RELEASE DATE: September 19, 2025

The State of Hawai‘i
Department of Business, Economic Development and Tourism
Hawai‘i Tourism Authority

REQUEST FOR PROPOSALS
RFP NO. 26-06
(NOTICE TO OFFERORS)

PUBLIC RELATIONS, COMMUNICATIONS, AND OUTREACH SERVICES

OFFERS ARE DUE AT 2:00 P.M. HAWAI‘I STANDARD TIME (HST) ON

OCTOBER 22, 2025

(Or such later date as may be established by the State of Hawai‘i by an Addendum to this RFP)

ELECTRONIC SUBMISSION TO THE STATE OF HAWAI‘I ePROCUREMENT SYSTEM (HIePRO) ONLY.

QUESTIONS RELATING TO THIS RFP, ISSUES RELATING TO THE ACCESSIBILITY OF THIS RFP, AND REQUESTS FOR ACCOMMODATIONS FOR PERSONS WITH DISABILITIES IN CONNECTION WITH THIS RFP SHALL BE COMMUNICATED THROUGH HIePRO.

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For screen reader users, the Hawai‘i Tourism Authority uses Hawaiian orthography. Please note that screen readers may not read or pronounce the Hawaiian words correctly.

SECTION ONE: INTRODUCTION, TERMS AND ACRONYMS, AND KEY DATES

1.1 INTRODUCTION

The Hawai‘i Tourism Authority (HTA) is the state agency responsible for representing the Hawaiian Islands around the world and for holistically managing tourism in Hawai‘i in a sustainable manner consistent with community desires, economic goals, cultural values, preservation of natural resources, and visitor industry needs.

The HTA was established in 1998 under Chapter 201B, Hawai‘i Revised Statutes (HRS). The HTA is administratively attached to the Department of Business, Economic Development and Tourism (DBEDT).

The HTA works with the community and industry to ensure that we live up to Mālama Ku‘u Home – caring for our beloved home – by guiding Hawai‘i’s transition to a regenerative model of tourism. The agency does this through visitor education, brand management, community reinvestment, and collaboration to maximize tourism’s economic benefit while mitigating its negative impacts. Partners include visitor industry businesses and organizations, community groups, and government agencies at the county, state, and federal levels.

Representation of the Hawaiian Islands in our primary visitor source markets, known as Major Market Areas, is through contracted firms collectively known as our Global Marketing Teams (GMTs). HTA currently engages GMTs in the USA, Canada, Oceania (Australia & Aotearoa-New Zealand), Japan, Korea, China, and Europe markets.

In addition, the HTA creates, manages, and supports the development of unique tourism experiences such as community and cultural festivals, sporting events, natural resources, and community and cultural programs. The HTA also evaluates its programs on their impacts and return on investment (ROI) of public funds. The HTA also directly affects the visitor experience through its support of workforce development, visitor assistance programs, the integration of community and residents’ considerations, and a deep respect for Native Hawaiian culture.

The 2020 – 2025 HTA Strategic Plan frames our work with four interacting pillars: Hawaiian Culture, Natural Resources, Community, and Branding. Emphasis on the three pillars that support and uphold the integrity of Hawai‘i as our home is critical to maintaining the Hawaiian Islands brand globally. The 2020 – 2025 HTA Strategic Plan also adopted four Key Performance Indicators (KPIs) that the agency and its Contractors are responsible for advancing:

- **Resident Sentiment:** Improved resident sentiment toward tourism as measured in the Resident Sentiment Survey.
- **Visitor Satisfaction:** Improved perspective/returning visitor satisfaction with visiting Hawai‘i as measured by the Visitor Satisfaction Survey.
- **Average Daily Visitor Spending**: The average dollars spent by visitors.
- **Total Visitor Expenditures**: The U.S. dollar amount spent in Hawai‘i attributed to visitors. Includes direct spending by visitors while in Hawai‘i as well as any prepaid package purchased before arrival.

In 2021, HTA embarked on a statewide, island-by-island, community outreach process guided by diverse stakeholder steering committees to create individual Destination Management Action Plans (DMAPs) to recover and rebuild tourism to benefit our islands’ communities and address community concerns. The DMAPs include specific actions and sub-actions that the agency and its partners are

working to address. The HTA is in the planning process of developing its next Strategic Plan and DMAPs.

The HTA Strategic Plan pillars, priorities and KPIs, DMAP priorities and actions, and the HTA Advisory Board's commitment to the Aloha+ Challenge and the ʻĀina Aloha Economic Futures Declaration are considered when designing and implementing all HTA programs and activities.

1.2 TERMS AND ACRONYMS

Advisory Board	Advisory Board of Directors of the Hawai'i Tourism Authority
Authority	The Hawai'i Tourism Authority. Also referred to as "HTA."
AG	Attorney General
BAFO	Best and Final Offer
Contract Administrator	The individual designated to manage the various facets of the contract to ensure the Contractor's total performance is in accordance with the contractual commitments and obligations are fulfilled.
CPO	Chief Procurement Officer, Hawai'i State Procurement Office
CVC	Certificate of Vendor Compliance. A single document that shows compliance with the Internal Revenue Service, Hawai'i Department of Labor & Industrial Relations, Hawai'i Department of Commerce and Consumer Affairs, and Hawai'i Department of Taxation. All four approvals are required in order to contract with the State.
DAGS	Hawai'i Department of Accounting and General Services
DBEDT	Hawai'i Department of Business, Economic Development and Tourism
DMAP	Destination Management Action Plan
GC	General Conditions. Rules enacted by the Hawai'i Attorney General's Office.
GET	General Excise Tax
GMT	Global Marketing Team. The HTA term given to its various Contractors for their respective markets.
HAR	Hawai'i Administrative Rules. State rules outlining procedures for applying statute.
HCE	Hawai'i Compliance Express
HIePRO	Hawai'i State eProcurement System
HOPA	Head of the Purchasing Agency. The Director of the Department of Business, Economic Development, and Tourism is the HOPA for HTA.
HRS	Hawai'i Revised Statutes
HST	Hawai'i Standard Time
HTA	Hawai'i Tourism Authority

Knowledge Bank	HTA's digital asset library of licensed creative assets accessible to the public. Registration and agreement to terms and conditions apply.
KPI	Key Performance Indicator
LOS	Length of Stay. The average number of days a visitor stays in Hawai‘i.
MCI	Meetings, Conventions & Incentives
Ma‘ema‘e Toolkit	A collection of resources and instructions to represent Native Hawaiian language and culture accurately and respectfully.
Mindful Traveler	Travelers who are respectful, responsible, and environmentally conscious. They seek to explore and make meaningful memories, respect the culture and environment of the places they visit, and desire to support something bigger than themselves.
Offeror	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly, or through a duly authorized representative or agent, a bid for the goods and/or services contemplated in this RFP.
OIP	Hawai‘i Office of Information Practices
Procurement Manager	The procurement and contracting manager for the Hawai‘i Tourism Authority.
Regenerative Tourism	Regenerative tourism is "creating the conditions for life to continuously renew itself, to transcend into new forms, and to flourish amid ever-changing life conditions" (Hutchins and Storm, 2019) - through tourism. It "recognizes its communities and places are living systems, constantly interacting, evolving, self-organizing, efficient, learning, distinct, and vital to create abundance, balance, and conditions to support other life, resilience and contribute to a greater well-being system." (Earth Changers, 2020).
Resident Sentiment Survey	The surveys gathered, and reports published regarding Hawai‘i resident sentiment towards tourism in the State.
RFP	Request for Proposals, including all parts, Sections, Exhibits, Attachments, and Addenda.
ROI	Return on Investment
SPO	Hawai‘i State Procurement Office
State	State of Hawai‘i, including its departments, agencies, and political subdivisions.
Total Arrivals	The total number of visitors that arrive in the Hawaiian Islands.
Total Expenditures	The U.S. dollar amount spent in Hawai‘i attributed to a visitor. Includes direct spending by visitors while in Hawai‘i as well as any prepaid package purchased before arrival. Does not include transpacific air costs to and from Hawai‘i, commissions paid to travel agents, or portions of the package in another state or country.

1.3 ELECTRONIC PROCUREMENT

1.3.1 The State has established the Hawai‘i State eProcurement System (HIePRO) to promote an open and transparent system for vendors to compete for state contracts electronically. Offerors interested in responding to this solicitation must be registered on HIePRO. Registration information is available at the State Procurement Office (SPO) website:

http://spo.Hawaii.gov/HIePRO, then select HIePRO Vendor Registration Guide. For online assistance, on the HIePRO (https://hiepro.ehawaii.gov/welcome.html) landing page, select 'Help Chat – online' at the top of the page. Tyler Technologies can be reached at (808) 695-4620 or by email at: hiepro@ehawaii.gov.

1.3.2 The State will use HIePRO to issue the RFP, receive all Offers, and issue any addenda to the RFP. Addenda and the other information and materials shall be provided by the State through HIePRO, including additions or changes with respect to the dates in Section 1.4 (RFP Schedule and Significant Dates). The State is not responsible for any delay or failure of any Offeror to receive any materials updated through the RFP process on a timely basis.

1.3.3 As part of this procurement process, Offerors are informed that awards made for this solicitation, if any, shall be done through the HIePRO and shall therefore be subject to a mandatory .75% (.0075) transaction fee, not to exceed $5,000 for the total contract term. The mandatory fee (.75%) is applicable for awards by Hawai'i government agencies only. This transaction fee is payable to Tyler Technologies (formerly known as NIC Hawai'i), the vendor administering HIePRO. Refer to the "Instructions" tab in the HIePRO solicitation for more details. The mandatory transaction fee shall be at the Contractor's sole cost and expense.

1.3.4 Offerors shall review all special instructions located in HIePRO. Offerors are responsible for ensuring that all necessary files are attached to their offer prior to the proposal deadline. Offerors are advised that they should not wait until the last minute to submit their proposal on HIePRO. Offerors should allow ample time to review their submitted proposal, including attachments, prior to the proposal deadline. The State shall not be responsible for responses/attachments that were not uploaded by the due date/time.

1.3.5 Changes to the RFP, including but not limited to answers to questions and procurement requirements, shall be changed via formal written addenda issued by the State. The State accepts no responsibility for a prospective Offeror not receiving solicitation documents and/or revisions to the solicitation. The prospective Offeror is responsible for monitoring HIePRO to obtain any RFP addenda or other information relating to the RFP.

1.3.6 Tyler Hawai'i is the vendor contracted by the State of Hawai'i to provide the HIePRO application only and cannot respond to any questions regarding procurement or a particular solicitation. Payment must be made to Tyler Hawai'i within thirty (30) days from receipt of invoice. The invoice is generated based on the date the award is posted.

1.4 RFP SCHEDULE AND SIGNIFICANT DATES

The schedule represents the State's best estimate of the schedule that will be followed. All times indicated are Hawai'i Standard Time (HST). If a component of this schedule, such as "Proposal Due Date/Time," is delayed, the rest of the schedule will likely be shifted by the same number of days. Any change to the RFP Schedule and Significant Dates shall be reflected in and issued in an addendum. No questions will be received after the Written Questions deadline.

Release of Request for Proposals	September 19, 2025
Deadline to Submit Written Questions (must be submitted in HIePRO)	September 26, 2025 @ 2:00 PM HST
State's Response to Written Questions (will be posted in HIePRO)	October 3, 2025

Deadline to Submit Notice of Intent to Offer	September 10, 2025
Proposal Due Date/Time, Evaluation Period Begins	**October 22, 2025 @ 2:00 PM HST**
Priority Listed Offeror Selection & Notification (estimate)	Week of October 27, 2025
Best and Final Offer Deadline (if necessary) (estimate)	Week of October 27, 2025
Notice of Award (estimate)	Week of November 3, 2025
Start of Contract Performance (estimate)	Week of November 10, 2025

1.5 NOTICE OF INTENT TO OFFER

Notice of intent to offer is not required but is highly encouraged. By registering your company, any applicable addenda will be sent to you. If you are interested in responding to this solicitation, for confidentiality reasons, please email the information specified below to procurement@gohta.net with "HTA RFP 26-06 Notice of Intent to Offer" in the subject line by the deadline noted in the RFP Schedule. This email will serve as your intent to submit an offer. Submission of your intent to offer does not mean you must submit an offer.

• Name of Company • Name of Contact Person • Email Address	• Company Address • Telephone Number • Solicitation (RFP) Number

1.6 QUESTIONS AND ANSWERS PRIOR TO OPENING OF PROPOSALS

All questions must be submitted through HIePRO. Questions must be submitted by the deadline shown in the RFP Schedule. Each question shall identify the page, section number, paragraph, and line or sentence of such provision(s) of the RFP to which the question applies. HTA reserves the right to consolidate, reconfigure, and address questions as we deem appropriate or to disregard questions altogether. Answers shall be issued as an addendum to the RFP via HIePRO and become part of the RFP, as appropriate.

1.7 PROTEST OF RFP CONTENT

Protest of RFP content must be received prior to the proposal due date. Offerors are encouraged to raise any concerns by the deadline for submission of written questions or as soon as possible.

1.8 CANCELLATION

The RFP may be canceled, and any or all proposals rejected in whole or in part, without liability to the State, when it is determined to be in the best interest of the State, pursuant to HRS 103D-308 and HAR §3-122-96 through §3-122-97.

1.9 WEBSITE REFERENCE

Item	Website
Hawai'i Electronic Procurement System	https://hiepro.ehawaii.gov/welcome.html
HTA RFP Website	https://www.hawaiitourismauthority.org/rfps/

Item	Website
HTA Website	https://www.hawaiitourismauthority.org/
HTA Strategic Plan	https://www.hawaiitourismauthority.org/who-we-are/our-strategic-plan/
HTA Brand Marketing	https://www.hawaiitourismauthority.org/what-we-do/brand-marketing
HTA Brand Assets/Knowledge Bank (photos, videos, b-rolls)	https://hawaii.barberstock.com/
Ma‘ema‘e Toolkit	https://www.hawaiitourismauthority.org/what-we-do/tools-resources/ma%ca%bbema%ca%bbe-toolkit/
HTA Programs	https://www.hawaiitourismauthority.org/what-we-do/
HTA Research	https://www.hawaiitourismauthority.org/research/
HTA Evaluation & Performance Measures	https://www.hawaiitourismauthority.org/research/evaluation-performance-measures/
HTA Annual Reports	https://www.hawaiitourismauthority.org/who-we-are/annual-report/
Consumer Website	https://www.gohawaii.com/
Consumer Website – Japan	https://www.gohawaii.jp/ja
Travel Trade Website	https://agents.gohawaii.com/
Media Website	https://media.gohawaii.com/statewide
MCI Website	https://www.meethawaii.com/
YouTube – GoHawai‘i Channel	https://www.youtube.com/gohawaii
Aloha+ Challenge	https://alohachallenge.hawaii.gov/
‘Āina Aloha Economic Futures	https://www.ainaalohafutures.com/
Hawai‘i Compliance Express (CVC)	https://vendors.ehawaii.gov/
eHawaii.gov YouTube Channel	https://www.youtube.com/user/eHawaiigov1/videos
Hawai‘i State General Conditions	https://hiepro.ehawaii.gov/static-resources/103D-1%20General%20Conditions.pdf
HRS Chapter 201B HRS. HTA’s inception statute.	https://www.capitol.hawaii.gov/hrscurrent/vol04_ch0201-0257/HRS0201B/HRS_0201B-.htm

The Hawai‘i Tourism Authority is not responsible for broken links.

SECTION TWO: BACKGROUND AND SCOPE OF WORK

2.1 OVERVIEW AND BACKGROUND

The Hawai‘i Tourism Authority (HTA) is seeking proposals from qualified firms or individuals to provide comprehensive communications and public affairs services. The purpose of this RFP is to solicit professional services that will help HTA develop and execute public relations strategies to assist HTA with media relations, community relations, crisis communication and management, and social media communications to manage public perceptions of HTA and Hawai‘i’s tourism industry and communicate HTA’s programs in the areas of destination marketing, destination stewardship, and regenerative tourism.

The selected vendor will work closely with the Public Affairs Officer (PAO) to carry out communication goals, ensuring alignment with HTA’s overall mission and strategic objectives.

2.2 SCOPE OF WORK

The successful bidder will be responsible for a range of communications and public affairs activities, working directly with the PAO to ensure messaging consistency and alignment with HTA’s core values and goals. The services required include, but are not limited to, the following:

2.2.1 STRATEGIC COMMUNICATIONS PLANNING

i. Assist the PAO to create, maintain, and update an annual communications plan.
ii. Provide strategic recommendations to enhance the effectiveness of HTA’s communications, public affairs, and media relations efforts.

2.2.2 MEDIA RELATIONS & PUBLIC OUTREACH

i. Develop, manage, and implement a proactive media relations strategy to engage local, national, and international media to achieve communications objectives.
ii. Draft, edit, and distribute media releases, advisories, statements, quotes, announcements, fact sheets, and media kits.
iii. Coordinate and pitch stories, arrange interviews, and respond to media inquiries in a timely manner.
iv. Organize and support HTA press conferences and media briefings.
v. Develop opinion editorials.
vi. Assist the PAO in scheduling leaders and spokespeople to speak to the media (interviews, appearances, etc.).

2.2.3 STAKEHOLDER & GOVERNMENT RELATIONS

i. Provide outreach support to lawmakers and other stakeholders, including talking points, letters, speeches, and presentations.
ii. Assist in developing and distributing regular communications from HTA leadership to industry stakeholders, including the monthly HTA e-Bulletin and e-newsletters.
iii. Assist the PAO to develop communications in support of public-facing events, including HTA-sponsored conferences and briefings, community outreach, and meetings that support HTA’s planning and destination management efforts.

2.2.4 DIGITAL & SOCIAL MEDIA

i. Manage and enhance HTA’s presence on digital and social media platforms (Facebook, Instagram, YouTube, X [formerly Twitter], and LinkedIn).
ii. Develop and execute social media strategies and campaigns, including organic and paid efforts.

iii. Create and distribute content such as posts, videos, graphics, and blog articles in collaboration with the PAO.
iv. Monitor and analyze social media metrics to assess engagement and recommend improvements.
v. Maintain HTA's email distribution list in Constant Contact (or a similar program) and prepare, send, and review e-newsletters and announcements.
vi. Support HTA in maintaining the content and copy of HawaiiTourismAuthority.org to keep information accurate and relevant.

2.2.5 CONTENT & SERVICES

i. Media monitoring (clipping) services.
ii. Revise HTA-branded templates for presentations (.ppt), social media, periodic tourism updates, advisory Board of Directors meetings, and community meetings.
iii. Photography services, graphic design, and/or imaging licensing for communication deliverables.

2.2.6 LEADERSHIP COMMUNICATIONS

i. Develop presentations, speeches, and leave-behinds for HTA-leadership presentations.
ii. Provide media training for five to seven HTA leaders annually.
iii. Review and edit the President & CEO's report for monthly Board of Directors meetings, as needed.

2.2.7 CRISIS COMMUNICATIONS

i. Provide counsel and surge support during crises, such as natural disasters, health emergencies, or other disruptions.
ii. Participate in emergency calls, exercises, and HTA's Department Operations Center activations.
iii. Draft and distribute timely crisis-related messages, talking points, news releases, and updates for HTA's website and social media.
iv. Monitor media coverage and public sentiment during crises and provide regular updates and recommendations.

2.2.8 PERFORMANCE MONITORING & REPORTING

i. Submit monthly progress reports and a final written report prior to contract completion.

2.3 KEY PERFORMANCE INDICATORS & PERFORMANCE MEASURES

By setting clear KPIs and performance measures, HTA can ensure that the selected vendor's efforts are directly contributing to the organization's goals and objectives, while also providing measurable metrics for success. These indicators will help track the impact of communication efforts on public perception, media coverage, digital engagement, and crisis management.

2.3.1 MEDIA COVERAGE & RELATIONS

i. Press Releases and Media Materials: Number of media releases or media advisories distributed and picked up by media.
    a) Performance Measure: Assess the number of media pickups (articles, mentions, interviews, etc.) resulting from each press release or media advisory.
    b) Target: At least 70% of media advisories result in coverage.
ii. Stakeholder Engagement: Grow and continue to engage stakeholders through list management and content creation.
    a) Performance Measure: Average number of opens of HTA Announcements (which includes media releases, e-newsletters, and announcements).
    b) Target: Increase monthly average open rate by 5% year over year.

2.3.2 SOCIAL MEDIA ENGAGEMENT

i. Engagement Rate: Measure likes, shares, comments, and other forms of engagement on HTA's social media platforms (Facebook, Instagram, X [formerly Twitter], LinkedIn, etc.).
    a) Performance Measure: Track engagement metrics monthly and assess whether engagement levels are increasing over time.
    b) Target: Achieve a 10% increase in overall engagement rate year-over-year.

2.3.3 CONTENT DEVELOPMENT AND DISTRIBUTION

i. Content Production Volume: Track the number of pieces of content created (press releases, blog posts, social media posts, videos, etc.).
    a) Performance Measure: Ensure that content meets HTA's guidelines and is aligned with key messaging.
    b) Target: Produce at least three (3) pieces of content per week across various formats (social, digital, and traditional).

2.3.4 REPORTING AND TRANSPARENCY

i. Monthly Performance Reports: The Contractor should provide detailed monthly reports on all the KPIs above, including media coverage, social media engagement, campaign performance, crisis communications, etc.
    a) Performance Measure: Ensure reports are submitted on time and provide actionable insights.
    b) Target: Timely submission of monthly reports with comprehensive analysis of the results (100% adherence).

ii. Quarterly Strategic Reviews: A quarterly review meeting with HTA's leadership team to evaluate the effectiveness of the communications efforts and recommend adjustments or new strategies.
    a) Performance Measure: Provide recommendations for improvements and adjustments based on performance data.
    b) Target: Successfully implement feedback and adjustments from the quarterly review.

2.3.5 ADDITIONAL CONSIDERATIONS

i. Adherence to HTA's Brand Guidelines: All communication materials, including social media posts, press releases, and digital content, must adhere to HTA's established messaging and branding guidelines.
    a) Performance Measure: Regular review of all content to ensure consistency with HTA's tone and strategic objectives.
    b) Target: 100% adherence to HTA's messaging guidelines.

ii. Collaboration with Public Affairs Officer (PAO): The Contractor's ability to work collaboratively with HTA's Public Affairs Officer and other internal teams will be key to success.
    a) Performance Measure: Ensure that communication strategies and content are consistently aligned with the PAO's strategic direction.
    b) Target: bi-weekly check-ins and progress meetings with the PAO to ensure seamless collaboration.

2.4 COMPENSATION

This is a Fixed-Price with Price Adjustment contract, inclusive of all taxes and expenses, for an amount not to exceed **ONE HUNDRED SEVENTY THOUSAND EIGHT HUNDRED EIGHTY AND NO/100 DOLLARS ($170,880.00 USD)**, tax inclusive, for 12 months. However, it should be expressly understood that the actual amount allocated by HTA for a contract resulting from this RFP may be dependent on the quality of the proposals received. The STATE reserves the right not to utilize the total amount of funds allocated or to cancel this solicitation.

Offerors shall submit their proposal for funding described above as outlined in Section 3.

The fixed price is inclusive of all aspects of the contract, including all expenses directly related to the scope of work, as well as all expenses indirectly related to the scope of work, such as the required insurance coverage. (Additional coverage, over and above the required coverage, would be at the Contractor's expense.)

Additionally, four one-year options to extend the term of the contract or parts thereof shall be available at the State's discretion**.** The amount of funding for any contract extension is subject to the availability of funds, current market conditions, and other factors.

Notwithstanding anything in other sections of this RFP, the not-to-exceed amounts listed in this section shall prevail.

Cost Factor & Cost Reasonableness Determination

In accordance with HAR §3-122-52 and HRS Chapter 103D, the proposal with the lowest cost factor must receive the highest available rating allocated to cost.

The awardee will be required to submit a Certificate of Current Cost or Pricing Data Form, after which the HTA will make a Cost Reasonableness Determination.

No award is final until a contract is signed. If HTA and the awardee fail to come to an agreement, HTA may enter into an agreement with the next highest-scoring Offeror.

2.4.1 COMPENSATION STRUCTURE

A. Fixed Fee (Base Fee)

i. Description: The primary compensation model is based on a monthly fee for ongoing communications, public affairs support, and media relations efforts. This ensures that the Contractor is available to HTA for consistent work, such as day-to-day media outreach, content creation, and strategic communications planning.

ii. Amount: The fee should be based on the estimated monthly hours required to perform the core services outlined in the RFP.

a) Example: $X,000 per month for 30 hours of work per week.

b) The fee should be broken down into specific deliverables such as media relations, social media management, content creation, and digital outreach.

2.4.2 PAYMENT SCHEDULE

A. Monthly Payments for Fixed Fees

i. Schedule: Payments will be made on a monthly basis, on or about the end of each month.

a) Example: A fixed monthly fee of $XX,000 to be paid at the end of each month for ongoing communications and public affairs services.

ii. Inclusions: The fee should cover routine services such as social media management, media outreach, content creation, press releases, and ongoing strategic communications, tax inclusive.

2.4.3 PAYMENT TERMS AND CONDITIONS

i. Invoice Submission: All invoices must include a detailed breakdown of services rendered, including hours worked, deliverables, and any out-of-pocket expenses incurred (e.g., media buy costs, travel expenses).

ii. Payment Due Date: Payments for monthly fee and project fees are due within 30 days from the date of the invoice, unless otherwise specified in the contract.

iii. Expenses: Any out-of-pocket expenses, such as travel, lodging, or advertising costs, should be pre-approved by HTA and reimbursed upon submission of receipts.

2.4.4 RETAINER FEE ADJUSTMENTS (Optional)

In the case of significant changes in scope, such as new campaigns, additional services, or unforeseen events that require additional resources, the retainer fee can be adjusted through a contract amendment. This adjustment may be clearly defined in the contract as follows:

i. Periodic Review: Every six (6) months, the contract may be reviewed to assess the adequacy of the retainer fee. If additional services are required, a mutually agreed-upon increase or modification to the retainer may occur, subject to HTA's change order approval process.

ii. Example Payment Schedule for a One-Year Contract:

Payment Type	Amount	Schedule	Details
Monthly Retainer Fee	$XX,000	Due on the 1st of each month	Includes routine services

By clearly defining the compensation structure and payment schedule, HTA can establish a transparent and fair process for paying for communications services, while also holding the Contractor accountable for performance outcomes.

2.5 TERM OF CONTRACT

Contract Term: The contract will be for an initial period of twelve (12) months with the option to renew and extend for an additional four 12-month terms or parts thereof based on performance and mutual agreement.

The previous paragraph notwithstanding, the contract term cannot exceed five (5) years total in accordance Hawai‘i Revised Statutes section 201B-3(a)(3).

Sufficient funds are available to pay for the initial period covering Fiscal Year 2026. The Contractor acknowledges and agrees that, for subsequent years of the multi-term contract, the availability of funds to HTA for any fiscal year (July 1 to June 30) shall initially be subject to the passage of a budget appropriation of public funds by the Legislature, and subsequently to the approval of an allotment of the budgeted funds by the Governor, through the Director of the Department of Budget & Finance, State of Hawai‘i, pursuant to HRS Chapter 37 and subject to the availability of State funds.

Each contract period is funded by a separate and respective fiscal year in the manner described above. It is understood that the Head of Purchasing Agency (HOPA) or designee must notify Contractor on a timely basis if funds are not available for continuation of the contract for each succeeding fiscal period and that, in the event of a cancellation, Contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs.

2.6 HTA CONTRACT MONITORING & EVALUATION

HTA will monitor the contract and perform performance evaluations monthly. It will provide direction as necessary and conduct evaluation meetings, either in person or virtually, as it deems necessary.

2.7 OWNERSHIP RIGHTS

Pursuant to the General Conditions attached to and made a part of the RFP, the State shall have complete ownership of all material that is developed, prepared, assembled, or conceived by the Contractor under this Contract. The contractor shall not use such materials outside of the contract scope unless authorized in writing by the State.

2.8 SUCCESSION OF ADDITIONAL CONTRACTORS

In the event the State chooses to contract with another vendor to provide the services of the Contractor at the end of this contract term or upon cancellation of the Contract, or if the State contracts with one or more additional vendors, the Contractor must provide reasonable transition assistance to the State and cooperation with one or more Contractors. Under no circumstances will the existing Contractor have any right to compensation for investments or other expenditures that were undertaken pursuant to, or in anticipation of, an extension of the Contract.

2.9 GENERAL RESPONSIBILITY TO COMPLY WITH STATE REQUIREMENTS

Unless otherwise provided in this RFP, the Contractor is responsible for obtaining all official licenses, approvals, clearances, and similar authorizations required by any local, State, or federal agency to perform the work required in this RFP.

2.10 INHERENT GOVERNMENT FUNCTIONS

However, it is important to recognize that the State has fundamental inherent government functions that should not be delegated to a Contractor. Governmental personnel should be the only people making final decisions on proposed Contractor's services. Federal Procurement Law defines inherent functions to be performed only by government employees. The HTA considers the following responsibilities inherently governmental:

2.10.1 Determining what supplies or services are to be acquired by the Government;
2.10.2 Approving any solicitation documents, to include documents defining requirements, specifications, incentives, and evaluation criteria. This includes issuance and conduct of this procurement pursuant to HRS section 103D-303, competitive sealed proposals;
2.10.3 Negotiating cost and pricing;
2.10.4 Awarding contracts;
2.10.5 Approving post-award contract changes to include, but not be limited to, ordering changes in contract scope, schedule, and budget;
2.10.6 Responding to evaluations of Contractor performance and accepting or rejecting Contractor products or services; and
2.10.7 Terminating contracts.

2.11 HAWAIʻI TOURISM AUTHORITY RESPONSIBILITIES

2.11.1 Provide direction and guidance as required.
2.11.2 Provide general information in a timely manner.
2.11.3 Pay invoices within 30 days upon verification of satisfactory performance.
2.11.4 Maintain an oversight and advisory role for each task outlined above.

2.12 POINT OF CONTACT

The Procurement Manager or their designee is the single point of contact (POC) during the procurement process. Offerors shall direct all questions regarding the procurement process and any other procedural questions that may arise related to this solicitation to be submitted in HIePRO by the due date/time referenced in the RFP Schedule. The reference number is **RFP-26-06**. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

SECTION THREE: PROPOSAL CONTENT AND SUBMISSION

3.1 PROPOSAL CONTENT

3.1.1 CONTENT FORMAT

- Slide shows and PowerPoint Presentations will not be accepted. The proposal should be compact and substantive. Proposals may include a web address that evaluators will have the option of reviewing. However, evaluators will not be required to review your website, so do not omit essential information in reliance on website content. Video, audio, or other similar multimedia materials will not be considered during the evaluation of written proposals. However, they may be accepted or requested in Round 2 of the procurement process.
- The format must be U.S. standard 8.5 by 11 inches. Therefore, this is a U.S. buyer and must be oriented to U.S. document sizes. Orientation should be primarily portraited, though landscape is welcome for data or visual presentations as appropriate. No odd-sized pages are allowed.
- Page limit. The body of the proposal must not exceed the page limit outlined below in Section 3.1.2 (Items 1-8). Proposals that exceed the page limit may be disqualified, or the extra pages may be excised prior to review.
- Font size should be no smaller than 11 pts.
- Ensure all content is submitted in the proper format as described below, and note that **the maximum single file size that HIePRO can accept is 100MB; multiple files may be uploaded.**
- All submittals must be provided in English.

3.1.2 CONTENT LIST

All proposals shall include the following documents and titles to be considered for this RFP. Proposals that fail to submit any of these documents may be considered non-responsive.

- **Items 1-8** are to be individually labeled accordingly and submitted as one PDF file in the order listed below that is no more than one hundred (100) pages to be titled **Offeror Name_Proposal Part 1**:
    1) Cover Page
    2) Table of Contents
    3) Cover Letter
    4) Company Overview
    5) Organizational Chart and Capacity
    6) Professional Experience
    7) Proposed Approach
    8) Budget and Cost Proposal

- **Items 9-17** are to be individually labeled accordingly and submitted as one PDF file in the order listed below to be titled **Offeror Name_Proposal Part 2**:
    9) Offeror Check List (Attachment 1)
    10) Proposal Transmittal Letter (Attachment 2)
    11) Corporate Resolution (Attachment 3)
    12) Standard Qualifications Questionnaire (Attachment 4)
    13) Contractor References (Attachment 5)
    14) Subcontractor References (Attachment 6)

15) Confidential Information List - if applicable (Attachment 7)
16) Conflicts of Interest Disclosures & Attestations (Attachment 8)
17) Certificate of Vendor Compliance or Proof of Application for CVC

3.1.3 CONTENT EXPLANATION

Cover Page

The cover page should include the following:

- The name and number of the RFP: RFP 26-06 for Public Relations, Communications, and Outreach Services.
- Name and address of Company.
- Company Federal and State Tax ID #s.
- Name, email address, phone number of contact person.

Table of Contents

Please present the materials in the order outlined above. Please include page numbers for your table of contents.

Cover Letter

A brief letter expressing the vendor's interest in the project and summarizing the company's qualifications. The cover letter is your opportunity to make a personal statement to the HTA and the Evaluation Committee. Please limit this to two pages maximum.

Company Overview

Description of the vendor, including years in business, team members, and relevant experience in tourism, public affairs, or public relations.

Organizational Capacity

a) Personnel Management
   i) Organizational chart of proposed staffing, including position titles, names, lines of responsibility/supervision, and time allocation to the HTA account.
   ii) Project Manager ("Key HTA Point of Contact") to be assigned to the HTA account. List detailed qualifications, including experience, time with the organization, and resume/bio demonstrating qualifications related to this RFP.
      - Additional Staffing. The Offeror shall identify other key members assigned to the HTA account. List detailed qualifications for each position (including experience, time with the organization, resume/bio demonstrating qualifications related to this RFP), and proposed time allocation of staff.

Minimum Qualifications

To be considered for this contract, vendors must meet the following qualifications:

a) Experience: Minimum of ten (10) years of professional experience in communications, public affairs, media relations, or public relations, preferably within the tourism, hospitality, or government sectors.

b) Proven Expertise: Experience working with governmental agencies, tourism authorities, or non-profit organizations in the development and execution of public relations campaigns and media outreach strategies.

c) Crisis Communications: Demonstrated experience in crisis communication, managing media relations during crises, and providing strategic communications support under pressure.

d) Local Knowledge: Familiarity with Hawai‘i’s tourism industry, local culture, sustainability practices, and the community stakeholders involved in tourism development.

e) Team of Professionals: Ability to deliver high-quality services through a team with expertise in writing, media relations, social media, digital marketing, and event coordination.

f) Collaboration with Public Affairs Officers: Experience working directly with Public Affairs Officers or other senior communications staff within a government or public sector setting.

Professional Experience

The Offeror shall provide a complete description of its relevant experience in tourism, public sector communications, or related fields described below:

a) Describe the Offeror’s experience and past performance.

b) Case Studies: Offeror shall provide no fewer than three (3) case studies or examples of previous work within tourism, public sector communications, or related fields, with measurable outcomes and results.

c) Performance Measures: Describe a minimum of three (3) past work experiences within the past five (5) years that reflect the tracking of performance measures to targeted results, including the measurement methodology used.

d) References: Contact information for at least three (3) references from clients who can speak to the vendor’s past work and results on similar projects.

Proposed Approach

a) A detailed plan outlining the proposed approach to addressing the scope of work, including strategies for media relations, crisis communication, and social media support. Describe how the vendor plans to work with the PAO to ensure alignment with HTA’s communication objectives.

b) The plan should also address the suggested KPIs. Describe how the plan will track the performance measures and produce outcomes that meet the suggested targets. Vendor may propose equivalent KPI, measures, and targets if these do not align with the proposed approach.

Budget and Cost Proposal

A detailed cost breakdown for services, including hourly rates or retainer fees, and any additional expenses. The proposal should clearly separate standard communications and public affairs services from the crisis communications services.

Offeror Checklist

Offeror must complete the checklist and submit all items noted on the form. See Attachment 1 for details.

Proposal Transmittal Letter

On the Offeror’s business letterhead, include a transmittal letter to confirm that the Offeror will comply with the requirements, provisions, terms, and conditions specified in this RFP. Offeror shall use the exact legal name registered with the Department of Commerce and Consumer Affairs. The price shall be submitted on the transmittal letter and shall be the all-inclusive cost, including the General Excise Tax (GET).

The Offeror must certify that neither the Offeror nor its principals, employees, or agents of the Offeror are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency. If the Offeror cannot certify this statement, attach a written explanation for review by the State. If no debarment action exists, state no debarment on the transmittal letter.

This form must have an electronic signature, which is required before an award, if any, can be made. If unsigned, the offer will be automatically rejected. See Attachment 2 for details.

Corporate Resolution

On the Offeror's business letterhead, include a copy of the corporate resolution or written authorization of Offeror's representative to sign this proposal and contract, if awarded. See Attachment 3 for details.

Standard Qualifications Questionnaire

Offeror must respond to all questions on the Qualifications Questionnaire form. See Attachment 4 for detailed questions.

Contractor References

The Offeror must use this form to provide three (3) references for previous work performed as the Prime Contractor and similar to this project. More recent and relevant performance usually impacts the confidence assessment more than less current and less relevant projects. See Attachment 5 for details.

Subcontractor References (if applicable)

If Subcontractors will be used for this contract, Offerors shall submit a Subcontractor Reference form (see Section 3.1.2) for each Subcontractor and ensure all requirements of the General Conditions outlined in this RFP are followed. See Attachment 6 for details.

In addition, the Offeror shall attach to the Subcontractor References form a letter or statement from each Subcontractor, signed by a legally authorized representative, stating:

1. The general scope of work to be performed by the Subcontractor; and,
2. The Subcontractor's willingness to perform the indicated work.
3. The number of years this Subcontractor has been used by your company, if applicable.

All subcontracts require HTA's prior written approval. Requests for written approval to subcontract shall include:

1. An explanation of the need for the goods or services to be subcontracted;
2. A statement regarding subcontractor's qualifications to provide the goods or services;
3. A summary of process used to procure the goods or services, including the material terms of bids or other responses to provide the goods or services; and
4. The reason(s) for the selection of the subcontractor, including information used to determine the reasonableness of the contract amount.

Note: Contractors are asked to include a force majeure clause in all their subcontracts where possible. Please use the same language as it appears in Special Provisions.

Confidential Information List (if applicable)

The Offeror shall provide a list of all confidential information referenced in the Offeror's proposal, including page numbers and sections, in a separate attachment. Material designated as confidential shall be readily separable from the proposal in order to facilitate inspection of the non-confidential portion of the proposal pursuant to HAR 3-122-46. If not applicable, offeror shall state so. (See Section 3.2.6) See Attachment 7 for details.

Conflict of Interest Disclosure & Attestation

The Offeror shall complete and sign the Conflicts of Interest questionnaire and disclose any current or anticipated business or personal relationships that may create an actual or apparent conflict of interest, including but not limited to other contracts with the HTA; contracts with competitors of the HTA; and, contracts with members of the travel and tourism industry within the State of Hawai‘i. See Attachment 8 for details.

Certificate of Vendor Compliance or Proof of Application for CVC

The Offeror shall submit a copy of the Certificate of Vendor Compliance from Hawai‘i Compliance Express or proof that one has been applied for from Hawai‘i Compliance Express. (See Section 5.2)

3.2 PROPOSAL SUBMISSION

3.2.1 OFFEROR'S AUTHORITY TO SUBMIT AN OFFER

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

3.2.2 REQUIRED REVIEW

Before submitting a proposal, each Offeror must thoroughly and carefully examine this RFP, any attachments, addenda, and other relevant documents to ensure Offeror understands the requirements of the RFP. Offeror must also become familiar with State, local, and Federal laws, statutes, ordinances, rules, and regulations that may in any manner affect the cost, progress, or performance of the work required.

Should the Offeror find defects and questionable or objectionable items in the RFP, Offeror must notify HTA in writing prior to the deadline for written questions as stated in Section 1.4 RFP Schedule and Significant Dates, as may be amended. This will allow the issuance of any necessary corrections and/or amendments to the RFP by addendum and mitigate reliance on a defective solicitation and distribution of proposal(s) upon which award could not be made.

3.2.3 PROPOSAL PREPARATION COSTS

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

3.2.4 TAX LIABILITY

Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237 and, if applicable, taxable under HRS Chapter 238. Contractor is advised that it is liable for the Hawai‘i GET. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror must state its tax-exempt status and cite the HRS chapter or section allowing the exemption.

Federal I.D. Number and Hawai‘i General Excise Tax License I.D. Offeror must submit its current Federal I.D. number and Hawai‘i General Excise (GET) Tax License I.D. number in the space provided on the Proposal Transmittal Letter, thereby attesting that the Offeror is doing business in the State and that Offeror will pay such taxes on all sales made in the State. If the offeror is not subject to GET, it must cite its tax-exempt status.

3.2.5 PROPERTY OF STATE

All proposals become the property of the State of Hawai‘i upon submittal.

3.2.6 PUBLIC INFORMATION

All government records are open to the public unless access is restricted by law. Identification of confidential information shall be the sole responsibility of the offeror.

The Uniform Information Practices Act requires an agency to make a government record available for inspection and copying unless the agency can show that an exception to disclosure under Section 92F-13, HRS, authorizes the agency to restrict or deny access to that record.

All Offerors are advised that confidential information in a proposal, offer, specification, protest, or correspondence may be subject to disclosure. The State may only restrict or deny access to items deemed confidential pursuant to Chapter 92F, HRS. Any data submitted to the State that the Offeror wishes to remain confidential shall be clearly marked and readily separable from the submittal to facilitate eventual public inspection of the non-confidential portion of the submittal. Any page of an offeror’s submittal containing confidential information shall only include confidential information. In addition, Offeror shall provide a list of all confidential information referenced in the Offeror’s proposal, including page numbers and sections in a separate attachment. See Attachment 7 for details.

If an Offeror believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld from disclosure pursuant to § 92F-13 HRS, then the Offeror shall inform the Procurement Manager in writing and provide the Procurement Manager with justification to support the Offeror’s confidentiality claim at the time of submittal. Price is not considered confidential and will not be withheld; however, actual costs or pricing information enabling competitors to estimate profit margins and production costs may be marked as confidential. These include selling prices, inventory balances, profit margins, purchase activity, cost of goods, and freight charges.

Pursuant to §3-122-58, HAR, the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination on any request for confidentiality in accordance with Chapter 92F, HRS. If the request for confidentiality is denied, such information shall be disclosed as public information unless the person appeals the denial to the Office of Information Practices in accordance with § 92F-15.5(a), HRS.

3.2.7 EXCEPTIONS

Should an Offeror take any exception to the terms, conditions, specifications, or other requirements listed in the RFP, the Offeror must attach a written explanation including the RFP section where the exception is taken, a description of the exception, and the proposed alternative, if any no later than 7 business days before the RFP deadline submisison. If none, state so in the proposal transmittal letter. See Attachment 2 for details.

Further, the nature of the exceptions will be considered when evaluating proposals. In the sole discretion of the State, exceptions may be evaluated to determine the extent to which the alternative language or approach poses unreasonable and/or additional risk to the State, inhibits achieving the objectives of the RFP, or creates ambiguity, making evaluation difficult and a fair resolution (available to all Offerors) impractical given the timeframe for the RFP.

3.2.8 SUBMITTAL REQUIREMENTS

ELECTRONIC SUBMITTAL ONLY VIA HIePRO. Proposals shall be submitted and received electronically through HIePRO by the date and time listed in RFP Schedule. This electronically submitted offer shall be considered the original. Any offers received outside the HIePRO, including faxed or e-mailed bids, shall not be accepted or considered for award. Any offer received after the due date and time are automatically disqualified and will be returned unopened, unless the delay was due to the action or inaction of the procuring agency and only if the proposal was received before award.

The maximum single file size that HIePRO can accept is 100MB; multiple files may be uploaded.

Submission of a proposal shall constitute an incontrovertible representation by the Offeror that the Offeror agrees to comply with every requirement of this RFP, including any subsequent addenda to the RFP and all other contract documents, and that the RFP documents are sufficient in scope and detail to indicate and convey a reasonable understanding of all terms and conditions of performance of the work.

Offerors are advised to carefully read Section 3.1.2 Content List and Section 3.1.3 Content Explanation and submit all documents required for this RFP.

3.2.9 RECEIPT AND REGISTER OF PROPOSALS

Once the solicitation closes, all proposals and attachments will be verified by two or more state officials on or after the date and time specified in the procurement timeline or as amended. The register of proposals and proposals of the Offeror(s) shall be open to public inspection upon posting of award and execution of a contract pursuant to HRS §§103D-105 and 103D-303, and HAR §3-122-51.

(a) Proposals and modifications shall be time-stamped upon receipt and held in a secure place by the procurement manager until the established due date.
    (1) Proposals and modifications shall not be opened publicly, but shall be opened in the presence of two or more state officials;
    (2) Proposals and modifications shall be shown only to members of the evaluation committee and state personnel or their designees having a legitimate interest in them.

(b) After the date established for receipt of proposals, a register of proposals shall be created.
(c) Proposals and the register of proposals shall be open to public inspection as provided in HAR §3-122-58, except to the extent that the Offeror designates trade secrets or other proprietary data to be confidential subject to subsection 3.2.6.

Any offers that arrive after the official due date and time are considered late and shall be returned unopened to the offeror.

3.2.10 MODIFICATION PRIOR TO SUBMITTAL DEADLINE OR WITHDRAWAL OF OFFERS

The Offeror may modify or withdraw a proposal before the proposal's due date and time. Any change, addition, deletion of attachment(s), or data entry of an offer must be made prior to the deadline for submittal of proposals.

3.2.11 MISTAKES IN PROPOSALS

Mistakes may not be corrected after awarding of Contract. When the Procurement Manager knows or has reason to conclude that a mistake has been made before award, the Procurement Manager should request the Offeror to confirm the proposal. If the Offeror alleges a mistake, the proposal may be corrected or withdrawn pursuant to this section.

Once discussions are commenced or after best and final offers are requested, any Priority Listed Offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

Technical irregularities are matters of form rather than substance evident from the proposal document or insignificant mistakes that can be waived or corrected without prejudice to other Offerors; that is when there is no effect on price, quality, or quantity. If discussions are not held or if best and final offers upon which award will be made have been received, the Procurement Manager may waive such irregularities or allow an Offeror to correct them if either is in the best interest of the State. Examples include but are not limited to, failure of an Offeror to return the correct number of signed proposals required by the request for proposals; failure to sign the proposal, but only if the unsigned proposal is accompanied by other material indicating the Offeror's intent to be bound; or to acknowledge receipt of incorrect number of amendments to the request for proposal, but only if it is clear from the proposal that the Offeror received the amendments and intended to be bound by its terms; or if the missing amendment involved had no effect on price, quality or quantity.

If the State requests additional information regarding aspects of an Offeror's Offer, the Offeror shall provide the same within five (5) Business Days of the State's request, unless the State specifies another time period. Each Offeror shall submit only one (1) Offer. If an Offeror submits more than one (1) Offer, the State reserves the right to reject and/or dismiss the Offeror from the RFP process.

3.2.12 NO LATE SUBMITTALS AFTER DEADLINE

Proposals received after the due date and time will be marked late and shall be ineligible for this solicitation. Any offers received outside of the HIePRO shall not be accepted. No hard copies will be accepted.

3.2.13 OFFER GUARANTY

An offer guaranty or performance bond is NOT required for this RFP.

SECTION FOUR: EVALUATION CRITERIA

4.1 REJECTION OF PROPOSALS

1) Requirements must be met: HTA may consider as acceptable, responsible, and responsive only those proposals submitted by the requirements set forth in this RFP.
2) Reasons: A proposal may be automatically rejected without further review for the following reasons:
   a) Late proposals. Late proposals are automatically disqualified unless the delay was due to the action or inaction of the procuring agency and only if the proposal was received before award;
   b) Non-Responsiveness. Failure to submit in accordance with the RFP requirements or failure to supply an adequate response to the RFP;
   c) Non-Responsibleness. Including:
      (i) Lack of a Certificate of Vendor Compliance (CVC) upon award;
      (ii) Refusal to abide by the State of Hawai'i's General Conditions as amended in this RFP by the HTA;
      (iii) Any uncured failure to meet the terms of agreement on any previous HTA contract;
   d) Failure to maintain standards of responsibility: falsification of information; suspension or debarment by State; felony conviction related to procurement contracting with any unit of government; failure to maintain necessary licensure or meet its tax or other obligations to a government agency.

4.2 PROPOSAL EVALUATION CRITERIA AND SCORING GUIDE

Written proposals will be reviewed, evaluated, and scored by an Evaluation Committee based on scoring criteria as set forth below. Each evaluation category is assigned a point breakdown, as determined by the HTA, totaling a maximum score of 100 possible points. Each category will be rated by each member of the evaluation committee. A score of zero (0) will be applied to the criterion that is completely missing from any proposal.

Evaluation Criterion	Evaluation Subcategory	Point Breakdown	Maximum Score
Evaluation Criterion 1: Experience and Qualifications	Relevance of the Offeror's experience and capabilities in culturally resonant communications, public relations, and tourism communications.	10	
	Depth of experience and demonstrated success with Hawai'i-based audiences, capabilities, and company resources.	10	
	Expertise and capabilities of the Offeror's managerial team, staff, and subcontractors as it relates to the requirements of this RFP.	10	

Evaluation Criterion	Evaluation Subcategory	Point Breakdown	Maximum Score
	Subtotal		**30**
Evaluation Criterion 2: Proposed Strategy	Creativity of the proposed communications strategy and plan, including collaboration with the PAO and efficiency with resources.	15	
	Feasibility of the proposed communications strategy and plan, including collaboration with the PAO.	15	
	Subtotal		**30**
Evaluation Criterion 3: Past Performance and Case Studies	Evidence of successful outcomes in similar projects	10	
	Evidence of measurable results in similar projects	10	
	Subtotal		**20**
Evaluation Criterion 4: References and Past Performance	Provides quality and relevant references from previous clients for similar projects and positive support of the offeror.	5	
	Subtotal		**5**
Evaluation Criterion 5: Price*	Subfactor 1 – Total Price Calculation	7	
	Subfactor 2 – Price Reasonableness and Realism	8	
	Subtotal		**15**
TOTAL POSSIBLE POINTS			**100**

The evaluation committee shall score proposals by reviewing the narrative for each of the evaluation criteria above.

Price Evaluation Criteria - *

Total Price Evaluation – Cost Points Conversion: In accordance with HAR §3-122-52 and HRS Chapter 103D, the proposal with the lowest cost factor, based on the total cost for the initial two contract periods of this multi-term contract, must receive the highest available rating allocated to cost. Each proposal that has a higher cost factor than the lowest must have a lower rating for cost. Additionally, the points allocated to higher-priced proposals must be equal to the lowest proposal

price multiplied by the maximum points available for price, divided by the higher proposal price. The point allocations for cost on the other Offers for each service category will be determined through the method set out in the following formula: [Lowest Total Cost multiplied by maximum points divided by [Offeror's Proposed Cost] = Cost Points Awarded.

Price Reasonableness and Realism: Prices shall be evaluated for competitiveness and reasonableness of price. The HTA will use price realism to determine price reasonableness and may use any or all price realism techniques and procedures for the purpose of measuring an offeror's understanding of the solicitation requirements, technical understanding, or of assessing the risk inherent in an offeror's proposal. A Price Realism Analysis is intended to determine if the contractor is proposing a price so low that the performance of the contract will be at risk.

4.3 EVALUATION COMMITTEE

The HTA intends to conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this RFP. However, the Procurement Manager, in accordance with the Hawai'i Administrative Rules §3-122-53, will classify proposals as acceptable, potentially acceptable, or unacceptable. Those proposals determined to be acceptable and potentially acceptable will be provided to the Evaluation Committee for consideration to be added to a priority list. The Proposals classified as unacceptable will be provided to the Evaluation Committee for their awareness and possible consideration. The HTA will use an Evaluation Committee to review and evaluate the proposals. The Offeror's contact person is the Procurement Manager. The Procurement Manager for this RFP serves as the arbitrator and referee for this RFP.

The Procurement Manager will monitor the Evaluation Committee meetings, will respond to questions, including questions relating to scoring or selection process, posed by the Evaluation Committee members, but will have no direct input to the scoring or selection process and will not be a voting member of the Evaluation Committee.

An evaluation committee of at least 3 qualified State employees approved by the Procurement Manager shall evaluate proposals for the contract. The evaluation will be based solely on the Evaluation Criteria and the process described.

Evaluation committee members' identities are kept confidential during the RFP process. Offerors are forbidden from contacting any member of the Evaluation Committee regarding this RFP during the RFP process. Offerors will not be penalized for inadvertent or unrelated communication with committee members. However, Offerors may be disqualified if they seek the identities of the committee members or knowingly seek out or contact committee members for advice or favor.

4.4 COMPETITIVE SEALED PROPOSAL PROCESS (RFP)

This RFP solicitation is issued pursuant to HAR 3-122-43, Subchapter 6. Submittals shall not be examined for evaluation purposes until the submittal deadline. Deadlines will be enforced.

The procurement process begins with the issuance of the RFP and the formal response to any written questions or inquiries regarding the RFP. Only written addenda can modify the RFP. Changes to the RFP cannot be made in any other manner, including verbal responses to questions at any other time. Offerors will be notified of any issuance of addenda via email as well as posted on HIePRO.

The RFP evaluation process may consist of at least two phases:

4.4.1 **Phase 1:** In Phase 1 of the evaluation process, the State will review all proposals timely received. The Procurement Manager, in accordance with the Hawai'i Administrative Rules §3-122-53, will classify proposals as acceptable, potentially acceptable, or unacceptable. All responsible Offerors who submit acceptable or potentially acceptable proposals are eligible

for the priority list. Under HRS§103D-310: Offerors (Contractors) shall be incorporated or organized under the laws of the State or be registered to do business in the State as a separate branch or division capable of fully performing under the contract.

Unacceptable proposals (non-responsive, not conforming to the RFP requirements, or received after the submittal deadline) will be provided to the Evaluation Committee for their awareness and possible consideration. In Phase 1, the Evaluation Committee will evaluate and score all acceptable and potentially acceptable proposals using the criteria and scoring guidelines described in Section 4.2 of the RFP. The proposals will be ranked by combined weighted score. Unless a proposal is awarded without discussion, the Evaluation Committee will then select Offerors from the highest-ranked proposals who will advance to Phase 2, pursuant to Hawai‘i Administrative Rules §3-122-53(c). These selected Offerors will be referred to as "Priority Listed Offerors."

The Evaluation Committee may choose not to advance Offerors to Phase Two for the following reasons: 1) The Evaluation Committee finds that one offeror ranks highest after reviewing all proposals, allowing for an award to be made without further discussions or clarifications; or 2) The Committee determines that no proposals meet the evaluation criteria and that proceeding with an award is not in the best interest of the state.

4.4.2 **Phase 2:** The Evaluation Committee may accept after initial evaluation without discussion, pursuant to HAR §3-122-46(8).

In Phase Two, the Evaluation Committee may conduct discussions with Priority Listed Offerors and request "Additional Information," which may consist of any combination of question-and-answer sessions, oral presentations/interviews, requests for clarification, best and final offers (BAFO), or any other information that the Evaluation Committee may find useful in coming to a decision.

A BAFO is the final chance for Priority Listed Offerors to refine their proposal, including revised pricing and other terms, to provide the most competitive offer. Pursuant to HAR §3-122-54 (a), the procurement manager shall establish a date and time for the priority-listed offerors to submit their best and final offers; (b) Best and final offers shall be submitted only once, unless the chief procurement officer or the head of a purchasing agency or a designee of either officer above the level of procurement officer determines in writing that it is in the State's best interest to conduct additional discussions or change the State's requirements by an addendum distributed only to priority-listed offerors and require another submission of best and final offers. Otherwise, no discussion of or changes in the best and final offers shall be allowed prior to award; (c) Priority-listed offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

If the RFP needs to be substantially clarified or changed during technical discussions, one or more addenda will incorporate such clarification or change. Addenda to the RFP will be distributed only to Priority Listed Offerors who submit acceptable or potentially acceptable proposals.

The contents of any proposal shall not be disclosed outside the evaluation committee during the review, evaluation, or discussion. Once the award notice is posted and a contract is executed, all successful and unsuccessful proposals become available for public inspection. Pursuant to HAR section 3-122-46(9), offerors shall designate those portions of their proposal that contain trade secrets or other proprietary data that are to remain confidential, subject to section 3-122-58. Material designated as confidential shall be readily separable from the proposal in order to facilitate public inspection of the non-confidential portion of

the offer. In addition, wholesale designation of the proposal or its sections is not permitted.

The Procurement Manager or an Evaluation Committee reserves the right to determine what is in the best interest of the State for purposes of reviewing and evaluating proposals submitted in response to the RFP. The Evaluation Committee will conduct a comprehensive, fair, and impartial evaluation of proposals received in response to the RFP.

The RFP, any addenda issued, and the successful Offeror's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawai'i.

The evaluation criteria and scoring guidelines for Phase 2 shall be those found in Section 4.2 of the RFP. In this second phase, evaluators will turn in new score sheets. The Phase 2 score sheet shall reflect the evaluator's assessment of the Offeror, inclusive of the written proposals in addition to any clarifications from Phase 2.

4.5 IN THE EVENT OF A SCORING TIE

Each evaluator's score will determine the total average score. Should a tie occur, the tied proposals will be compared, and the one with the higher average Experience and Qualifications (Criterion #1 above) will be ranked higher. If that is a tie, the one with the higher average Proposed Strategy (Criterion #2) will be ranked higher.

The contract will be awarded to the responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria set forth in Section 4.2 of the RFP.

The Evaluation Committee, based on the aforementioned process, will make a recommendation of award. In the event the State is unsuccessful in executing the post-award contract, the HOPA reserves the right to make the award to the next highest-ranked responsible Offeror. The HOPA further asserts that she/he may cancel the RFP if necessary under HRS §103D-308.

SECTION FIVE: CONTRACT AWARD

5.1 AWARD OF CONTRACT

Award will be made to the responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria set forth in the RFP pursuant to HRS §103D-303(g).

5.2 RESPONSIBILITY OF OFFERORS

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

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

Effective September 15, 2025, the Internal Revenue Service (IRS) will discontinue its participation in the Hawaii Compliance Express (HCE) program. As a result, vendors — excluding tax-exempt vendors — must directly upload their IRS Tax Compliance Report (TCR) to the HCE system.

If an Offeror is not compliant with the above HRS chapters at the time of award, the Offeror may not receive the award. The State reserves the right to move on to the next responsive, responsible Offeror who is compliant. The State will verify compliance on Hawai‘i Compliance Express (HCE). Offerors who do not participate in HCE may submit paper compliance certificates to HTA at the time of award.

Hawai‘i Compliance Express. Vendors may use HCE, an electronic system that allows Vendors/Contractors/Service Providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department of Taxation, Federal Internal Revenue Service, Department of Labor and Industrial Relations, and Department of Commerce and Consumer Affairs.

Vendors/Contractors/Service Providers intending to use HCE to demonstrate compliance are encouraged to register with HCE prior to submitting an offer at https://vendors.ehawaii.gov. The annual registration fee is $12.00, and the 'Certificate of Vendor Compliance' is accepted to execute a contract and final payment.

Timely Registration on HCE. Vendors/Contractors/Service Providers are advised to register on HCE as soon as possible. Although not a requirement for submission, if a Vendor/Contractor/Service Provider is not compliant at the time of award, an Offeror may not receive the award.

All certificates must be valid on the date the HTA receives it. Timely application for all applicable clearances is the responsibility of the Offeror.

Upon receipt of compliance documents, the HTA reserves the right to verify their validity with

the respective issuing agencies. The Contractor shall maintain their compliance throughout the term of the Contract.

5.3 PROPOSAL AS PART OF THE CONTRACT

The RFP, any addenda issued, and the successful Offeror's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawai‘i.

5.4 PUBLIC EXAMINATION OF PROPOSALS

Except for confidential portions, the proposals shall be made available for public inspection upon posting of award and execution of a contract pursuant to HRS §§ 103D-105 and 303, and HAR § 3-122-58. If a person is denied access to a State procurement record, the person may appeal the denial to the Office of Information Practices in accordance with HRS §92F-15.5.

5.5 DEBRIEFING/PROTEST

Pursuant to HAR §3-122-60, a non-selected Offeror may request a debriefing to understand the source selection decision and contract basis.

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

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

Pursuant to HRS §103D-701 and HAR §§ 3-126-3 and 4, an actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing, hand-delivered, or sent via registered or certified mail, return receipt requested (the envelope should be labeled "PROTEST") to the Procurement Manager at:

Procurement Manager
Hawai‘i Tourism Authority
Hawai‘i Convention Center, First Floor
1801 Kalākaua Avenue
Honolulu, Hawai‘i 96815

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

At a minimum, the protest shall contain the following information:

- Name and address of the protestor;
- Appropriate identification of the procurement;
- A statement of the reasons for the protest; and
- Supporting exhibits, evidence, or documents to substantiate any claims unless not available within the required filing time, in which case the expected availability date shall be indicated.

Awards, if any, resulting from this solicitation shall be posted to the SPO website via HIePRO.

5.6 APPROVALS

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

5.7 CONTRACT EXECUTION / NOTICE TO PROCEED

The successful Offeror receiving an award shall enter into a formal written Contract. Work will commence on the official commencement date specified on the Notice to Proceed. No work is to be undertaken by the Contractor prior to the commencement date specified on the Notice to Proceed. If the Contractor wishes to engage in preparation and planning, all work performed by the Contractor prior to the date specified on the Notice to Proceed shall be at the Contractor's sole cost and expense. The State of Hawai'i is not liable for any work, contract costs, expenses, loss of profits, or any damages incurred by the Contractor prior to this date.

If an option to extend is mutually agreed upon, the Contractor will be required to execute a supplement to the Contract for the additional extension period.

5.8 INSURANCE

5.8.1 Prior to the Contract start date, the Contractor shall obtain and maintain insurance coverage acceptable to the State in full force and effect throughout the term of the Contract. The Contractor shall provide proof of insurance for the following minimum required insurance coverage(s) and limit(s) in order to be awarded a Contract. The type of insurance coverage is listed as follows:

a. Commercial General Liability Insurance
Commercial general liability insurance coverage against claims for bodily injury and property damage arising out of all operations, activities, or contractual liability by the Contractor, its employees, and Subcontractors during the term of the Contract. This insurance shall include the following coverage and limits specified or required by any applicable law: bodily injury and property damage coverage with a minimum of $1,000,000 per occurrence; personal injury of $1,000,000 per occurrence; and with an aggregated limit of $4,000,000. The commercial general liability policy shall be written on an occurrence basis, and the policy shall provide legal defense costs and expenses in addition to the limits of liability stated above. The Contractor shall be responsible for payment of any deductible applicable to this policy.

b. Automobile Liability Insurance
Automobile liability insurance covers owned, non-owned, leased, and hired vehicles with a minimum of $1,000,000 for bodily injury for each person, $1,000,000 for bodily injury for each accident, and $1,000,000 for property damage for each accident.

5.8.2 The Contractor shall deposit with the HTA, upon notification of award, certificate(s) of insurance necessary to satisfy the HTA that the provisions of the Contract have been complied with and to keep such insurance in effect and provide the certificate(s) of insurance to the HTA during the entire term of the Contract. Upon request by the State, the Contractor must furnish a copy of the policy or policies.

5.8.3 The Contractor shall immediately provide written notice to the State should any of the insurance policies evidenced on its Certificate of Insurance form be canceled, limited in scope, or not renewed upon expiration.

5.8.4 Each insurance policy required by this contract, including a Subcontractor's policy, shall contain the following clauses:

- "The State of Hawai'i is added as an additional insured with respect to operations performed for the State of Hawai'i."
- "It is agreed that any insurance maintained by the State of Hawai'i will apply in excess of, and not contribute to, insurance provided by this policy."

5.8.5 A Waiver of Subrogation shall apply to the General Liability, Automobile Liability, and Workers' Compensation insurance policies and shall be in favor of the State of Hawai'i.

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

5.8.7 In addition, the Contractor is responsible for securing all employee-related insurance coverage for the Contractor and the Contractor's employees and agents that are or may be required by law and for payment of all premiums, costs and other liabilities associated with securing the insurance coverage at their own expense.

5.9 PAYMENT

The awarded Contractor(s) shall submit all invoices via email and in accordance with the State's invoicing guidelines pursuant to the Hawai'i State General Conditions attached to and made a part of this RFP. The State will reject any offer submitted with a condition requiring payment in less than thirty (30) calendar days.

The State has allocated a maximum amount of funds for this contract. It is expected that the Contractor will be able to achieve all the goals set out in the Proposal without the need for any additional monies and will be responsible for delivering and completing all work agreed to within the proposed contract amount. The award of a contract and any allowed change, renewal, or extension thereof, is subject to allotments made by the Director of Budget and Finance, State of Hawai'i, pursuant to HRS Chapter 37 and subject to the availability of State [and/or Federal] funds.

The Contractor will be put on a payment schedule. For each payment, the Contractor will be required to submit a list of associated deliverables along with an invoice. *In the event of a delay between services and payment, the Contractor agrees to utilize its own financial resources to fund at least two months of the services described in its proposal*. The "Conflicts of Interest Disclosures and Attestations" includes a statement that the Offeror will need to sign confirming that it has the availability of funds and agreeing to use these financial resources.

Official invoice date is the date that the invoice and all deliverables are received and accepted by the HTA. Invoice must also include the HTA contract number as well as a Contractor-generated invoice number. All required deliverables must be received along with or prior to receipt of invoice. Contractor shall certify that all required insurance coverages have been in full force and effect continuously from commencement of the work through the period for which the pay request is submitted.

Invoices submitted prior to receipt of the necessary deliverables will not be accepted and will have to be resubmitted. Fiscal year ends June 30. Invoices received at the change of fiscal year, between June 1 and July 31, may be subject to delays in processing. See your contract administrator for details.

As previously mentioned, Contractor must have a compliant Certificate of Vendor Compliance (CVC) to receive the final payment.

5.10 CONTRACT INVALIDATION

If any provision of the Contract is found to be invalid, such invalidation will not be construed to invalidate the entire Contract.

5.11 ADA COMPLIANCE

At the request of the State, the Contractor shall produce all deliverables and reports in an accessible format compliant with Title II of the Americans with Disabilities Act (ADA) and Sections 504 and 508 of the Rehabilitation Act of 1973, as amended. The Contractor shall produce all reports and deliverables into the communication auxiliary aid(s), as directed by the State, during the contract period.

5.12 HAWAIIAN ORTHOGRAPHY

The Contractor shall produce all deliverables using proper Hawaiian orthography as directed by the State during the contract period.

SECTION SIX: ATTACHMENTS AND EXHIBITS

- Attachment 1: Offeror Check List
- Attachment 2: Proposal Transmittal Letter
- Attachment 3: Corporate Resolution
- Attachment 4: Standard Qualifications Questionnaire
- Attachment 5: Contractor References
- Attachment 6: Subcontractor References (if applicable)
- Attachment 7: Confidential Information list (if applicable)
- Attachment 8: Conflicts of Interest Disclosures & Attestations

- Exhibit A: Overview of the RFP Process
- Exhibit B: Special Provisions
- Exhibit C: General Provisions for Goods and Services
- Exhibit D: HTA Travel & Entertainment Policy
- Exhibit E: General Conditions for 103D

EXHIBIT A

OVERVIEW OF THE RFP PROCESS

1. The RFP is issued pursuant to Subchapter 6 of HAR Chapter 3-122, implementing HRS §103D-303.

2. The procurement process begins with the issuance of the RFP and the formal response to any written questions or inquiries regarding the RFP. Changes to the RFP will be made only by Addendum.

   Upon award and contract execution, proposal files are public records available for review by submitting a Request to Access Government Records.

   All proposals and other material submitted by Offerors become the property of the State.

3. The Procurement Manager or an Evaluation Committee approved by the Procurement Manager will evaluate the proposals in accordance with the evaluation criteria in Section Four.

4. A "priority list" of responsible Offerors submitting acceptable and potentially acceptable proposals may be generated. The priority list may be limited to a minimum of three responsible Offerors who submitted the highest-ranked proposals. The objective of these discussions is to clarify issues regarding the Offeror's proposal if a BAFO is tendered.

5. If, during discussions, there is a need for any substantial clarification or change in the RFP, the RFP will be amended by an addendum to incorporate such clarification or change. Addenda to the RFP will be distributed only to Priority Listed Offerors who submit acceptable or potentially acceptable proposals.

6. Following any discussions, Priority Listed Offerors will be invited to submit their BAFO, if required. The Procurement Manager and Evaluation Committee reserves the right to have additional discussions with the Priority Listed Offerors prior to the submission of the BAFO.

7. The date and time for Offerors to submit their BAFO, if any, is indicated in Section 1.4 RFP Schedule and Significant Dates. If Offeror does not submit a notice of withdrawal or a BAFO, the Offeror's immediate previous offer will be construed as its BAFO.

8. After receipt and evaluation of the BAFOs in accordance with the evaluation criteria in Section Four, the Procurement Manager or an Evaluation Committee will make its recommendation. The Procurement Manager will award the contract to the Offeror whose proposal is determined to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in Section Four.

9. The contents of any proposal shall not be disclosed during the review, evaluation, or discussion. Once award notice is posted and contract is executed, all successful and unsuccessful proposals become available for public inspection. The Offeror and the State agree that sections that are confidential and/or proprietary should be identified by the Offerors and excluded from access.

10. The Procurement Manager or an Evaluation Committee reserves the right to determine what is in the best interest of the State for purposes of reviewing and evaluating proposals submitted in response to the RFP. The Procurement Manager or an Evaluation Committee will conduct a comprehensive, fair, and impartial evaluation of proposals received in response to the RFP.

The RFP, any addenda issued, and the successful Offeror's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawai‘i.

EXHIBIT B

SPECIAL PROVISIONS

1. Coordination of Services by the State. Paragraph No. 1 of the attached General Conditions is amended to read as follows:

a. The Director of the Department of Business, Economic Development and Tourism is the head of the purchasing agency ("HOPA"). A designee assigned by the HOPA will coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract.

b. The CONTRACTOR will maintain communications with the assigned designee 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.

2. Satisfactory Performance. Paragraph No. 2c of the attached General Conditions, entitled Relationship of Parties, is further clarified as follows:

a. Satisfactory Performance. CONTRACTOR acknowledges and agrees it shall be responsible for the satisfactory performance and supervision of the entire scope of work provided under this CONTRACT and conducted: in an efficient, timely, professional, and competent manner; in a cost-sensitive and economical manner; at all times and in all situations in the best interests of the HTA and the State of Hawai'i, commensurate with the highest standards of its profession and industry and in a manner that promotes and supports the public image, policies, programs, and goals of the HTA and the State of Hawai'i and their working relationships with all other persons, and with a long-term view toward fulfilling the mission and objectives of the HTA; within the fixed price budget constraints and the requirements provided in this CONTRACT; so that all work under this CONTRACT shall be given the highest priority within CONTRACTOR's organization; and to achieve or exceed the key performance measures provided in the approved proposal.

b. Acceptance Criteria. Each deliverable provided as part of the CONTRACTOR's scope of work, PROJECT, or CAMPAIGN shall be subject to acceptance by the HTA to verify that the deliverable satisfies the requirements and acceptance criteria as set forth in this CONTRACT. If no requirements or acceptance criteria are set forth with respect to a particular deliverable, the acceptance criteria for any such deliverable shall be based on the HTA's reasonable satisfaction therewith consistent with CONTRACTOR's obligations under this CONTRACT.

3. Hawai'i Compliance Express. Paragraph No. 2i of the attached General Conditions is further clarified as follows: The current "designated certification process" is Hawai'i Compliance Express. In lieu of presenting the separate certificates from the Departments of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, as outlined in Paragraphs 2e, 2g, and 2h of the General Conditions, the CONTRACTOR shall obtain and provide the HTA with a current Certificate of Vendor Compliance from the Hawai'i Compliance Express that is current prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the Certificate of Vendor Compliance as required for the final payment under section 103-53, HRS, as amended, and Paragraph 17 of these General Conditions.

4. Uniform Information Practices Act. Paragraph No. 24b of the attached General Conditions, entitled Confidentiality of Material, is further clarified as follows: CONTRACTOR acknowledges and agrees that the HTA, as a government agency of the State of Hawai‘i, United States, must comply with the provisions of the Hawai‘i Uniform Information Practices Act ("UIPA"), codified as a body of law under chapter 92F, Hawai‘i Revised Statutes, and that all documents maintained by the HTA are presumed to be subject to public disclosure unless otherwise exempt from public disclosure pursuant to specific exceptions provided by law. CONTRACTOR further acknowledges and agrees that as an HTA contractor receiving Public Funds, CONTRACTOR may also be required to comply with the UIPA by making documents maintained by CONTRACTOR in its offices and related to the performance of this CONTRACT available for public inspection unless otherwise deemed proprietary and confidential.

5. Conflicts of Interest. Paragraph No. 5 of the attached General Conditions is further clarified as follows: Contractor acknowledges and agrees that it has represented to HTA, and HTA has justifiably relied upon such representation, that Contractor is duly authorized, by law and in equity, to conduct the project described in the Proposal under the trade name or other name commonly understood for the Project. Contractor shall avoid all conflict of interests that will not prevent and deter fraud, waste, and abuse, or will not provide increased economy to maximize, to the fullest extent practicable, the purchasing value of public funds. Any credible and reliable proof of such conflict of interest shall be cause to terminate this Contract and withhold any payment to Contractor.

6. Limited License to Use Intellectual Property. Paragraph No. 26 of the attached General Conditions is clarified as follows: The STATE hereby grants to the CONTRACTOR, a non-exclusive limited license during the time of performance for this Contract only, and for the purposes outlined in this contract only, as provided herein, to use any designated intellectual property, including any domain name, trade name, service mark, tag line, or logo (hereinafter referred to cumulatively as “Licensed Property”), which is owned, copyrighted, registered, patented, or reserved by the HTA, for the purpose of promoting and marketing Hawai‘i as a visitor destination and in a manner consistent with the “Hawai‘i Tourism Authority Strategic Plan 2020-2025,” incorporated herein by reference, and with any other brand marketing and management plans. The contractor covenants and agrees that its use of the Licensed Property shall be of high standards and of high quality, style, and appearance and that contractor shall, at all times, maintain, increase, or enhance the goodwill associated with the Licensed Property. The contractor shall not authorize, assign, or grant any interest in the Licensed Property without the state’s prior written consent.

7. Conflict Resolution. Notwithstanding any provisions or representations to the contrary, any conflict among the various provisions of this Contract shall be resolved by allowing the various provisions in the following documents, in order of priority, to control:

1. Hawai‘i law; then
2. This Contract and Attachments-S1 to Attachment-S4, as modified, amended, or changed in writing; then
3. The General Conditions, attached hereto and incorporated herein; then
4. The CONTRACTOR’s budget approved by STATE; then
5. The RFP, as amended; then
6. The accepted PROPOSAL; then
7. Course of conduct; then
8. Course of dealing; then
9. General principles of government contracting; then
10. Visitor Industry marketing practices.

8. Execution in Counterparts. This Contract may be executed in one (1) or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

9. Entertainment & Travel Policy. As a State agency, the HTA is required to inform offerors of Hawai'i Administrative Rules §3-123-9, regarding entertainment, and the requirement to follow the HTA's travel policy that is informed by the State ethics code. The HTA will require the offeror to take measures to ensure that all entertainment related to the HTA Contract work plan is appropriate and allowable, and not in violation of applicable law. Further, if elements of the contractor's travel policy fall outside of the HTA travel policy, HTA will require the contractor to take measures to ensure that all travel related to HTA work does not violate State ethics laws.

a. Entertainment: HAR §3-123-9, provides the following guidelines:

   i. Entertainment costs are unallowable and include costs of amusements, social activities, and incidental costs as meals, beverages, lodging and transportation, and gratuities.

   ii. Nothing herein shall make unallowable a legitimate expense for job-related employee health, welfare, food service, or lodging costs, except that, where a net profit is generated by such services, it shall be treated as a credit as provided in section §3-123-21. Costs incurred for meetings or conferences, including, but not limited to, costs of food, rental facilities, and transportation, are not allowable except where the primary purpose is the dissemination of technical information or the establishment of specific project policies as a partnering conference.

b. See HTA's travel policy, attached as the Exhibit entitled "HTA Travel Policy." HTA reserves the right to review CONTRACTOR's travel arrangements.

10. Force Majeure. As parties to this Contract, neither HTA nor Contractor shall be responsible or liable, or deemed in breach hereof, for a delay in the performance of their respective obligations and responsibilities under this Contract due solely to a Force Majeure Event beyond its reasonable control; provided that the party experiencing the Force Majeure Event shall exercise due diligence in endeavoring to overcome any Force Majeure Event that impedes its performance, and to mitigate costs where possible. Upon the occurrence of a Force Majeure Event, the non-performing party shall be excused from any further performance or observance of the affected obligation(s) only for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any party so delayed in its performance will immediately notify the other by telephone or by the timeliest means otherwise available (to be confirmed in writing within two (2) calendar days after the inception of such delay) and describe in reasonable detail the circumstances causing such delay. *(As used in this Contract, "Force Majeure Event" means any occurrence beyond the reasonable control of a party, including, without limitation, acts of God; act of terrorism; war; embargo; national emergency; insurrection or riot; acts of the public enemy; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; or unusually severe weather or other natural disasters.)*

EXHIBIT C

GENERAL PROVISIONS FOR GOODS AND SERVICES

1. DEFINITIONS OF TERMS

Terms, as applicable and as used in these General Provisions, unless the context requires otherwise, shall have the following meaning:

a. BID

Bid means any offer submitted in competitive sealed bidding or in the second phase of multi-step bidding.

b. BID PROPOSAL GUARANTY OR SECURITY

The security, when required, is furnished by an Offeror with his offer to ensure that the Offeror will enter into the contract with the State and execute the required contract and payment bonds covering the work contemplated if his offer is accepted.

c. CONTRACT

Contract means the combination of the solicitation, including the instructions to Offerors, the specifications or scope of work, the special provisions, and the general terms and conditions; the offer and any best and final offers; and any amendments to the solicitation or to the contract; and any terms implied by law.

d. CONTRACT BOND

The approved form of security furnished by the Contractor and his surety or sureties or by the Contractor alone, to ensure completion and satisfactory performance of the contract in accordance with the terms of the contract and to guarantee full payment of all claims for labor, materials and supplies furnished, used, or incorporated in the work.

e. CONTRACTOR

An individual, partnership, firm, corporation, joint venture, or other legal entity undertaking the execution of work under the terms of the contract with the State and acting directly or through his, their or its agents, employees, or Subcontractors.

f. DAYS

Days mean calendar days unless otherwise specified.

g. GENERAL CONDITIONS

General Conditions issued by the Department of the Attorney General of the State of Hawai'i, referred to as Form AG-008, as revised, and included in solicitations by reference. The applicable revised Form AG-008, which is included by reference, is the form dated and in effect at the date the solicitation is issued.

h. GENERAL PROVISIONS

General Provisions are standard terms and conditions.

i. HAR

Hawaii Administrative Rules

j. HEAD OF THE PURCHASING AGENCY

The head of any agency with delegated procurement authority by law or from a chief procurement officer of this State to enter into and, administer contracts.

k. HRS

Hawaii Revised Statutes

l. IFB

Invitation for Bids

m. OFFER

An offer means a bid or proposal as defined in sections 1a and 1p, in response to any solicitation.

n. OFFEROR

Any individual, partnership, firm, corporation, joint venture, or other legal entity, submitting directly or through a duly authorized representative or agent, an offer for the work or services contemplated in response to a solicitation as defined in 1s.

o. PROCUREMENT MANAGER

Procurement Manager means the person with procurement delegation duly authorized to enter into and administer contracts and make written determinations with respect to the contract. The term includes an authorized representative acting within the limits of authority. The delegated authority is received from the chief procurement officer directly or through the head of a purchasing agency or designee to the procurement manager.

p. PROPOSAL

A proposal means any offer submitted in response to any solicitation, except a bid as defined in section 1a.

q. PURCHASING AGENCY

Purchasing agency means any governmental body which is authorized by law or rules, or by way of delegation to enter into contracts for procurement of goods, services, or construction.

r. RFQ

Request for Quotes

s. RFP

Request for Proposals

t. SOLICITATION

Solicitation means an invitation for bids ("IFB"), used in the competitive sealed bidding process, a request for quotes ("RFQ") used in the small purchases process, or a request for proposals ("RFP"), used in the competitive sealed proposal process for the purpose of obtaining quotes, bids, or proposals to perform a State contract.

u. SPECIAL PROVISIONS

The terms and conditions pertaining to the specific solicitation in which they are contained and in addition to these General Provisions; including but not limited to terms and conditions describing the preparation of solicitations, evaluation of offers, determination of award, plus those applicable to performance by the Contractor.

Additions or revisions to the General Provisions, which shall be considered a part of the General Provisions, setting forth conditions or requirements applicable to the particular project or contract under consideration shall be included in the Special Provisions. Should any Special Provisions conflict with these General Provisions, said Special Provisions shall govern.

v. SPECIFICATIONS

A description of what the purchasing agency requires and, consequently, what an Offeror must offer to be considered for award.

w. STATE

State means the remaining departments of the executive branch and all governmental bodies administratively attached to it, excluding the judiciary, the legislature, the department of education, University of Hawaii, the division of community hospitals, and the office of Hawaiian affairs, except where specifically included in any particular solicitation.

x. SURETY

The individual, firm, partnership, or corporation other than the Contractor, which executes a bond with and for the Contractor to ensure the Contractor's acceptable performance of the contract.

y. WORK

The furnishing by the Contractor of all labor, services, materials, equipment, and other incidentals necessary for the satisfactory performance of the contract.

2. COMPETENCY OF OFFEROR

Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status, or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the State. Any such inquiries shall be

made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.

The purchasing agency reserves the right to visit an Offeror's place of business to inspect its facilities and equipment and to observe its methods of operation in order to facilitate evaluation of performance capabilities.

3. OFFER INCORPORATES SOLICITATION

The solicitation, including the AG's General Conditions, Specifications, General Provisions and any Special Provisions, and other documents referenced in or attached to the solicitation shall be considered a part of the offer whether attached to the solicitation or not at the time of its submission. Such documents shall not be altered in any way when the proposal is submitted, and any alterations so made by the Offeror may be cause for rejection of the offer.

4. PREPARATION OF OFFER

An Offeror may submit only one offer in response to a solicitation. If an offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Competing subsidiary or jointly owned companies may submit bids or proposals and these may be accepted for evaluation and award if such companies submit with their bids or proposals a certificate of non-collusion, sworn to before a notary, which acknowledges that the offer is without collusion.

Unless otherwise specified in the solicitation, all prices shall include applicable Federal, state, and local taxes. Any illegible or otherwise unrecognizable price offer shall cause automatic rejection of the offer.

Offers submitted in response to an IFB or RFP shall be signed in the space provided on the bid or proposal page by (1) the owner of a sole proprietorship, (2) one or more members of a partnership, (3) one or more members or officers of each firm representing a joint venture, (4) one or more officers of a corporation, or (5) an agent of the Offeror duly authorized to submit offers on the Offeror's behalf. Electronic signatures are acceptable.

5. LATE OFFERS, LATE WITHDRAWALS, AND LATE MODIFICATIONS

Offers are only submitted through HIePRO. Late submissions will automatically not be accepted.

6. DISQUALIFICATION OF OFFERORS

An Offeror shall be disqualified, and his offer automatically rejected for any one of the following reasons: proof of collusion, in which case, all offers involved in the collusive action will be rejected and any participant to such collusion will be barred from future solicitations until reinstated; or Offeror's delivery of the offer after the deadline specified in the public notice calling for offers, or as amended.

7. IRREGULAR OFFERS

Offers will be considered irregular and shall be rejected for the following reasons including but not limited to the following: if the offer is unsigned by the Offeror, unless otherwise

specified in the solicitation; if the required offer guaranty received separately from the offer is not identifiable as guaranty for a specific offer, or is received after the date and time set for the opening; if the required offer guaranty is not in accordance with the solicitation; if the Offeror or surety fails to sign the surety bond submitted as offer guaranty; if Offeror fails to use the surety bond form furnished by the State or identical wording contained in the said form when submitting a surety bond as proposal guaranty; if the offer shows any non-compliance with applicable law or contains any unauthorized additions or deletions, conditioned, incomplete, or irregular or is in anyway making the proposal incomplete, indefinite, or ambiguous as to its meaning; or unbalanced offers in which the price for any item is obviously out of proportion to the prices for other items.

8. **STANDARDS OF CONDUCT**

All Offerors should be certain that their offer is not in violation of HRS §84-15. This section provides as follows:

a. A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, an employee, or a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of $10,000 unless:

(1) The contract is awarded by competitive sealed bidding pursuant to Section 103D-302;

(2) The contract is awarded by competitive sealed proposal pursuant to Section 103D-303; or

(3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.

b. A state agency shall not enter into a contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned.

9. ACCEPTANCE OF OFFER

a. Acceptance of offer, if any, will be made within one hundred twenty calendar days after the opening of offers, and the prices quoted by the Offeror shall remain firm for the one hundred twenty-day period. Unless otherwise provided, each individual item or group of items will be awarded to the responsive and responsible Offeror whose offer complies with all the solicitation requirements. In determining the responsive and responsible Offeror, offers will be evaluated not only on the amounts thereof, but on all factors relating to the satisfactory performance of the contract. Products or servicing capabilities must be of a quality and nature that will meet the needs and purposes of the intended use and must conform to all requirements prescribed in the specifications. The Offeror must have the ability to perform as called for in the contract terms. The State shall be the sole judge of product or vendor capability. The successful vendor will be notified by letter that the offer has been accepted and that the vendor is being awarded the contract.

b. If the offer is rejected or if the vendor to whom the contract was awarded fails to enter into the contract and furnish satisfactory security, if applicable, the purchasing agency may, at their discretion, award the contract to the next lowest or remaining responsible Offeror or may publish another call for offers; provided in the case of only one remaining responsible Offeror, the head of a purchasing agency may negotiate with such bidder to reduce the scope of work, if available funds are exceeded, and to award the contract at a price which reflects the reduction in the scope of work.

c. The head of a purchasing agency further reserves the right to cancel the contract award at any time prior to execution of said contract by all parties, without any liability to the awardee and to any other Offeror.

10. EXECUTION OF CONTRACT

The following subsections shall not apply to any contract in which the total amount payable to the Contractor cannot be accurately estimated at the time the contract is to be awarded:

a. In cases where the contract award equals or exceeds the dollar level specified in Section 103D-305, HRS, the State shall forward a formal contract to the successful Offeror for execution. The contract shall be signed by the successful vendor and returned, together with a satisfactory contract bond if required, and other supporting documents, within ten days after receipt by the vendor or within such further time as the procurement manager may allow.

b. No such contract shall be considered binding upon the State until the contract has been fully and properly executed by all the parties thereto and the State Comptroller has, in accordance with Section 103D-309, HRS, endorsed thereon a certificate that there is an appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; with the exception of a multi-term contract, whereby, the State Comptroller shall only be required to certify that there is an appropriation or balance of an appropriation over and above all outstanding contracts, that is sufficient to cover the amount required to be paid under the contract during the fiscal year or remaining portion of the fiscal year of each term of the multi-year contract.

Pursuant to the Attorney General's General Conditions (AG-008, as revised), Section 18, in any contract involving not only State but supplemental funds from the Federal government, this section shall be applicable only to that portion of the contract price as is payable out of State. As to the portion of the contract price, as is expressed in the contract to be payable out of Federal funds, the contract shall be construed to be an agreement to pay the portion to the Contractor only out of Federal funds to be received from the Federal government. This subsection shall be liberally construed so as not to hinder or impede the State in contracting for any project involving financial aid from the Federal government.

11. CONTRACT BOND

a. The requirement for contract performance and payment bonds, if any, shall be stated in the Special Provisions of the solicitation.

b. When required by the Special Provisions, a performance bond and a payment bond shall be delivered by the Contractor to the State at the same time the executed contract is delivered. Each amount of the performance and payment bonds shall not exceed fifty

percent of the amount of the contract price; provided, for contracts where contract price cannot be determined at the time of award, the amounts of the bonds shall be as stated in the solicitation.

c. The acceptable performance and payment bonds are the same as the acceptable bid or proposal security deposit specified in the solicitation. If a surety bond is submitted for either the performance or payment bond, in addition to the form prescribed, a power of attorney for the surety's attorney-in-fact executing the bond shall be provided.

12. FAILURE TO EXECUTE CONTRACT

If the Offeror to whom a contract is awarded shall fail or neglect to enter into the contract, and to furnish satisfactory security as required by Section 12 within ten days after such award or within such further time as the procurement manager may allow, the purchasing agency shall pay the amount of Offeror's proposal guaranty, as required in the solicitation, into the State Treasury as a realization of the State. The procurement manager may thereupon award the contract to the next lowest responsible Offeror or may call for new offers, whichever method he may deem is in the best interest of the State.

13. RETURN OF OFFER GUARANTIES

All offer guaranties submitted as required by subchapter 24, chapter 3-122, HAR, shall be retained until the successful Offeror enters into contract and furnishes satisfactory security or if the contract is not awarded or entered into, until the procurement manager's determination is made to cancel the solicitation. At such time, all offer guaranties, except surety bonds, will be returned.

14. PAYMENT

The awarded Contractor shall submit all invoices via email and in accordance with the State's invoicing guidelines pursuant to the Hawai‘i State General Conditions attached to and made a part of this RFP. The State will reject any offer submitted with a condition requiring payment in less than thirty (30) calendar days.

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

15. DELIVERY EXTENSIONS

In the case of contracts for the purchase of goods, the delivery date, or the maximum number of days for delivery will be specified by the State in its solicitation requirements, and all goods must be delivered with the time specified. However, the Contractor will not be held responsible for delay due to fire, flood, riot, labor disturbances, war, shortage of transportation, act of God or other reason beyond his control, provided that he notifies the State of such delay and the reason therefore as soon as practicable after its occurrence and requests extension prior to the specified date of delivery. Requests for extension of time shall be accompanied by documents such as the Contractor's purchase order, manufacturer's acknowledgment, shipping manifest, and any other documents substantiating that the causes for delay were beyond the control of the Contractor. The State shall be the sole judge of whether such delay is truly beyond the control of the Contractor and whether an extension will be granted. The State reserves the right to terminate the contract or to assess liquidated

damages if provided for in the contract, for delays not covered by specific authorized extension.

16. PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the provisions of the contract or in exercising any power or authority granted to them by the contract, there shall be no liability upon the procurement manager or his authorized representatives, either personally or as officials of the State, it being understood that in such matters, they act solely as agents and representatives of the State.

EXHIBIT D

HTA TRAVEL & ENTERTAINMENT POLICY

As a State agency, the HTA is required to follow an ethics code that informs our travel policy and ensures compliance with the Hawai‘i Administrative Rules §3-123-9, which pertains to entertainment. HTA reserves the right to review the contractor's travel policy. If any elements of the contractor's travel policy differ from the HTA travel policy, the HTA will require the contractor to take measures to ensure that all travel associated with HTA work complies with State ethics laws. The contractor shall select the most economical airfare and accommodations (unless otherwise justified), based on the itinerary that fits the business requirements.

A. Travel Policy:

1. All airfares and accommodations require two (2) quotes for authorized/official business, from two different sources.
2. Contractor shall never ask for upgrades or complimentary airfares and/or rooms except for organized destination Familiarization Tours (FAM) and site inspections. Contractor shall use a negotiated FAM rate for hotel and air.

3. State funds shall not be used to purchase alcoholic beverages.

B. Entertainment: HAR §3-123-9, provides the following guidelines:

1. Entertainment costs are unallowable and include amusements, social activities, and incidental costs such as meals, beverages, lodging and transportation, and gratuities.

2. Nothing herein shall make unallowable a legitimate expense for job-related employee health, welfare, food service, or lodging costs, except that, where a net profit is generated by such services, it shall be treated as a credit as provided in section §3-123-21. Costs incurred for meetings or conferences, including, but not limited to, costs of food, rental facilities, and transportation, are not allowable except where the primary purpose is the dissemination of technical information or the establishment of specific project policies as a partnering conference.

EXHIBIT E

General Conditions for 103D

HAWAIʻI REVISED STATUTES (HRS) CHAPTER 103D

(Updated July 2017)

Attached are the General Conditions, dated July 2017 which are made a part of all offers in response to the solicitation for goods and services. These provisions are in addition to the special provisions provided in the individual solicitations. Offerors are cautioned to read and understand all the terms and conditions contained in the General Provisions as these provisions will also be made part of the contract for goods and services.

GENERAL CONDITIONS

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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 section103D-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 for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

(1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or

(2) Immediately terminate this Contract.

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

e. Records Retention.

(1) Upon any termination of this Contract 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.