PROVISIONS

- A. TERM OF CONTRACT. The CONTRACTOR shall enter into a fixed price with price adjustment Contract for the provision of temporary Classification & Reorganization Staffing (CRS) services for a twelve (12) month period.
  
- B. OPTION TO RENEW. Unless terminated, the contract may be extended for not more than five (5) additional twelve (12) month periods without the necessity of rebidding, upon mutual agreement, in writing, prior to expiration of the Contract, subject to availability of funding.
  
- C. PRICE ADJUSTMENT. Bid prices may be eligible for adjustment to reflect fair market value at the time of optional renewal. Rate increases shall not exceed ten percent (10%) of the current period rate. In the event a temporary staff member is removed from their assignment and a replacement is required, and the replacement staff has more experience than the minimum required, the State reserves the right to accept a higher cost, not to exceed ten percent (10%).
  
- D. CONTRACT EXECUTION. The successful Bidder or Bidders shall enter into a formal written contract with the STATE. In submitting a bid, the Bidder or Bidders will be deemed to have agreed to each provision set forth in Attachment 1, General Conditions, Attachment 2, Special Conditions, and any other terms as may be agreed to by the STATE and CONTRACTOR. The STATE shall have no obligation to accept terms and conditions that vary from those set forth in the aforementioned attachments.

Upon selection and award of the contract, the STATE may send the formal contract to the successful Bidder or Bidders via an electronic signature process. The STATE reserves the right to cancel any contract and request new bids or negotiate with remaining Bidders if the STATE is not satisfied with the awarded Contractor's performance.

No work is to be undertaken by the Bidder or Bidders awarded a contract prior to the contract commencement date, unless the CONTRACTOR receives a formal Notice to Proceed from the STATE. The State of Hawaii is not liable for any costs incurred prior to the official starting date of the contract.

No contract shall be considered binding upon the STATE until the contract has been fully and properly executed by all parties thereto.

E. The STATE shall reserve the right to choose not to fill a temporary position at its sole discretion, if it is in the best interest of the STATE.

F. OWNERSHIP, CONFIDENTIALITY AND DATA SECURITY. The CONTRACTOR(s) shall ensure that personnel engaged pursuant to a Contract shall adhere to all State laws, policies, procedures, and guidelines relating to confidential information, including personal identifiable information and health information and take reasonable precautions to prevent the unauthorized disclosure of any and all individual identifiable health information required to be obtained, used, and maintained by the STATE under a Contract, in accordance with Article I, Section 6, Right to Privacy, of the Hawaii State Constitution, and sections 325-4 and 321-29(g), HRS.

### **SECTION 3: SPECIFICATIONS**

- A. **DESCRIPTION OF SERVICE GOALS:** The STATE is seeking to contract for a temporary employee to support the Hawaii Department of Health Environmental Management Division (“EMD”) human resources classification and reorganization activities.
- B. **QUANTITY:** One (1) temporary staff member per temporary position for Classification & Reorganization Staffing (CRS) services as identified in Exhibit “A,” Position Description – CRS”, shall be provided.
- C. **SCHEDULE:** Temporary staff assigned to the STATE shall be required to work normal business hours, Monday through Friday, 7:45am-4:30pm, Hawaii Standard Time (“HST”), excluding STATE recognized holidays, attached hereto as Exhibit “C” and made a part hereof, for the duration of the Contract unless otherwise approved by the DOH. Overtime may be required and shall be approved in advance at the STATE’s discretion.
- D. **SERVICE DELIVERY AND ACCOMPANYING REPORTING:**
1. The satisfactory provision of goods and services will be monitored by the STATE Contract Administrator (“CA”). Performance will be monitored on an ongoing basis by the STATE through desk monitoring and/or other methods by the STATE CA, or designee(s).
  2. Should the CONTRACTOR fail to comply with the requirements of the contract, the STATE may request a written corrective action plan, a timeline for implementation, and the responsible parties to the STATE. The STATE will monitor the CONTRACTOR for implementation of the corrective action plan. The STATE reserves the right to request regular or additional report(s) on progress toward compliance with the contract and the corrective action plan.
  3. Should the CONTRACTOR continue to fail to comply with the requirements of the contract, the STATE reserves the right to engage the services of another to perform the services to remedy the defect or failure and to deduct such costs from monies due to the CONTRACTOR or to directly assess the CONTRACTOR.
  4. In the event the CONTRACTOR fails, refuses, or neglects to perform services in accordance with the requirements of this IFB and the Contract, the STATE reserves the right to purchase in the open market corresponding services and to deduct this cost from the monies due or that may thereafter become due to the CONTRACTOR. If monies due to the CONTRACTOR is insufficient for this purpose, the CONTRACTOR shall pay the difference upon demand by the STATE. The STATE may also utilize all other remedies provided under the contract and/or as permitted by law. In the event the CONTRACTOR is not performing the required services as

contracted, the STATE reserves the right to extend the contract for intervals of less than twelve (12) months. During this time, the STATE will monitor the CONTRACTOR's performance and/or improvement and the implementation of its corrective action plan to determine whether the STATE will continue to contract with the CONTRACTOR.

5. The CONTRACTOR shall designate a contact person who will be responsible for the project oversight and ensure contract performance. The contact person will be able to respond to the STATE inquiries, complaints, and/or problems within one (1) working day.
6. The STATE CA may send a monitoring report to the CONTRACTOR's contact person. The monitoring report will document any discrepancies or contract violation(s) for correction within the designated time period provided.
7. The STATE CA shall act as the contract monitor and principal liaison between the CONTRACTOR and the STATE. The STATE CA shall assist in resolving policy questions, expediting decisions, and the review of the work performed.
8. The CONTRACTOR shall submit timesheets with invoices as back up documentation to support costs charged to the STATE.

E. GEOGRAPHIC LOCATION:

State of Hawaii Department of Health  
Hale Ola Building  
2827 Waimano Home Road  
Pearl City, Hawaii 96782

F. POINT OF CONTACT:

Joanna L. Seto, P.E.  
2827 Waimano Home Road, Room 234  
Pearl City, Hawaii 96782  
Tel. 808-586-4304  
Email: [joanna.seto@doh.hawaii.gov](mailto:joanna.seto@doh.hawaii.gov)

G. MINIMUM REQUIREMENTS:

1. The Bidder shall have an office located within the State of Hawaii. Services may be required to be performed in person and the STATE shall not reimburse for relocation or travel expenses, except as explicitly stated in the service specifications herein.
2. The Bidder shall have been in business providing staffing services for a minimum of five (5) years.
3. The Bidder shall submit resumes of qualified staff for each position at time of bid, and have qualified personnel available to start immediately. Minimum staff



qualifications are included in Exhibit “A.”

4. The Bidder shall have prior experience contracting with the government.

#### H. SERVICE SPECIFICATIONS

##### CONTRACTOR’S RESPONSIBILITIES:

1. The CONTRACTOR shall provide temporary CRS services for positions outlined in Exhibit “A”, attached hereto and made a part hereof, to the STATE on a temporary or temp-to-hire basis. These services shall include, but are not limited to, the following:
  - a. Recruiting, pre-screening, and onboarding qualified candidates based on the position and work requirements provided by the STATE;
    - i. Pre-screening shall include appropriate background screening of staff prior to commencing work including the following:
      - a) Education verification – highest degree earned.
      - b) Third party employment verification – last two (2) employers or to the extent possible, if less than two previous employers.
      - c) Reference check – two (2) professional references or to the extent possible, if previous employment history is limited and/or previous employer’s policies do not allow for comment.
      - d) Background check – inclusive of a criminal history record check for the previous ten (10) years. The CONTRACTOR shall apply suitability standards to determine if the selected candidate is appropriate for the assignment to the STATE. Cost of background checks shall be the responsibility of the CONTRACTOR and will not be paid for by the STATE.
  - b. Identify temporary workers (to be approved by the STATE) for both short- and long-term assignments;
  - c. Providing a pathway for temp-to-hire conversion of the CONTRACTOR’s temporary worker; and
    - i. The STATE Human Resources (“HR”) team shall inform the CONTRACTOR if the STATE would like to convert the temporary worker to a permanent employee.
  - d. Providing other related services as needed and/or as agreed upon by both the CONTRACTOR and the STATE.
2. The CONTRACTOR shall work directly with the STATE’s HR team and division chief to understand the role of the vacancy or need, as well as understand the parameters that constitute a good fit for the STATE.
3. All information exchanged over the course of the Contract between the CONTRACTOR and the STATE shall remain strictly confidential.

4. The CONTRACTOR shall have and utilize an employee handbook, or something similar, with established protocol, policies, and standards to ensure consistency and professionalism.
5. The CONTRACTOR shall employ methods to ensure low staff turnover for duration of assignment.
6. The CONTRACTOR shall maintain documentation of organization compliance with federal and state health and safety standards, including elements required by the Occupational Safety and Health Administration (“OSHA.”)
7. The CONTRACTOR shall ensure that staff assigned to a temporary or a temp-to-hire position shall meet minimum qualifications, including licensing and experience requirements.

#### QUALIFICATION AND REQUIREMENTS

1. The CONTRACTOR shall be the employer of record for all personnel provided under this contract; process payroll, withhold and remit federal, state and local taxes in compliance with applicable law; provide and administer benefits and benefit plans as applicable, and produce and retain records of employment in accordance with applicable law. If a temp-to-hire staff member is hired by the STATE, this shall apply until the temp-to-hire staff member is officially hired.
2. The CONTRACTOR shall be solely responsible for the behavior and conduct of its employees or agents while on assignment with the STATE. High-level supervision will be the responsibility of the CONTRACTOR.
3. The CONTRACTOR shall ensure the confidentiality of all information, documents, or materials viewed or discussed. The CONTRACTOR’s personnel shall not disclose confidential information to the general public without the expressed written consent of the STATE by either policy, rules, or letter. The CONTRACTOR’s personnel assigned to the STATE shall be required to review and sign the Department of Health Information Technology Acceptable Use Policy prior to appointment.
4. The CONTRACTOR agrees to remove any of its employees from service to the STATE upon written request by the STATE CA. At the request of the STATE, the CONTRACTOR shall remove forthwith and shall not employ in any portion of the work, any person who, in the opinion of the STATE, does not perform the assigned duties and responsibilities in a proper and skillful manner, is intoxicated, disorderly, abusive, or unable to demonstrate tact and diplomacy in dealing with the public and/or other STATE staff.
5. The temporary staff may be required to work remotely using their own computer equipment and internet access and the CONTRACTOR understands that internet is not a reimbursable expense.
6. The temporary staff, if provided with STATE equipment, shall be required to sign a Payroll Deduction Authorization Form, provided to the CONTRACTOR staff by the

CONTRACTOR prior to employment, as well as a STATE acknowledgment of receipt of equipment. Temporary staff assigned equipment shall be held responsible for the return of any equipment issued. Equipment must be returned in functional working order, or the CONTRACTOR staff shall be subject to covering any repair or replacement costs.

- a. If the amount of payroll will not cover the value of damaged equipment, the STATE reserves the right to reclaim monies owed by other means including but not limited to legal action.
7. The STATE may allow a temporary employee to work overtime hours if overtime work is authorized and approved in advance by the STATE. The overtime request and justification shall be submitted to the STATE and approved at least twenty-four (24) hours in advance prior to temporary employee performing overtime work. All authorized and approved work performed in excess of forty (40) hours in one (1) week shall be considered overtime work and shall be paid at a rate of one and one-half (1 and 1/2) times the temporary employee's rate of pay. Overtime hours shall be capped and shall not exceed ten (10) hours per work week.
8. The CONTRACTOR shall provide Worker's Compensation coverage for work hours.

#### COMPENSATION AND PAYMENT

1. Any contract resulting from this IFB shall be a cost-reimbursement contract.
2. Positions listed in Exhibit "A" may be used at the STATE's discretion, and payments shall not be made for any unused or unfilled positions.
3. Payments shall be made to the CONTRACTOR within thirty (30) days upon receipt of monthly or bi-weekly (to be determined during contract negotiation) submission by the CONTRACTOR of invoices for the services provided in accordance with the scope of services and in accordance with the rate schedule. The STATE shall withhold not more than five percent (5%) of the total contract amount until final settlement of the contract.
4. The CONTRACTOR shall submit monthly or bi-weekly (to be determined during contract negotiation) invoices for the billing period and identify services performed for each individual referred to the CONTRACTOR under the contract. The CONTRACTOR shall certify that the billing information is accurate and that services were actually provided.
5. Original invoices shall be submitted electronically to the CA.
6. The price per hour shall include all labor, required supplies, applicable taxes, and any other costs necessary to perform the services required under the contract.
7. Final settlement of the contract shall include submission and acceptance of all reports and other materials to be submitted by the CONTRACTOR to the STATE,

resolution of all discrepancies in the performance of services, and completion of all other outstanding matters under the contract.

8. The final invoice shall be submitted within forty-five (45) days after the termination date of the contract. No payment shall be made if invoices are not received by the STATE within forty-five (45) days after the termination date of the contract.
9. The CONTRACTOR shall submit original invoices to Joanna L. Seto, P.E.

If electronically:

[doh.emd@doh.hawaii.gov](mailto:doh.emd@doh.hawaii.gov)

If by mail:

Department of Health

Environmental Management Division

ATTN: Joanna L. Seto, P.E.

2827 Waimano Home Road, Room 234

Pearl City, Hawaii 96782

10. All invoices shall reference the Contract number and purchase order number assigned to the contract.

## **SECTION 4: BID SUBMISSION INSTRUCTIONS AND REQUIREMENTS**

- A. To be considered responsive, a Bidder's quote must be for all items specified in this solicitation (and subsequent addenda, if any.) Any bid offering any other set of terms and conditions contradictory to those included herein (or in any subsequent addenda) may be rejected without further consideration.
- B. The following must be submitted with your bid. Failure to include items below may result in rejection of your bid.
1. A current Certificate of Vendor Compliance obtained through Hawaii Compliance Express ("HCE,") at <https://vendors.ehawaii.gov/hce/> dated no earlier than one week prior to the offer submission date.

OR

2. All of the following certificates:
  - a. **TAX CLEARANCE CERTIFICATE** – A valid tax clearance certificate or current special letter signed by both the Department of the Internal Revenue Service ("IRS") certifying that the Bidder does not owe the State of Hawaii and the IRS any delinquent taxes, penalties, or interest must be submitted with all sealed bids. Failure to submit the required tax clearance certificate or special letter will be sufficient grounds for the STATE to refuse to receive or consider the prospective Bidder's bid.

The tax clearance certificate shall be obtained on the State of Hawaii, Department of Taxation Tax Clearance Application Form A-6 which is available at the Department of Taxation and the IRS' office in the State of Hawaii, or on the Department of Taxation's website <https://tax.hawaii.gov>.

The application for the tax clearance is the responsibility of the successful Bidder and must be submitted directly to the Department of Taxation or the IRS and not the purchasing agency.

- b. **DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS CERTIFICATE OF COMPLIANCE (FORM LIR#27)** – HRS chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) are required for award.

Instructions are as follows:

Pursuant to §103D-310(c), HRS, the successful Bidder shall be required to submit an approved certificate of compliance by the State of Hawaii Department of Labor and Industrial Relations (“DLIR”). The certificate is valid for six (6) months from the date of issuance and must be valid on the date it is received by the purchasing agency.

The certificate shall be obtained on the State of Hawaii, DLIR APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR, form, LIR#27, which is available at <https://labor.hawaii.gov>. The DLIR will return the form to the successful Bidder who in turn shall submit to the purchasing agency.

The application for the certificate is the responsibility of the successful Bidder and must be submitted directly to the DLIR and not the purchasing agency.

AND

- c. **DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS (DCCA) CERTIFICATE OF GOOD STANDING** – To be eligible for award, the successful Bidder must comply as follows:

A business entity referred to as a “Hawaii Business,” is registered and incorporated or under the laws of the State of Hawaii. As evidence of compliance, Bidder shall submit a CERTIFICATE OF GOOD STANDING.

To obtain a CERTIFICATE OF GOOD STANDING, go online to <https://labor.hawaii.gov> and follow the prompt instructions. To register or to obtain a CERTIFICATE OF GOOD STANDING by phone, call (808) 586-2727 during business hours.

The CERTIFICATE OF GOOD STANDING is valid for six (6) months from the date of issuance and must be valid on the date it is received by the purchasing agency. Bidders are advised that there are costs associated with registering and obtaining a CERTIFICATE OF GOOD STANDING from DCCA.

- C. Any bid that contains any erasures or alterations not properly initialed or contains other irregularities may be rejected, if not in the best interest of the STATE. Any offer that constitutes a conditional bid or a counter proposal will be rejected.

- D. The bid price shall include all applicable taxes and fees required to perform the services requested herein.

Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and Bidders are advised that they are liable for the General Excise Tax, (“GET”) and all other applicable taxes. If, however, the Bidder is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, the Bidder shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption.

- E. Bids for each position shall be evaluated on an individual basis. Separate awards will be made for each position to the lowest responsive, responsible bidder. If one bidder provides the lowest bid for multiple positions, that bidder will be awarded those positions. For the purposes of this procurement, total position price shall govern, and multiple contracts may be awarded. The STATE must formally approve a candidate in order for the proposed candidate to be placed in an assignment. CONTRACTORS are informed that the staff proposed by the CONTRACTOR in response to this IFB may not meet the needs of the STATE and the STATE reserves the right to request a replacement candidate prior to contract execution.
- F. A Bidder must complete, in its entirety, the “Offer Form,” attached hereto as Attachment 3 and made a part hereof, and identify the name and telephone number of a person who may be contacted during the selection process.
1. By signing the “Offer Form,” the Bidder agrees to comply with the requirements of this solicitation, and all applicable federal and State laws.
  2. The “Offer Form” must be signed by a partner or principal (an original signature is required) who has authority to bind the Bidder, and evidence of that authority must be attached and the corporate seal, if any, affixed to the “Offer Form”. A bidder who submits an unsigned Offer Form will be deemed non-responsive.
- G. A Bidder is required to submit its bid using the Bidder’s exact legal name, as registered in the state in which it is incorporated. Failure to do so may delay proper execution of the contract.
- H. A Bidder must complete, in its entirety, the “Price Quotation Form,” attached hereto as Attachment 4 and made a part hereof. A Sample Price Quotation Form is attached hereto as Exhibit “B” to assist Bidders with their completion of the Price Quotation Form. Price Quotation Forms that are not completed correctly will be considered non-responsive.

- I. Bid submittal shall include the following documents, completed in their entirety:
  - 1. Offer Form,
  - 2. Price Quotation Form,
  - 3. Resumes of proposed staff (for each position) to be assigned to the STATE,
  - 4. Experience and capability statement showing the Bidder meets the minimum requirements of this IFB inclusive of a list of past government contracts, and
  - 5. Hawaii Compliance Express certificate OR all documents required to prove compliance as outlined in Section 4 subsection B.2.
  
- J. All materials submitted shall become the property of the State, unless otherwise noted, and shall not be returned.
  
- K. Bids shall be submitted via HlePRO. Bids must be received by the submittal deadline. Any bids received after that date and time shall be rejected. Faxed or e-mailed bids shall not be accepted or considered for award.
  
- L. Bidders shall input the total position price per position in HlePRO. Total position price shall be calculated as detailed in the Sample Price Quotation Form (Exhibit "B.") The unit of measure is per year. Failure to submit bids properly may result in rejection of bid.
  
- M. Any and all costs incurred by a Bidder in preparing or submitting a bid shall be the Bidder's sole responsibility and shall not be reimbursed by the State.



**SECTION 5: ATTACHMENTS AND EXHIBITS**

ATTACHMENT 1: GENERAL CONDITIONS

ATTACHMENT 2: SPECIAL CONDITIONS

ATTACHMENT 3: OFFER FORM

ATTACHMENT 4: PRICE QUOTATION FORM

EXHIBIT A: POSITION DESCRIPTION – CRS

EXHIBIT B: SAMPLE PRICE QUOTATION FORM

EXHIBIT C: STATE OBSERVED HOLIDAYS 2024-2025

## 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.



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1. Responsibility of Contractors. In order to comply with Section 6, Act 52, HSL 2003, which amended section 103D-310, HRS, the CONTRACTOR shall provide as proof of compliance with the requirements of section 103D-310 (c), HRS, the following documents:
  - a. A tax clearance certificate from the State Department of Taxation and the Internal Revenue Service, subject to section 103D-328, HRS, current within six (6) months of the issuance date;
  - b. A certificate of compliance for chapters 383, 386, 392, and 393, HRS, from the State Department of Labor and Industrial Relations, current within six (6) months from the issuance date; and
  - c. A certificate of good standing from the Business Registration Division of the State Department of Commerce and Consumer Affairs, current within six (6) months from the issuance date.
  - d. Section 103D-310(c) of the HRS was amended by Act 190, HSL 2011, by adding language that if a vendor is participating in Hawaii Compliance Express ("HCE"), State and County procurement personnel are required to verify compliance via HCE. All other vendors are encouraged to subscribe to HCE, but if paper certificates are submitted, the State Procurement Office highly recommends that, State and County personnel contact the issuing agency to verify its validity as there have been fraudulent paper certificates submitted in the past.
2. Final Payment. The Certificate of Vendor Compliance, if any, obtained for final payment is valid for two (2) months.
3. Campaign Contributions by State and County Contractors. Contractors are hereby notified of the applicability of Section 11-355, HRS, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.
4. Insurance. The CONTRACTOR shall obtain, maintain, and keep in force throughout the period of this Contract the following types of insurance:
  - a. General liability insurance issued by an insurance company in the amount of at least ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) for bodily injury and property damage liability arising out of each occurrence and TWO MILLION



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AND NO/100 DOLLARS (\$2,000,000.00) aggregate.

The insurance shall be obtained from a company authorized by law to issue such insurance in the State of Hawaii (or meet Section 431: 8-301, Hawaii Revised Statutes, if utilizing an insurance company not licensed by the State of Hawaii).

For general liability insurance, the insurance coverage shall be primary and shall cover the insured for all work to be performed under the Contract, including changes, and all work performed incidental thereto or directly or indirectly connected therewith. The CONTRACTOR shall maintain in effect this liability insurance until the STATE has certified that the CONTRACTOR's work under the Contract has been completed satisfactorily.

Prior to or upon execution of this Contract, the CONTRACTOR shall obtain a certificate of insurance verifying the existence of the necessary insurance coverage in the amounts stated above.

Each insurance policy required by this Contract shall contain the following clause:

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

The general liability insurance policies required by this Contract shall contain the following clause:

The State of Hawaii and its officers and employees are additional insured with respect to operations performed for the State of Hawaii.

The certificate of insurance shall indicate these provisions are included in the policy.

The CONTRACTOR shall immediately provide written notice to the contracting department or agency should any of the insurance policies evidenced on its certificate of insurance forms be cancelled, limited in scope, or not renewed upon expiration.

If the scheduled expiration date of the insurance policy is earlier than the expiration date of the time of performance under this Contract, the CONTRACTOR, upon renewal of the policy, shall promptly cause to be provided to the STATE an updated certificate of insurance.

5. Option to Extend Contract. Unless terminated, this Contract may be extended by the STATE for specified periods of time not to exceed four (4) year(s) or for not more than



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four (4) additional twelve (12)-month period(s), upon mutual agreement and the execution of a supplemental contract or contract modification.

This Contract may be extended provided that the Contract price shall remain the same or is adjusted per the Contract Price Adjustment provision stated herein.

The STATE may terminate the extended agreement at any time in accordance with General Conditions no. 14.

6. Contract Price Adjustment. The Contract price may be adjusted prior to the beginning of the extension period and shall be subject to allotment and the availability of state/special/federal funds.
7. Audit Requirements.
  - a. Nonprofit organizations that expend \$750,000.00 or more in a year of federal funds from any source shall have a single audit conducted for that year in accordance with the Single Audit Act Amendments of 1996, Public Law 104-156.
  - b. If the preceding condition applies, the CONTRACTOR shall conduct a financial and compliance audit in accordance with the guidelines identified in Exhibit "B," attached hereto and made a part hereof. Failure to comply may result in the withholding of payments to the CONTRACTOR.
  - c. Nonprofit organizations that expend less than \$750,000.00 a year in federal funds are exempt from federal audit requirements for that year, however, records shall be available for review or audit by appropriate officials of the federal awarding agency, the STATE, or General Accounting Office.
  - d. If the CONTRACTOR is exempt from federal audit requirements in accordance with subparagraph c., above, the cost of any audit conducted on behalf of the CONTRACTOR shall not be charged to the federal portion of this Contract.
8. Certification Regarding Environmental Tobacco Smoke. The CONTRACTOR shall comply with the requirement of the Pro-Children Act of 1994 and by signing the "Certification Regarding Environmental Tobacco Smoke," attached hereto as Exhibit "A" and made a part of this Contract, acknowledges that it is a subgrantee of federal funds to be received under the Federal Grant.
9. The CONTRACTOR shall comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-



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352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

10. Counterparts and Electronic Signatures. This Contract may be executed in counterparts and by facsimile or any electronic means, each of which shall be an original instrument and all of which shall together constitute one and the same agreement and shall be fully binding and effective for all purposes.

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, Part C – Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan or loan guarantee. The law does not apply to children’s services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this document the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which subgrantees shall certify accordingly.

\_\_\_\_\_  
**Organization**

\_\_\_\_\_  
**Authorized Signature** **Date**

\_\_\_\_\_  
**Title**

## GUIDELINES FOR ORGANIZATION-WIDE AUDITS

Pursuant to the Single Audit Act Amendments of 1996, Public Law 104-156, the STATE is requiring A-133 audits from subrecipients who expend \$750,000 or more of federal funds in a year.

The audits must be conducted in accordance with the following standards:

1. Generally accepted auditing standards issued by the American Institute of Certified Public Accountants.
2. Government Auditing Standards issued by the Comptroller General of the United States.
3. Office of Management and Budget (OMB) Circular A-133, "Audits of states, local governments, and nonprofit organizations," dated June 30, 1997.

The audits must be conducted on an annual basis and submitted to the STATE within nine (9) months after the end of the audit period.

The audit report shall include the following:

1. The organization-wide financial statements prepared in accordance with generally accepted accounting principles or other comprehensive basis of accounting.
2. A schedule of federal financial assistance in the format prescribed by the OMB Circular A-133.
3. A schedule of the STATE's federal and state contracts received by the organization for the period covered by the financial statements. This schedule shall contain the:
  - a. ASO Log Number.
  - b. Contract amount for the contract period.
  - c. Expenditures charged against the contract during the current audit period and the prior audit periods for expenditure-reimbursement contracts; or amounts of units billed against the contract during the current audit period and the prior audit periods for unit-cost contracts since inception.
4. Auditor's reports on the organization's financial statements, supplemental schedule of expenditures of federal awards, and supplemental schedule of federal and state contracts received by the organization from the STATE.
5. Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards.
6. Report on Compliance with Requirements Applicable to each Major Program and Internal Control over Compliance in Accordance with OMB Circular A-133.
7. Schedule of findings and questioned costs in the format prescribed in OMB Circular A-133.
8. Comments regarding prior year's findings.

(rev. 5/3/04)

**OFFER FORM**

FOR THE PROVISION OF TEMPORARY ENVIRONMENTAL HUMAN RESOURCES  
CLASSIFICATION AND REORGANIZATION STAFFING SERVICES

IFB No.: \_\_\_\_\_

State of Hawaii  
Department of Health  
Environmental Management Division  
2827 Waimano Home Road, Room 234  
Pearl City, Hawaii 96782

This bid is made for the provision of temporary human resources classification and reorganization staffing services in the State of Hawaii, to be priced as indicated in the Price Quotation Form, and in accordance with the Specifications attached hereto and made a part hereof.

This bid is made on behalf of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and no others. Evidence of authority to submit this bid is herewith furnished. This bid is made without collusion on the part of any person, firm, or corporation mentioned above, and no official or employee of the government is directly or indirectly interested in this bid or in the supplies of work to which it relates or in any portion of the profits herein.

The following bid is hereby submitted:

For the sum of: \$ \_\_\_\_\_ DOLLARS  
(\$ \_\_\_\_\_).

Total position prices are detailed in Attachment 4, attached hereto.



The undersigned states that the undersigned has carefully read and understands the terms and conditions specified in the Special Provisions, Specifications, and General Conditions, attached hereto, and by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning hereof.

The undersigned further understands and agrees that by submitting this offer, the undersigned is declaring their offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited state contracts; and if awarded the Contract, any services performed will be in accordance with §103-55, HRS.

It is expressly understood that the Department of Health reserves the right to accept or reject any or all bids for any or all items of the Bid. It is further understood that any Bid which constitutes a conditional bid or a counter proposal will be rejected.

Respectfully submitted,

\_\_\_\_\_

Date

\_\_\_\_\_

Exact Legal Name of Bidder

\_\_\_\_\_

Telephone No.

\_\_\_\_\_

Authorized Signature

\_\_\_\_\_

Fax No.

\_\_\_\_\_

Title

\_\_\_\_\_

Street Address

\_\_\_\_\_

City, State, Zip Code

\_\_\_\_\_

Payment Address, if different

Hawaii General Excise Tax I.D. No. \_\_\_\_\_

Social Security or Federal Identification No. \_\_\_\_\_

If Bidder shown above is a “dba” or a “division” of a corporation, furnish the exact legal name of the corporation under which the contract, if awarded, will be executed:

---

Bidder is:  Individual  Partnership  Corporation  Joint Venture  LLC

State of incorporation:  Hawaii \_\_\_\_\_\*Other

\*If “other,” is corporate seal available in Hawaii?  Yes  No

**PRICE QUOTATION FORM**

Organization: \_\_\_\_\_ IFB No.: \_\_\_\_\_

For the purposes of this procurement, “unit rate” shall mean “hourly rate” inclusive of all applicable overhead, taxes, and fees.

In the event multiple contracts are awarded as a result of this IFB, total position price shall govern. Bids for each position shall be evaluated on an individual basis. Separate awards will be made for each position to the lowest responsive, responsible bidder. If one bidder provides the lowest bid for multiple positions, that bidder will be awarded those positions.

**Instructions:**

Bidders shall complete the tables below with appropriate unit rates and total position price for the Classification & Reorganization Staffing position requested.

The rate table shall be completed with the assumption that each temporary position will be equivalent to 1.0 FTE. 1.0 FTE is defined as 2,080 hours per year.

Temporary staff shall not be required to perform services on State holidays. Current observed holidays are outlined in Exhibit C, 2024-2025 State of Hawaii Government Observed Holidays.

**Definitions:**

Pay Rate – This is the hourly rate the assigned personnel would earn.

Taxes and Fees – This is the sum of overhead costs, and all applicable taxes and fees.

Total Unit Rate – This is the sum of the labor rate, overhead costs, and all applicable taxes and fees. This is the rate the Bidder would charge the STATE.

Annual Cost – This is the cost the Bidder would charge the STATE annually per position, inclusive of all applicable taxes, fees, and overhead. The formula used to calculate this is as follows:

$$\text{Total Unit Rate} \times 2,080 \text{ hours} = \text{Annual Cost.}$$

$$\text{Annual Cost} = \text{Total Position Price.}$$

<b>Standard Rate Table</b>			
<b>Position</b>	<b>Pay Rate (per hour)</b>	<b>Taxes and Fees (per hour)</b>	<b>Total Unit Rate (per hour)</b>
<b>Environmental Human Resources Classification &amp; Reorganization Staffing Services:</b>			
Human Resources Classification Specialist			

The below table shall reflect the total position price to be used.

<b>Position</b>	<b>Total Unit Rate</b>	<b>Annual Cost</b>	<b>Total Position Price</b>
<b>Environmental Human Resources Classification &amp; Reorganization Staffing Services:</b>			
Human Resources Classification Specialist			

Remarks (Optional):

**POSITION DESCRIPTIONS: ENVIRONMENTAL HUMAN RESOURCES**  
**CLASSIFICATION & REORGANIZATION STAFFING SERVICES**

**Human Resources Classification Specialist**

**Estimated Hours per Week:** up to 40

**Position Description**

The primary purpose of this position is to support the Environmental Management Division (EMD) with human resources classification and compensation services, and the development and implementation of multiple reorganizations.

- Performs assessments of staffing levels and types in EMD programs and across the Environmental Health Administration, Department of Health (DOH).
- Assists managers with the development of new position descriptions and modifications to existing position descriptions.
- Conducts analyses and writes reports for classification and compensation purposes.
- Assists in the review of applications and preparation for interviews.
- Maintains knowledge of current state and federal regulations affecting the classification and compensation of EMD positions and provides guidance and assistance on the implementation of required changes.
- Participates and contributes to EMD human resource projects, activities, and discussions.
- Participates in the development and implementation of EMD classification and compensation trainings, as requested.
- Assists with the development of EMD workforce development programs and materials.
- Advises on labor relations, recruitment and retention matters as it pertains to classification and compensation.
- Advises and assists with the development and implementation of EMD reorganizations.
- Assists with the development and or modification of human resources class specifications for submittal to the DOH Human Resources Office and or the State of Hawaii Department of Human Resources Development.
- Provides excellent customer service to the client's employees.

All classification, compensation and reorganization services must comply with the State of Hawaii civil service and exempt employment policies, rules and requirements, the State of Hawaii classification and compensation system policies, specifications and requirements, and the Hawaii Department of Health's policies, rules and requirements.

## **Qualifications & Experience**

- Bachelor's degree from an accredited college or university human resources, business administration, communications, or a related field is required.
- Minimum of seven (7) years of experience in human resources with a minimum of two (2) years of specialized experience in classification and compensation of a unionized workforce.
- Demonstrated proficiency with the State of Hawaii policies, procedures and practices related to human resources, organizational structures, and collective bargaining agreements.
- Familiarity with labor relations, recruitment, retention and employee benefits, preferred.
- Previous experience working for state or local government, preferred.
- Proficiency with Microsoft Office (Word, Excel, Outlook, OneDrive, SharePoint) and Adobe products.
- Exercises independent judgment and critical thinking to meet deliverables and timelines.
- Ability to manage confidential information.
- Demonstrates diplomacy and negotiation skills; establishes and maintains effective working relationships with leadership, colleagues, stakeholders and others.
- Effective written and oral communication skills; prepares clear, concise, and comprehensive position descriptions, classification and compensation justifications; organizational charts, and reports to EMD on the status of deliverables.
- Works well under pressure and in challenging or unusual conditions.

## Sample Price Quotation Form

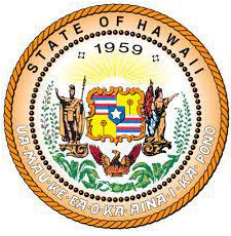
Note: This is a sample of the costs paid by the State for previous similar positions. These services have not been previously solicited for. The State’s budget is estimated to be less than \$100,000.00. Bidders may use this sheet to understand how to complete the Price Quotation Form.

<b>Standard Rate Table</b>			
<b>Position</b>	<b>Pay Rate (per hour)</b>	<b>Taxes and Fees (per hour)</b>	<b>Total Unit Rate (per hour)</b>
<b>Environmental Human Resources Classification &amp; Reorganization Staffing Services:</b>			
Human Resources Classification Specialist	\$41.50	\$6.11	<b>\$47.61</b>

Staff Pay Rate + Taxes, Fees, and Overhead = Total Unit Rate (per hour)

<b>Position</b>	<b>Total Unit Rate (per hour)</b>	<b>Annual Cost</b>	<b>Total Position Price</b>
<b>Environmental Human Resources Classification &amp; Reorganization Staffing Services:</b>			
Human Resources Classification Specialist	<b>\$47.61</b>	\$99,028.80	<b>\$99,028.80</b>

Total Unit Rate x 1.0 FTE (2,080 hours) = Total Position Cost



# STATE OF HAWAI‘I

## Holidays to be observed in 2024 and 2025



### 2024 HAWAI‘I STATE HOLIDAYS

<b><u>(Hawai‘i Rev. Statutes, Sec. 8-1)</u></b>	<b><u>Day Observed in 2024</u></b>	<b><u>Official Date Designated in Statute/Constitution</u></b>
New Year’s Day.....	Jan. 01 Monday.....	The first day in January
Dr. Martin Luther King, Jr. Day.....	Jan. 15 Monday.....	The third Monday in January
Presidents’ Day.....	Feb. 19 Monday.....	The third Monday in February
Prince Jonah Kūhiō Kalaniana‘ole Day.....	Mar. 26 Tuesday.....	The twenty-sixth day in March
Good Friday.....	March 29 Friday.....	The Friday preceding Easter Sunday
Memorial Day.....	May 27 Monday.....	The last Monday in May
King Kamehameha I Day.....	June 11 Tuesday.....	The eleventh day in June
Independence Day.....	July 4 Thursday.....	The fourth day in July
Statehood Day.....	Aug. 16 Friday.....	The third Friday in August
Labor Day.....	Sept. 2 Monday.....	The first Monday in September
General Election Day.....	Nov. 5 Tuesday.....	The first Tuesday in Nov. following the first Monday of even numbered years. <i>(Hawai‘i State Constitution, Article 2 – Section 8)</i>
Veterans’ Day.....	Nov. 11 Monday.....	The eleventh day in November
Thanksgiving.....	Nov. 28 Thursday.....	The fourth Thursday in November
Christmas.....	Dec. 25 Wednesday.....	The twenty-fifth day in December

### 2025 HAWAI‘I STATE HOLIDAYS

<b><u>(Hawai‘i Rev. Statutes, Sec. 8-1)</u></b>	<b><u>Day Observed in 2025</u></b>	<b><u>Official Date Designated in Statute/Constitution</u></b>
New Year’s Day.....	Jan. 01 Wednesday.....	The first day in January
Dr. Martin Luther King, Jr. Day.....	Jan. 20 Monday.....	The third Monday in January
Presidents’ Day.....	Feb. 17 Monday.....	The third Monday in February
Prince Jonah Kūhiō Kalaniana‘ole Day.....	Mar. 26 Wednesday.....	The twenty-sixth day in March
Good Friday.....	April 18 Friday.....	The Friday preceding Easter Sunday
Memorial Day.....	May 26 Monday.....	The last Monday in May
King Kamehameha I Day.....	June 11 Wednesday.....	The eleventh day in June
Independence Day.....	July 4 Friday.....	The fourth day in July
Statehood Day.....	Aug. 15 Friday.....	The third Friday in August
Labor Day.....	Sept. 1 Monday.....	The first Monday in September
Veterans’ Day.....	Nov. 11 Tuesday.....	The eleventh day in November
Thanksgiving.....	Nov. 27 Thursday.....	The fourth Thursday in November
Christmas.....	Dec. 25 Thursday.....	The twenty-fifth day in December

**FOOTNOTES:** For use solely by State government agencies. Federal government and local banking holidays may differ. For State agencies that operate on other than Monday-Friday 7:45 AM to 4:30 PM schedules, also refer to appropriate collective bargaining agreements. **Created by the Department of Human Resources Development 12/29/2023** subject to change.