

HAWAII STATE DEPARTMENT OF EDUCATION
PROCUREMENT AND CONTRACTS BRANCH

SEPTEMBER 18, 2026

INVITATION FOR BIDS

Number IFB D27-055

SEALED BIDS

TO PROVIDE

REGIONAL KITCHEN OPERATIONAL READINESS VALIDATION

AND COMPLETION SUPPORT

FOR

THE HAWAII STATE DEPARTMENT OF EDUCATION'S

FIRST REGIONAL KITCHEN

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

on

October 14, 2026

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

Questions relating to this solicitation may be directed to Albert Perry, Procurement and Contracts Support Specialist, at telephone (808) 675-0130, via facsimile (808) 675-0133, or via email at albert.k.perry@k12.hi.us.

PROVIDE REGIONAL KITCHEN OPERATIONAL READINESS VALIDATION
AND COMPLETION SUPPORT FOR THE HAWAII STATE DEPARTMENT
OF EDUCATION'S FIRST REGIONAL KITCHEN
IFB D27-055

OFFER PAGE OF-1

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

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

Authorized (Original in ink) Signature

Name (printed)

Title

Date

The following offer is hereby made:

Item Number	Description	Unit Bid Price	Unit	Total Bid Price
1	Operational Process Development and Continuity of Operations		1	\$ -
2	Menu, Production and Procurement Transition Planning		1	\$ -
3	Inventory, Receiving and Materials Management		1	\$ -
4	Training and Workforce Readiness		1	\$ -
5	Phase I Finishing-Kitchen Operational Readiness and Rough Order of Magnitude (ROM) Assessments		1	\$ -
6	Food Safety, Traceability and HACCP Compliance		1	\$ -
7	Project Management and Implementation Support		1	\$ -
SUB-TOTAL BID PRICE (ITEMS 1 through 7)				\$ -

Item Number	Description	Unit Bid Price Per Hour	Estimated Number of Hours	Total Bid Price
8	Assistance with development or delivery of specialized operational training upon request by the STATE, within the CONTRACTOR's area of expertise.		120	\$ -
TOTAL SUM BID PRICE (ITEMS 1 through 8)				\$ -

Unit Bid Price shall include labor, equipment, materials, transportation, overhead, profit, all applicable taxes and any other incidental and operational expenses incurred in the performance of all obligations hereunder. The Unit Bid Price shall be the all-inclusive cost to the STATE and no other charges will be honored. In case of error in extension of Bid Price, the Unit Bid Price shall govern.

OFFEROR _____

SPECIFICATIONS

1. INTRODUCTION, BACKGROUND AND BUSINESS GOALS AND OBJECTIVES

1.1. Introduction

The purpose of this project is to obtain professional operational planning, implementation, and readiness support for the Hawaii State Department of Education's (STATE) first Regional Kitchen to enable timely opening, training, production, distribution, and phased implementation of finishing kitchens.

The CONTRACTOR shall assist the School Food Services Branch (SFSB) in transitioning the Regional Kitchen from a newly constructed facility into a safe, standardized, efficient, and sustainable food-production operation. The CONTRACTOR shall build upon work already completed or underway by the STATE, including facility and equipment design, menu development, staffing analysis, procurement planning, smallwares planning, training, finishing-kitchen planning, and food-safety requirements.

The CONTRACTOR shall review, validate, revise, complete, and integrate the STATE's existing work in the following seven (7) service areas:

- Operational Process Development and Continuity of Operations;
- Menu, Production and Procurement Transition Planning;
- Inventory, Receiving and Materials Management;
- Training and Workforce Readiness;
- Phase I Finishing-Kitchen Operational Readiness and Rough Order of Magnitude (ROM) Assessments;
- Food Safety, Traceability and Hazard Analysis Critical Control Point (HACCP) Compliance; and
- Project Management and Implementation Support.

To support comparable bids, the STATE shall provide a STATE-Furnished Materials Index and the most current available versions of existing planning products which will be provided through a forthcoming addendum. The index shall identify each document's title, date or version, status, and electronic format. Additional or updated materials completed after bid opening shall be provided at the start of the Contract. The CONTRACTOR shall build upon these materials and shall not recreate acceptable STATE work unless revision is necessary to meet Contract requirements.

This engagement is not intended to transfer management responsibility for the Regional Kitchen to the CONTRACTOR. Final decisions involving policy, staffing structure, position classification, collective bargaining, menu approval, procurement, personnel, and other management responsibilities remain with the STATE.

1.2. Background

The STATE is developing its first Regional Kitchen in Central Oahu as part of a broader transformation of Hawaii's school food-service system. Historically, the STATE has operated primarily through a decentralized model in which more than 250 schools manage individual preparation kitchens. This legacy model faces challenges associated with aging infrastructure and equipment, labor shortages, varying production capability, and rising costs for processed and mainland-sourced food products.

The Regional Kitchen is intended to support a transition toward centralized production of high-quality meals using increased scratch cooking, standardized recipes and food-safety practices, and greater utilization of Hawaii-grown and Hawaii-produced foods. The Regional Kitchen will prepare food for distribution to participating finishing kitchens, where meals will be received, stored, rethermalized or finished as necessary, and served to students.

The Regional Kitchen is located within the Leilehua-Mililani-Waialua (LMW) complex area and is the first facility envisioned within a future statewide Regional Kitchen network. Phase I design-build completion and operational opening are planned for June 2027, with school transition occurring in phases rather than all participating schools beginning service simultaneously.

1.2.1. Phased School Implementation

- 1.2.1.1. Phase 1 Year 1 is planned to support twenty (20) schools in the Leilehua, Mililani, and Waialua complex areas. Four initial finishing kitchens are currently planned for renovation: Leilehua High School, Wahiawa Middle School, Wahiawa Elementary School, and Iliahi Elementary School. An additional sixteen (16) LMW schools are planned for transition and may require equipment, smallwares, training, operational modifications, or other readiness measures even when major facility renovation is not immediately funded.
- 1.2.1.2. Phase 1 Year 2 is planned to add twenty-two (22) schools in the Aiea, Moanalua, and Radford complex areas. The broader Phase I and Phase II operating model anticipates eventual Regional Kitchen support expanding to approximately eighty-five (85) schools. The CONTRACTOR's work shall support initial Regional Kitchen opening, phased school activation, and development of repeatable processes that can be applied as additional schools enter the system.

The Regional Kitchen is also intended to strengthen standardized food safety and leverage Central Oahu's agricultural corridor in support of the STATE's local-food goals, including the requirements identified in Act 175 (2021) and Act 137 (2025) regarding locally sourced food purchases.

1.3. **Business Goals and Objectives**

The primary goal of this project is to review, validate, complete, and integrate STATE-developed operational-readiness work so the Regional Kitchen and participating finishing kitchens are prepared for phased implementation. The CONTRACTOR shall perform concurrent workstreams and meet the required deliverable schedule.

1.3.1. Operational Readiness and Standardization

- 1.3.1.1. Develop standardized, practical, and repeatable operating processes for the Regional Kitchen and finishing kitchens to support consistent meal quality, food safety, accountability, and operational efficiency.

1.3.2. Production Readiness

- 1.3.2.1. Validate that planned menus, recipes, production volumes, equipment capacities, production sequencing, staffing assumptions, cooling requirements, storage capacity, packaging, and distribution requirements can function together as one operating system.

1.3.3. Finishing-Kitchen Readiness

- 1.3.3.1. Evaluate participating schools to determine whether equipment, utilities, layout, smallwares, receiving capacity, staff readiness, and training are sufficient to operate successfully as finishing kitchens.

1.3.4. Food Safety and Regulatory Compliance

- 1.3.4.1. Develop the HACCP framework, SOPs, traceability systems, records, corrective-action processes, and training needed to support State of Hawaii Department of Health (DOH), United States Department of Agriculture (USDA) Child Nutrition

Program, Food Safety Modernization Act (FSMA), and other applicable food-safety requirements, with the goal of operational compliance by opening.

1.3.5. Operational Resiliency

- 1.3.5.1. Develop contingency procedures intended to prevent avoidable interruption of student meal service during equipment failures, utility interruptions, transportation disruptions, product shortages, staffing shortages, severe weather, road closures, and other emergencies.

1.3.6. Sustainability and Local Food Integration

- 1.3.6.1. Establish and validate procurement and production workflows capable of supporting a minimum thirty percent (30%) local ingredient integration objective while maintaining USDA nutritional standards and considering seasonal availability, volume, processing, traceability, storage, and production requirements.

1.3.7. Implementation Management

- 1.3.7.1. Provide a consolidated implementation schedule and project-management system identifying dependencies, milestones, responsible parties, risks, deadlines, and corrective actions necessary to support timely Regional Kitchen activation and phased school transition.

2. SCOPE OF WORK

2.1. Scope

The CONTRACTOR shall provide comprehensive operational readiness and implementation support that integrates with analysis, design, and planning already completed or underway by the STATE. The following seven (7) service areas define the required work.

All deliverables required under Sections 2.1.1 through 2.1.7 shall be submitted in draft for STATE review according to the Contract deliverable schedule. The STATE shall provide consolidated comments within five (5) working days after receipt. The CONTRACTOR shall address all comments and submit corrected final documents by the applicable final due date. No deliverable shall be considered final until accepted in writing by the Contract Administrator or designee. Corrections required to meet the Contract requirements shall be completed at no additional cost to the STATE.

All deliverables required under Sections 2.1.1 through 2.1.7 shall be provided in editable electronic formats acceptable to the STATE and shall be incorporated into the Final Regional Kitchen Operational Readiness Package.

2.1.1. Operational Process Development and Continuity of Operations

2.1.1.1. Regional Kitchen-to-Finishing Kitchen Distribution

- 2.1.1.1.1. The CONTRACTOR shall document the operational requirements associated with transportation and distribution of Regional Kitchen food, supplies, reusable transportation equipment, and other items to participating finishing kitchens. The requirements shall support Phase 1 implementation and be scalable through the anticipated full rollout of approximately eighty-five (85) schools.

2.1.1.1.2. At a minimum, the distribution requirements shall address the following:

- 2.1.1.1.2.1. Loading and staging requirements and meal and/or supply dispatch procedures;

- 2.1.1.1.2.2. Delivery routes or routing assumptions, delivery timing, delivery windows, and transportation options appropriate to each implementation phase;
- 2.1.1.1.2.3. Regional Kitchen and finishing-kitchen receiving responsibilities;
- 2.1.1.1.2.4. Refrigerated transportation requirements, cold-chain controls, and temperature documentation;
- 2.1.1.1.2.5. Procedures for delivery delays, short deliveries, rejected product, compromised product, and other delivery discrepancies;
- 2.1.1.1.2.6. Transportation cart accountability and return of empty carts, racks, containers, and reusable smallwares; and
- 2.1.1.1.2.7. Operational resource needs as additional schools are phased into the Regional Kitchen system.
- 2.1.1.1.3. The CONTRACTOR shall evaluate practical options for transportation temperature monitoring, including alert or tracking capabilities when temperatures deviate from required food-safety standards, and recommend controls appropriate to the operating model.
- 2.1.1.1.4. The CONTRACTOR may provide technical and operational requirements, service levels, routing assumptions, food-safety requirements, performance expectations, and other supporting information that the STATE may use in future procurement actions. The CONTRACTOR shall not draft STATE solicitation documents, establish procurement methods, evaluate bids or proposals, or make procurement decisions reserved to the STATE.
- 2.1.1.2. Distribution and Procurement Transition Planning
 - 2.1.1.2.1. The CONTRACTOR shall develop a phased transition framework showing how food, supply, purchasing, receiving, and delivery requirements change as schools move from direct distributor delivery to Regional Kitchen-supported operations.
 - 2.1.1.2.2. The transition framework shall identify, as applicable:
 - 2.1.1.2.2.1. Schools entering the system by implementation phase and anticipated transition sequence;
 - 2.1.1.2.2.2. Products expected to continue direct-to-school delivery;
 - 2.1.1.2.2.3. Products expected to transition to Regional Kitchen delivery;
 - 2.1.1.2.2.4. Products expected to be delivered to the Regional Kitchen for centralized production;
 - 2.1.1.2.2.5. Changes in delivery frequency, volume, and delivery location;
 - 2.1.1.2.2.6. Regional Kitchen and finishing-kitchen receiving and storage implications;
 - 2.1.1.2.2.7. Distributor coordination requirements; and
 - 2.1.1.2.2.8. Operational lead times and resource requirements necessary to implement each transition.
 - 2.1.1.2.3. The STATE currently anticipates that supplemental procurement activity preceding Regional Kitchen implementation will proceed under the existing delivery model. The CONTRACTOR shall provide operational transition information sufficiently in advance of the STATE's 2027 procurement-development schedule so that the STATE may incorporate phased changes

in delivery locations, volumes, and responsibilities into the applicable solicitation.

- 2.1.1.2.4. The CONTRACTOR shall support procurement planning only through development of operational and technical components. Final procurement strategy, solicitation language, competition, evaluation, and award remain the responsibility of the STATE.

2.1.1.3. Emergency and Continuity-of-Operations Procedures

- 2.1.1.3.1. The CONTRACTOR shall develop emergency and continuity-of-operations procedures addressing foreseeable conditions that could prevent meal production, rethermalization, distribution, or service. Procedures shall define escalation, immediate food-safety actions, alternate production or service methods, communication requirements, and recovery actions.

- 2.1.1.3.1.1. Finishing-Kitchen Failure - inability to rethermalize or finish meals, meal shortages, food spoilage, refrigeration failure, or other loss of service capability;
- 2.1.1.3.1.2. Regional Kitchen Equipment Failure - critical production-equipment failure, alternative equipment or production methods, production resequencing, and escalation requirements;
- 2.1.1.3.1.3. Utility Interruption - electrical, water, refrigeration, gas, or other interruption, including extended interruptions of four (4) hours or more and appropriate product protection and/or disposition;
- 2.1.1.3.1.4. Transportation Disruption - vehicle breakdown, delayed delivery, road closure, transportation accident, temperature-control failure, or need for an alternate delivery method; and
- 2.1.1.3.1.5. Weather, Disaster, Staffing, Supply Emergency - severe weather, island-specific disaster, road closure, staff shortage, supplier disruption, ingredient shortage, or emergency menu requirement.

- 2.1.1.3.2. All continuity procedures shall prioritize protection of food safety and continuation of student meal service.

2.1.1.4. Food Cart and Reusable Transportation Equipment

- 2.1.1.4.1. The CONTRACTOR shall develop an SOP for food carts and reusable transportation equipment covering staging, loading, securing food and supplies, transportation in refrigerated vehicles when required, delivery, unloading, return, cleaning, sanitation, storage, inspection, and accountability.

2.1.1.5. Preventive Operational Maintenance

- 2.1.1.5.1. The CONTRACTOR shall develop an operator-level preventive maintenance and routine inspection checklist for critical Regional Kitchen and finishing-kitchen equipment, including an escalation process for conditions that may threaten production continuity.
- 2.1.1.5.2. The checklist shall be coordinated with applicable maintenance personnel and shall supplement, not replace, manufacturer-required maintenance, warranty requirements, facilities maintenance programs, or specialized technical service.

2.1.2. Menu, Production and Procurement Transition Planning

This service area shall build upon the STATE's existing menu-development and procurement processes. The CONTRACTOR is not responsible for creating or approving the STATE menu or conducting procurement on behalf of SFSB. The objective is to document, validate, and refine the process so the approved menu can be produced safely, efficiently, and at the required scale using the Regional Kitchen operating model.

2.1.2.1. Menu Planning and Governance Process

2.1.2.1.1. The CONTRACTOR shall document and refine the STATE's menu-development process from initial menu concept through recipe approval, nutrition review, production and equipment feasibility, local-product evaluation, commodity forecasting, procurement planning, and implementation.

2.1.2.1.2. The documented process shall identify, as applicable:

- 2.1.2.1.2.1. Menu-development responsibilities and approval authority;
- 2.1.2.1.2.2. Recipe development, standardization, review, and approval;
- 2.1.2.1.2.3. Nutrition review and USDA meal-pattern compliance;
- 2.1.2.1.2.4. Local-product evaluation and seasonal availability;
- 2.1.2.1.2.5. Student and staff feedback, when applicable;
- 2.1.2.1.2.6. Production feasibility and equipment capability;
- 2.1.2.1.2.7. Commodity, ingredient, supply, and procurement planning;
- 2.1.2.1.2.8. Staffing and production implications;
- 2.1.2.1.2.9. Communication and approval requirements; and
- 2.1.2.1.2.10. Required union consultation or coordination.

2.1.2.1.3. The resulting process shall provide SFSB with a current, standardized Regional Kitchen menu-planning framework that updates the existing process and may be used for future menu cycles and appropriate union consultation.

2.1.2.2. Production Feasibility Validation

2.1.2.2.1. The CONTRACTOR shall review the planned Regional Kitchen menu and determine whether applicable menu items or production families are operationally feasible using Phase I equipment and anticipated Phase II capabilities.

2.1.2.2.2. The production-feasibility review shall consider, as applicable:

- 2.1.2.2.2.1. Planned number of servings and batch size;
- 2.1.2.2.2.2. Equipment required, equipment capacity, and equipment output;
- 2.1.2.2.2.3. Preparation, cooking, cooling, packaging, holding, and storage time and/or capacity;
- 2.1.2.2.2.4. Labor requirements and planned staffing assumptions;
- 2.1.2.2.2.5. Sanitation and production changeover requirements; and
- 2.1.2.2.2.6. Production sequencing and timing necessary to meet planned meal volumes.

- 2.1.2.2.3. The CONTRACTOR shall identify production bottlenecks and recommend operational, sequencing, batch-size, equipment-utilization, or menu adjustments when necessary. Final menu decisions remain with the STATE.

2.1.2.3. Production Sequencing and Staffing Validation

- 2.1.2.3.1. The CONTRACTOR shall develop production sequencing recommendations demonstrating how planned meals can be produced within available equipment capacity, operating hours, cooling capacity, storage capacity, packaging capability, and planned staffing assumptions.
- 2.1.2.3.2. The CONTRACTOR shall validate the operational assumptions used in the STATE's staffing plan but shall not establish or negotiate staffing formulas, position classifications, organizational structures, bargaining-unit assignments, or personnel policy.
- 2.1.2.3.3. If production analysis identifies a mismatch between planned staffing and required production workload, the CONTRACTOR shall document the operational task, workload or labor demand, production impact, operational risk, and recommended process adjustment or resource requirement for STATE consideration.

2.1.2.4. Production Scheduling Systems and Tools

- 2.1.2.4.1. The CONTRACTOR shall evaluate whether the STATE's existing food-service software and systems can support Regional Kitchen production scheduling for Phase I and anticipated advanced scheduling requirements as operations expand.
 - 2.1.2.4.1.1. The evaluation shall identify:
 - 2.1.2.4.1.1.1. Functions available in the current system;
 - 2.1.2.4.1.1.2. Required production-planning and scheduling capabilities;
 - 2.1.2.4.1.1.3. Functional gaps, reports, or data requirements;
 - 2.1.2.4.1.1.4. Interim manual processes that may be needed during initial implementation; and
 - 2.1.2.4.1.1.5. Future software functionality that may be required as production volume and Phase II operations increase.
- 2.1.2.4.2. The CONTRACTOR shall provide functional recommendations and shall not select or procure software under this Contract.

2.1.2.5. Production Quality Control

- 2.1.2.5.1. The CONTRACTOR shall develop quality-control checkpoints appropriate to large-batch production. The quality-control system shall address, as applicable:
 - 2.1.2.5.1.1. Ingredient receiving and staging;
 - 2.1.2.5.1.2. Recipe verification;
 - 2.1.2.5.1.3. Seasoning preparation and pre-batching;
 - 2.1.2.5.1.4. Ingredient measurement and batch assembly;
 - 2.1.2.5.1.5. Cooking and temperature verification;
 - 2.1.2.5.1.6. Cooling and blast chilling;
 - 2.1.2.5.1.7. Packaging and labeling;

- 2.1.2.5.1.8. Holding and storage; and
- 2.1.2.5.1.9. Final release for distribution.

2.1.2.6. Local Food Integration

- 2.1.2.6.1. The CONTRACTOR shall support SFSB and the STATE Farm to School Coordinator in evaluating operational opportunities to increase Hawaii-grown and Hawaii-produced foods and align the menu with available local products.
- 2.1.2.6.2. Recommendations shall consider:
 - 2.1.2.6.2.1. Seasonal availability and anticipated volume;
 - 2.1.2.6.2.2. Processing and preparation requirements;
 - 2.1.2.6.2.3. Receiving, storage, and preparation labor;
 - 2.1.2.6.2.4. Traceability and food-safety requirements;
 - 2.1.2.6.2.5. Menu compatibility;
 - 2.1.2.6.2.6. Regional Kitchen production capacity; and
 - 2.1.2.6.2.7. Distribution requirements.
- 2.1.2.6.3. The CONTRACTOR shall develop operational recommendations that support the STATE objective of at least thirty percent (30%) local ingredient integration while maintaining applicable USDA nutritional requirements. Final sourcing, product selection, menu approval, and procurement decisions remain with the STATE.

2.1.3. Inventory, Receiving and Materials Management

2.1.3.1. Regional Kitchen and Finishing-Kitchen Smallwares Review

- 2.1.3.1.1. The STATE shall provide the current Regional Kitchen and finishing-kitchen smallwares workbooks as STATE-furnished materials. The CONTRACTOR shall review, validate, and update the existing analysis, identify significant operational gaps, and build upon the STATE-developed package rather than recreate it.
- 2.1.3.1.2. Recommendations shall identify, when applicable:
 - 2.1.3.1.2.1. Item description, type, or functional specification;
 - 2.1.3.1.2.2. Operational purpose and relationship to equipment, menu, or production;
 - 2.1.3.1.2.3. Recommended quantity;
 - 2.1.3.1.2.4. Potential commercial sources or suppliers; and
 - 2.1.3.1.2.5. Items with anticipated lead times exceeding six (6) months.

2.1.3.2. First-In, First-Out (FIFO), Dating, Storage and Labeling

- 2.1.3.2.1. The CONTRACTOR shall develop standardized FIFO, product-dating, storage, and labeling procedures for the Regional Kitchen and finishing kitchens.
- 2.1.3.2.2. Draft procedures shall be submitted no later than March 12, 2027. Final corrected procedures shall be submitted no later than April 16, 2027.

2.1.3.3. Receiving and Product Acceptance

2.1.3.3.1. The CONTRACTOR shall develop standardized receiving and product-acceptance SOPs for the Regional Kitchen and finishing kitchens.

2.1.3.3.2. The SOPs shall address, as applicable:

- 2.1.3.3.2.1. Delivery and purchase verification;
- 2.1.3.3.2.2. Specific delivery windows and receiving responsibilities;
- 2.1.3.3.2.3. Quantity verification;
- 2.1.3.3.2.4. Temperature checks and product condition;
- 2.1.3.3.2.5. Product specifications, dating, and lot and/or traceability information;
- 2.1.3.3.2.6. Acceptance and rejection criteria;
- 2.1.3.3.2.7. Rejection reports and discrepancy documentation;
- 2.1.3.3.2.8. Storage and product disposition; and
- 2.1.3.3.2.9. Communication with vendors and appropriate SFSB staff to support sufficient supply for planned production.

2.1.3.4. Finishing-Kitchen Ordering

2.1.3.4.1. The CONTRACTOR shall develop a standardized step-by-step ordering process for finishing kitchens using the STATE's current food-service software or other approved system. The procedure shall be suitable for incorporation into the SFSB Handbook Finishing Kitchen Chapter.

2.1.3.4.2. The ordering procedure shall define:

- 2.1.3.4.2.1. What food, meals, and supplies are ordered from the Regional Kitchen;
- 2.1.3.4.2.2. Who initiates, enters, reviews, and approves the order;
- 2.1.3.4.2.3. When orders are due;
- 2.1.3.4.2.4. How projected student participation and standing quantities are considered;
- 2.1.3.4.2.5. How routine orders may be adjusted;
- 2.1.3.4.2.6. How shortages, discrepancies, or changes are communicated;
- 2.1.3.4.2.7. How emergency requirements are handled; and
- 2.1.3.4.2.8. How the Regional Kitchen confirms fulfillment.

2.1.3.5. Finishing-Kitchen Receiving and Inventory

2.1.3.5.1. The CONTRACTOR shall develop standardized finishing-kitchen receiving and inventory procedures suitable for incorporation into the SFSB Handbook Finishing Kitchen Chapter and based upon current SFSB practices and future Regional Kitchen requirements.

2.1.3.5.2. Current SFSB practice includes daily inventory activity using a baseline or perpetual record that adds deliveries and subtracts daily usage, with cafeteria managers reviewing portions of inventory during the month and completing a full physical inventory monthly.

2.1.3.5.3. At minimum, the future-state procedures shall address:

- 2.1.3.5.3.1. Daily inventory activity and perpetual inventory records;

- 2.1.3.5.3.2. Recording deliveries, daily usage, and remaining quantities;
- 2.1.3.5.3.3. FIFO and product rotation;
- 2.1.3.5.3.4. Daily or rotating review of selected inventory areas, as appropriate;
- 2.1.3.5.3.5. Full physical inventory at least monthly and reconciliation to recorded quantities;
- 2.1.3.5.3.6. Regional Kitchen deliveries and milk received directly by the finishing kitchen;
- 2.1.3.5.3.7. Storage, monitoring, and handling of partially used bulk packaged meals or products;
- 2.1.3.5.3.8. Transportation cart cleaning, storage, management, and accountability;
- 2.1.3.5.3.9. Product disposition and waste documentation; and
- 2.1.3.5.3.10. Corrective action for inventory discrepancies.
- 2.1.3.5.4. The CONTRACTOR shall recommend whether inventory frequency or methodology should be modified for Regional Kitchen-supported schools and shall explain the operational basis for any recommended change.
- 2.1.4. Training and Workforce Readiness
 - 2.1.4.1. Training Requirements Matrix
 - 2.1.4.1.1. The CONTRACTOR shall develop a comprehensive training requirements matrix, training contact list, and implementation schedule for Regional Kitchen and finishing-kitchen personnel. The matrix shall identify required training, positions requiring training, responsible training provider or agency, required completion date, frequency, refresher or recertification requirements, and documentation requirements.
 - 2.1.4.1.2. Training topics shall include, as applicable:
 - 2.1.4.1.2.1. Food safety, HACCP, sanitation, employee health, personal hygiene, and allergen awareness;
 - 2.1.4.1.2.2. Commercial equipment operation, production, cooling, and rethermalization;
 - 2.1.4.1.2.3. Receiving, storage, inventory, and Regional Kitchen ordering;
 - 2.1.4.1.2.4. Finishing-kitchen operations and transportation and/or cart handling;
 - 2.1.4.1.2.5. Emergency and continuity-of-operations procedures;
 - 2.1.4.1.2.6. Workplace safety and cardiopulmonary resuscitation (CPR) and/or first aid where required;
 - 2.1.4.1.2.7. Training available from or coordinated with agencies such as the DOH; and
 - 2.1.4.1.2.8. Other training necessary for assigned duties and successful operational transition.
 - 2.1.4.1.3. The CONTRACTOR shall coordinate recommendations with existing SFSB training plans and personnel to avoid duplication and to ensure training aligns with equipment startup, commissioning, food-safety, production, and school-transition requirements.

- 2.1.4.1.4. Upon written authorization from the STATE, the CONTRACTOR may provide up to one hundred twenty (120) hours of specialized operational training development or delivery within the CONTRACTOR's area of expertise. These services shall be billed at the Offer Page (OF-2) Item 8 hourly rate for actual authorized hours worked. No minimum number of hours is guaranteed.

2.1.5. Phase I Finishing-Kitchen Operational Readiness and ROM Assessments

2.1.5.1. Purpose and Timing

- 2.1.5.1.1. The CONTRACTOR shall perform operational readiness assessments for the twenty (20) LMW school kitchens planned for transition into the Regional Kitchen system.
- 2.1.5.1.2. This work shall address the readiness gap created by the fact that only four (4) initial finishing kitchens are currently planned for major renovation while the remaining sixteen (16) LMW schools may transition without comparable renovation funding. The assessment shall identify the minimum operational requirements and deficiencies that must be addressed for each school to safely and effectively function as a finishing kitchen.
- 2.1.5.1.3. The STATE shall coordinate access to the twenty (20) LMW school kitchens. The CONTRACTOR shall complete all required site assessments no later than March 12, 2027, submit draft individual readiness reports no later than March 19, 2027, and submit final corrected reports no later than April 16, 2027.
- 2.1.5.1.4. For purposes of this Contract, a ROM cost estimate is a planning-level estimate of the approximate equipment, smallwares, facility, or corrective-action costs necessary to support operational readiness. A ROM estimate is not a construction bid, engineer's estimate, or final project cost.

2.1.5.2. Equipment and Utility Readiness

- 2.1.5.2.1. For each of the twenty (20) LMW school kitchens, the CONTRACTOR shall compare existing equipment and utilities against the STATE's finishing-kitchen operating requirements.
- 2.1.5.2.2. The review shall identify, as applicable:
 - 2.1.5.2.2.1. Equipment to remain and equipment recommended for removal;
 - 2.1.5.2.2.2. Required additional equipment and future upgrades for planning purposes;
 - 2.1.5.2.2.3. Required smallwares;
 - 2.1.5.2.2.4. Available electrical, water, refrigeration, ventilation, and other utility capacity information; and
 - 2.1.5.2.2.5. Obvious operational constraints that may affect finishing-kitchen readiness.
- 2.1.5.2.3. The CONTRACTOR shall identify conditions requiring further evaluation or confirmation by qualified engineering, design, facilities, or construction personnel rather than performing work outside the CONTRACTOR's professional qualifications.

2.1.5.3. Operational Readiness Review

2.1.5.3.1. The CONTRACTOR shall evaluate each of the twenty (20) LMW school kitchen sites' ability to operate as a Regional Kitchen-supported finishing kitchen, including:

- 2.1.5.3.1.1. Receiving area and product flow;
- 2.1.5.3.1.2. Dry, refrigerated, and frozen storage capacity;
- 2.1.5.3.1.3. Rethermalization, hot holding, cold holding, and serving capability;
- 2.1.5.3.1.4. Warewashing and sanitation;
- 2.1.5.3.1.5. Cart staging, cleaning, storage, and management;
- 2.1.5.3.1.6. Waste handling;
- 2.1.5.3.1.7. Equipment and smallwares;
- 2.1.5.3.1.8. Staff workflow; and
- 2.1.5.3.1.9. Training and staff-readiness requirements.

2.1.5.4. School-Level Readiness Report

2.1.5.4.1. The CONTRACTOR shall provide an individual readiness report for each of the twenty (20) LMW school kitchens that classifies the location as one of the following:

- 2.1.5.4.1.1. Ready for Regional Kitchen operations;
- 2.1.5.4.1.2. Ready with minor operational corrective action;
- 2.1.5.4.1.3. Requires equipment and/or smallwares;
- 2.1.5.4.1.4. Requires facility correction or additional technical evaluation; or
- 2.1.5.4.1.5. Significant barrier exists that may prevent scheduled transition.

2.1.5.4.2. For each identified deficiency, the report shall provide, where reasonably supportable:

- 2.1.5.4.2.1. Operational impact;
- 2.1.5.4.2.2. Recommended corrective action;
- 2.1.5.4.2.3. Responsible functional area, when known;
- 2.1.5.4.2.4. Priority;
- 2.1.5.4.2.5. Approximate lead time; and
- 2.1.5.4.2.6. ROM cost estimate.

2.1.6. Food Safety, Traceability and HACCP Compliance

2.1.6.1. Product Traceability

2.1.6.1.1. The CONTRACTOR shall develop a traceability system appropriate to Regional Kitchen operations, including products received directly from Hawaii farms, small and medium producers, distributors, and other suppliers.

2.1.6.1.2. The traceability system shall document, as applicable:

- 2.1.6.1.2.1. Supplier or farm;
- 2.1.6.1.2.2. Product and lot, batch, or other identifying information;
- 2.1.6.1.2.3. Receipt date and quantity;

- 2.1.6.1.2.4. Storage location;
 - 2.1.6.1.2.5. Recipe, production, or batch usage;
 - 2.1.6.1.2.6. Production date;
 - 2.1.6.1.2.7. Finishing-kitchen or other distribution destination; and
 - 2.1.6.1.2.8. Final disposition.
- 2.1.6.1.3. The CONTRACTOR shall conduct at least one (1) mock recall exercise no later than April 9, 2027. The exercise may be conducted as an operational exercise when facility conditions permit or as a tabletop simulation using representative product, lot, production, and distribution information approved by the STATE. The CONTRACTOR shall document the results, deficiencies, corrective actions, and traceability performance and incorporate required corrections into the final food-safety package.
- 2.1.6.2. HACCP Plan Development
- 2.1.6.2.1. The CONTRACTOR shall develop a comprehensive HACCP plan appropriate to the Regional Kitchen production model and meeting applicable DOH and other food-safety requirements, including FSMA requirements where applicable.
- 2.1.6.2.2. The HACCP plan shall include, as applicable:
- 2.1.6.2.2.1. Product descriptions, intended use, and consumer profiles and/or populations;
 - 2.1.6.2.2.2. Detailed process-flow diagrams;
 - 2.1.6.2.2.3. Hazard analysis and the seven (7) principles of HACCP;
 - 2.1.6.2.2.4. Critical Control Points and critical limits;
 - 2.1.6.2.2.5. Monitoring, verification, recordkeeping, and corrective actions;
 - 2.1.6.2.2.6. Standardized logs, forms, and corrective-action documentation; and
 - 2.1.6.2.2.7. Supporting SOPs required to implement the HACCP plan.
- 2.1.6.2.3. Supporting SOPs shall include, but are not limited to:
- 2.1.6.2.3.1. Employee health and personal hygiene;
 - 2.1.6.2.3.2. Handwashing and cross-contamination prevention;
 - 2.1.6.2.3.3. Allergen controls;
 - 2.1.6.2.3.4. Approved supplier requirements and receiving;
 - 2.1.6.2.3.5. Storage and traceability;
 - 2.1.6.2.3.6. Equipment maintenance;
 - 2.1.6.2.3.7. Cleaning and sanitation;
 - 2.1.6.2.3.8. Time and temperature recording and/or control;
 - 2.1.6.2.3.9. Preparation and cooking;
 - 2.1.6.2.3.10. Cooling and blast chilling;
 - 2.1.6.2.3.11. Reheating and/or rethermalization;
 - 2.1.6.2.3.12. Hot and cold holding;
 - 2.1.6.2.3.13. Packaging and transportation; and

2.1.6.2.3.14. Corrective action and food and/or product disposition.

2.1.6.3. Recipe-Level Versus Process-Category HACCP

2.1.6.3.1. The CONTRACTOR shall prepare HACCP documentation in the format required or accepted by the DOH at the time of implementation. Current SFSB planning assumes HACCP documentation may initially be required at the recipe level.

2.1.6.3.2. At the STATE's request, the CONTRACTOR shall participate in coordination with the DOH to evaluate whether a process-category approach may be acceptable and operationally preferable for a high-volume institutional production kitchen.

2.1.6.3.3. A process-category methodology shall not replace any required recipe-level methodology unless accepted by the appropriate regulatory authority. The CONTRACTOR shall incorporate applicable regulatory direction into the final HACCP program.

2.1.6.4. Finishing-Kitchen Food Safety

2.1.6.4.1. The CONTRACTOR shall identify and document food-safety requirements specific to finishing kitchens. Procedures shall address, as applicable:

- 2.1.6.4.1.1. Receiving and temperature verification;
- 2.1.6.4.1.2. Cold and frozen storage;
- 2.1.6.4.1.3. Thawing, where applicable;
- 2.1.6.4.1.4. Rethermalization;
- 2.1.6.4.1.5. Hot and cold holding;
- 2.1.6.4.1.6. Serving;
- 2.1.6.4.1.7. Leftovers and partially used product;
- 2.1.6.4.1.8. Product disposition;
- 2.1.6.4.1.9. Transportation-cart handling; and
- 2.1.6.4.1.10. Cleaning, sanitation, and corrective action.

2.1.6.5. HACCP Maintenance and Document Control

2.1.6.5.1. The CONTRACTOR shall establish a standard process for review and update of the HACCP system. The process shall address:

- 2.1.6.5.1.1. Routine HACCP review;
- 2.1.6.5.1.2. Menu and recipe changes;
- 2.1.6.5.1.3. Ingredient and supplier changes;
- 2.1.6.5.1.4. Equipment and process changes;
- 2.1.6.5.1.5. Regulatory changes;
- 2.1.6.5.1.6. Corrective-action trends;
- 2.1.6.5.1.7. Forms and log revision;
- 2.1.6.5.1.8. Document control and version control; and
- 2.1.6.5.1.9. Periodic plan updates.

- 2.1.6.5.2. The CONTRACTOR shall coordinate with Regional Kitchen leadership and SFSB to complete required DOH HACCP documentation and related food-safety readiness activities before applicable operations begin.

2.1.7. Project Management and Implementation Support

2.1.7.1. Project-Management System

- 2.1.7.1.1. The CONTRACTOR shall establish the project-management system no later than February 5, 2027, and maintain it through April 30, 2027. The system shall track CONTRACTOR deliverables and STATE dependencies during the Contract period. The master implementation schedule may include milestones extending through Regional Kitchen opening and future school phases, but the CONTRACTOR's active project-management responsibility ends on April 30, 2027. If the facility is not available for an operational trial during the Contract period, the CONTRACTOR shall conduct a tabletop or desktop simulation using the facility plans, equipment schedules, menu volumes, staffing assumptions, and other available STATE information.

- 2.1.7.1.2. The system shall track, at a minimum:

- 2.1.7.1.2.1. Work breakdown structure or task list;
- 2.1.7.1.2.2. Responsible party;
- 2.1.7.1.2.3. Dependencies and sequencing;
- 2.1.7.1.2.4. Milestones and required completion dates;
- 2.1.7.1.2.5. Status;
- 2.1.7.1.2.6. Risks;
- 2.1.7.1.2.7. Corrective actions; and
- 2.1.7.1.2.8. Decisions required from the STATE.

2.1.7.2. Master Implementation Schedule

- 2.1.7.2.1. The CONTRACTOR shall create and maintain a master implementation schedule addressing deliverables and activities necessary to place the Regional Kitchen into operation by June 2027 and to support phased school activation.

- 2.1.7.2.2. The schedule shall address:

- 2.1.7.2.2.1. Regional Kitchen operational start-up;
- 2.1.7.2.2.2. Initial finishing-kitchen activation;
- 2.1.7.2.2.3. Transition of the remaining LMW schools;
- 2.1.7.2.2.4. Subsequent school transition and future Regional Kitchen phases; and
- 2.1.7.2.2.5. CONTRACTOR responsibilities, STATE responsibilities, external dependencies, and activities outside the CONTRACTOR's direct control.

2.1.7.3. Status Reporting

- 2.1.7.3.1. The CONTRACTOR shall provide a concise weekly status report to the School Food Program Administrator and designated STATE staff.
- 2.1.7.3.2. The weekly report shall identify:

- 2.1.7.3.2.1. Work completed and work planned;
- 2.1.7.3.2.2. Milestones achieved and upcoming milestones;
- 2.1.7.3.2.3. Overdue or at-risk activities;
- 2.1.7.3.2.4. Decisions required from the STATE;
- 2.1.7.3.2.5. Critical risks; and
- 2.1.7.3.2.6. Corrective actions necessary to return work to the approved timeline when lagging.

2.1.7.4. Integrated Operational Readiness Validation

- 2.1.7.4.1. Prior to Regional Kitchen activation, the CONTRACTOR shall assist the STATE in conducting an integrated operational-readiness review to confirm that the major operating systems required for start-up are sufficiently complete and aligned.
- 2.1.7.4.2. The review shall include, as applicable, equipment, production processes, staffing assumptions, menu execution, receiving, inventory, food safety, HACCP, training, transportation, finishing-kitchen readiness, communications, contingency plans, and required operational documentation. The CONTRACTOR shall identify unresolved issues and recommend corrective actions or risk-mitigation strategies.

2.1.7.5. Operational Trials

- 2.1.7.5.1. When directed by the STATE and when facility conditions permit, the CONTRACTOR shall support operational simulations or trial-production activities intended to validate the Regional Kitchen operating model before full production.
- 2.1.7.5.2. Operational trials may include validation of:
 - 2.1.7.5.2.1. Production sequencing and batch size;
 - 2.1.7.5.2.2. Equipment utilization and labor workflow;
 - 2.1.7.5.2.3. Cooling, packaging, holding, and cart loading;
 - 2.1.7.5.2.4. Transportation and finishing-kitchen receiving;
 - 2.1.7.5.2.5. Rethermalization and service; and
 - 2.1.7.5.2.6. Food-safety records and HACCP documentation.
- 2.1.7.5.3. Lessons learned from operational trials shall be incorporated into applicable final SOPs, training materials, and operating processes.

2.1.7.6. Final Regional Kitchen Operational Readiness Package

- 2.1.7.6.1. At the conclusion of the engagement, the CONTRACTOR shall provide one consolidated Regional Kitchen Operational Readiness Package containing the final approved deliverables developed under this Contract.
- 2.1.7.6.2. The package shall include, at minimum, applicable final versions of:
 - 2.1.7.6.2.1. Core operational processes and SOPs;
 - 2.1.7.6.2.2. HACCP plan, food-safety documentation, forms, and logs;
 - 2.1.7.6.2.3. Traceability and mock-recall procedures;
 - 2.1.7.6.2.4. Training matrix and training requirements;

- 2.1.7.6.2.5. Finishing-kitchen readiness assessments and ROM findings;
- 2.1.7.6.2.6. Production and menu-feasibility documentation;
- 2.1.7.6.2.7. Production sequencing and quality-control procedures;
- 2.1.7.6.2.8. Inventory, receiving, and finishing-kitchen ordering processes;
- 2.1.7.6.2.9. Transportation and distribution requirements;
- 2.1.7.6.2.10. Emergency and continuity-of-operations procedures;
- 2.1.7.6.2.11. Implementation schedules and project-management documentation;
and
- 2.1.7.6.2.12. Outstanding risks or action items requiring continued STATE
management.

3. VERIFICATION OF EMPLOYEES

In accordance with State rules and regulations, CONTRACTOR shall conduct mandatory criminal background checks at no cost to the STATE, on any employee, agent, subcontractor or volunteer working in close proximity or working directly with students.

CONTRACTOR shall notify the STATE, verbally within twenty-four (24) hours, upon learning of the occurrence of any of the events indicated below:

- 3.1. Any employee, agent, subcontractor or volunteer's license required to perform services under this Contract is or has been suspended, conditioned, revoked, expired, or terminated;
- 3.2. Any employee, agent, subcontractor or volunteer becomes or has been the subject of any disciplinary proceeding or action before any federal or state agency or Board;
- 3.3. Any employee, agent, subcontractor or volunteer has been arrested or is under investigation for assault, sexual assault, child pornography or sex trafficking.
- 3.4. Any employee, agent, subcontractor or volunteer is or has been convicted of a fraud or felony; and
- 3.5. Any claim, judgment or settlement in which the CONTRACTOR or any of its employees, agents, subcontractors or volunteers is or has been named a defendant.

CONTRACTOR shall maintain the background check records, and shall make the records available for review upon request. Upon review of these records, the STATE reserves the right to request additional background information.

4. EXCLUSION OF SPECIFIC WORKERS

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

5. CONDUCT

- 5.1. The CONTRACTOR's employees, agents, subcontractors or volunteers must sign in at the school office when entering a school campus and sign out when leaving a school campus.
- 5.2. The CONTRACTOR's employees, agents, subcontractors or volunteers must comply with and utilize the STATE's visitor management system, in accordance with STATE protocol, when reporting to any school campus to provide services.
- 5.3. In addition, all CONTRACTOR's employees, agents, subcontractors or volunteers must wear a picture identification badge listing agency name, employee name, and position at all times while on school premises.
- 5.4. The CONTRACTOR's employees, agents, subcontractors or volunteers must maintain a professional attitude, work ethic, and appearance.

6. HARM TO STUDENTS REGISTRY

The purpose of Act 156, Session Laws of Hawaii (SLH) 2024, was to create a registry for all preschools and K-12 educational institutions within the State of Hawaii containing information on school employees, contractors, or volunteers for whom, as a result of an investigation, a final finding has been issued that the individual has inflicted harm on a student, with the goal of preventing those individuals from subsequently gaining employment in any other public or private preschools and K-12 institutions in Hawaii.

The CONTRACTOR acknowledges and agrees to comply with the requirements set forth by Act 156, SLH 2024, and any other rules, regulations and laws, regarding the reporting and investigation of misconduct involving harm or maltreatment of students in educational institutions.

Should the STATE need to conduct an investigation into whether or not a contractor or contractor's employee, agent, subcontractor, or volunteer engaged in acts or omissions that resulted in the infliction of harm to a student, the CONTRACTOR shall ensure the following:

- 6.1. The CONTRACTOR shall inform the CONTRACTOR's employees, agents, subcontractors, or volunteers that an investigation is being conducted pursuant to Act 156, SLH 2024;
- 6.2. The CONTRACTOR, including the CONTRACTOR's employees, agents, subcontractors, or volunteers shall cooperate and assist the STATE should there need to be an investigation;
- 6.3. The CONTRACTOR shall provide the following to the STATE within five (5) business days from the date of the request:
 - 6.3.1. Full legal name and any prior names used, such as maiden name or married name;
 - 6.3.2. Date of birth;
 - 6.3.3. Photograph;
 - 6.3.4. Last known address;
 - 6.3.5. Any and all other STATE contracts that this individual is working on; and
Any and all information and documents requested by the STATE during the course of an investigation.

Should the STATE not receive the full cooperation of the CONTRACTOR, or the CONTRACTOR's employees, agents, subcontractors, or volunteers, the STATE will move forward with and complete the investigation with the information it has available.

Should there be a finding and the CONTRACTOR's employee, agent, subcontractor, or volunteer is deemed appropriate to be included on the Harm to Students Registry, the CONTRACTOR's employee, agent, subcontractor, or volunteer will be given prior written notice of the STATE's decision to include the CONTRACTOR employee's, agent's, subcontractor's, or volunteer's name for this purpose and will be given the opportunity to appeal the decision.

Should the CONTRACTOR's employee, agent, subcontractor, or volunteer either waive the right to appeal or lose the appeal, the STATE shall place the name of the CONTRACTOR's employee, agent, subcontractor, or volunteer on the Harm to Students Registry.

Any person currently or formerly employed by the CONTRACTOR, including subcontractors, agents, and volunteers listed on the Harm to Students Registry may request the CONTRACTOR to submit a certified request to the STATE for removal if new information proves they did not inflict harm on a student. The CONTRACTOR shall defend and indemnify the STATE from any liability resulting from claims related to the inclusion or removal of an employee from the Registry.

The CONTRACTOR shall provide to the STATE the names, dates of birth, addresses, photographs, and personal identifiers of all candidates for employment, including subcontractors, agents, or potential volunteers. If a candidate, subcontractor, agent, or volunteer's name appears on the Harm to Students Registry, the STATE can require removal of the individual from STATE work. Note that, pursuant to Act 156, SLH 2024, an employee, subcontractor, agent, or volunteer should not perform work or duties for the STATE until the CONTRACTOR has obtained clearance from the STATE.

SPECIAL CONDITIONS

GENERAL INFORMATION

1. Addenda and Interpretations

Discrepancies, omissions, or questions related to this solicitation shall be communicated in writing to the Hawaii State Department of Education, Procurement and Contracts Branch (PCB) via facsimile at (808) 675-0133 or e-mail to albert.k.perry@k12.hi.us for interpretation and must be received no later than September 28, 2026.

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

2. Scope

Work under this agreement shall consist of providing Regional Kitchen Operational Readiness Validation and Completion Support for the Hawaii State Department of Education's (STATE's) first Regional Kitchen and shall be in accordance with these Special Conditions, the attached Specifications, and the State of Hawaii's General Conditions AG-008 (latest revision).

3. Federal Guidelines

U.S. Department of Agriculture (USDA) is an equal opportunity provider and employer.

3.1 In addition to other required provisions, the following provisions are included as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for
- (C) Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or

Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- (D) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (E) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (F) Clean Air Act ([42 U.S.C. 7401-7671q](#).) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (G) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).
- (H) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#))—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal

funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

4. Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

5. Contract Administrator

For purposes of this Contract, Anneliese Tanner, Administrator or the Administrator's successor, is designated Contract Administrator (CA). The CA can be contacted by telephone at (808) 784-5500 or via e-mail at anneliese.tanner@k12.hi.us.

The CA is responsible for:

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

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

The CA has designated Christian Lee-Tomita as Point-of-Contact (POC) for this Contract. As such, the POC, or their successor, should be the initial contact on all matters related to this Contract. The POC can be contacted by telephone at 808-784-5500, via facsimile at 808-735-6262, or via e-mail at christian.lee-tomita@k12.hi.us.

6. Contract Period

This Contract shall commence upon full execution of the Contract and shall end on April 30, 2027, subject to availability of funds as specified in the General Conditions.

Beyond April 30, 2027, this Contract may be extended for not more than one (1) additional two (2)-month period upon mutual written agreement of the parties, prior to expiration. As each option to extend is mutually agreed upon, the CONTRACTOR shall be required to execute a supplement to the Contract for each additional period. The Contract Price for the extended period shall remain the same or lower than the initial Contract Price, subject to any price adjustment allowed by the Contract.

OFFEROR INFORMATION

7. Offeror's Authority to Bid

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

8. Offeror Qualifications

In addition to meeting legal and other requirements of this solicitation, the Offeror shall demonstrate the qualifications necessary to perform the requirements of this Contract and shall meet the minimum qualifications identified below.

8.1. Large-Scale Food-Service Operations

8.1.1. At the time of bidding, the Offeror shall have a minimum of three (3) years of documented experience providing consulting, operational planning, management, implementation, or technical services for centralized or high-volume food-production operations producing approximately 1,000 meals per day or greater.

8.1.1.1. Relevant experience may include:

- 8.1.1.1.1. Central kitchens;
- 8.1.1.1.2. Commissaries;
- 8.1.1.1.3. School district production kitchens;
- 8.1.1.1.4. Healthcare or institutional food service;
- 8.1.1.1.5. Government or military feeding operations; or
- 8.1.1.1.6. Comparable high-volume commercial food-production operations.

8.2. Kindergarten through Twelfth Grade (K-12) and USDA Child Nutrition Program Expertise

8.2.1. At the time of bidding, the Offeror shall have a minimum of three (3) years of demonstrated experience or in-depth professional expertise involving USDA Child Nutrition Programs, including the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP).

8.2.2. The Offeror shall demonstrate knowledge of the operational relationship among menu planning, USDA meal-pattern requirements, standardized recipes, production records, procurement, receiving, storage, inventory, food safety, production, and school meal service.

The Offeror shall demonstrate this knowledge by attaching a narrative not exceeding two (2) pages describing one or more completed projects that demonstrate the Offeror's understanding of the operational relationship among menu planning, USDA meal-pattern requirements, standardized recipes, production records, procurement, receiving, storage, inventory, food safety, production, and school meal service. The narrative shall identify the client, project dates, approximate daily meal volume, the Offeror's role, and the relevant work products or results. Resumes and project sheets may be included as supporting documentation.

8.3. Large-Scale Production Kitchen Workflow

8.3.1. At the time of bidding, the Offeror shall have a minimum of three (3) years of experience designing, implementing, evaluating, or improving high-volume commercial or institutional kitchen workflows using commercial food-service equipment. Relevant experience should include production volume, equipment capacity, labor workflow, cooling, holding, packaging, food safety, and distribution.

- 8.4. Facility Start-Up, Commissioning and Stand-Up Experience
 - 8.4.1. At the time of bidding, the Offeror shall have at least two (2) years of demonstrated experience supporting operational start-up, commissioning, transition, or stabilization of newly constructed or significantly renovated high-volume commercial, institutional, centralized, or school food-production facilities and shall demonstrate experience with at least one such facility producing approximately 1,000 meals per day or greater.
 - 8.4.2. Relevant experience should include coordination among equipment start-up, operational testing, staff readiness, production, SOP development, food safety, training, trial production, and transition to normal operations.
- 8.5. Food Distribution and Cold-Chain Logistics
 - 8.5.1. At the time of bidding, the Offeror shall have at least two (2) years of experience with food-service logistics involving temperature-controlled transportation, cold-chain management, delivery scheduling, route planning, centralized distribution, delivery routing software and/or systems, or comparable institutional food-distribution operations.
 - 8.5.2. Relevant experience may include procuring, configuring, or optimizing temperature-controlled delivery vehicles and routing systems for efficiency and food-safety compliance. Ownership of transportation vehicles is not required.
- 8.6. Standard Operating Procedures and Food-Safety Systems
 - 8.6.1. At the time of bidding, the Offeror shall have at least five (5) years of experience developing customized, complete, and ready-to-implement SOPs or operating manuals for major institutional or high-volume food-service functions, including receiving, storage, inventory, production, sanitation, food safety, transportation, distribution, and meal service.
- 8.7. Personnel
 - 8.7.1. The Offeror shall designate at least one (1) employee as the primary STATE Point of Contact (POC) for this Contract.
 - 8.7.2. The POC shall:
 - 8.7.2.1. Be available during regular Hawaii business hours, Monday through Friday, excluding State holidays;
 - 8.7.2.2. Coordinate CONTRACTOR personnel, activities, and deliverables;
 - 8.7.2.3. Participate in required project meetings;
 - 8.7.2.4. Respond to STATE questions;
 - 8.7.2.5. Resolve or elevate project issues; and
 - 8.7.2.6. Ensure timely follow-up on assigned actions.
 - 8.7.3. The Offeror shall identify all key personnel expected to perform significant portions of the work and describe their qualifications and proposed responsibilities.
 - 8.7.4. Qualifications represented at the time of bidding shall be maintained throughout the Contract. Replacement of key personnel shall require personnel with qualifications equal to or greater than those originally proposed and shall be subject to STATE approval as permitted by the Contract.

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

9. References

Offeror shall provide the names of at least two (2) companies or government agencies other than the Hawaii State Department of Education, with whom Offeror was or is providing professional operational planning, implementation, and readiness support in a comparable scope, size, complexity, or operational environment and who can attest to the quality level and reliability of all aspects of the Offeror's work, services, and personnel. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

10. Responsibility of Offerors

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

- 10.1. Chapter 237, General Excise Tax Law;
- 10.2. Chapter 383, Hawaii Employment Security Law;
- 10.3. Chapter 386, Workers' Compensation Law;
- 10.4. Chapter 392, Temporary Disability Insurance;
- 10.5. Chapter 393, Prepaid Health Care Act; and
- 10.6. Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State of Hawaii.

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

BID PREPARATION

11. Offer Page OF-1

Offeror is requested to submit the bid under the company's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable, and to indicate exact legal name in the appropriate space on Offer Page OF-1. Failure to do so may delay proper execution of the Contract.

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

12. Taxable Transaction

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

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

13. Tax Exempt Transaction

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

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

14. Bid Price

Unit Bid Price shall include labor, equipment, materials, transportation, overhead, profit, all applicable taxes and any other incidental and operational expenses incurred in the performance of all obligations

hereunder. The Unit Bid Price shall be the all-inclusive cost to the STATE and no other charges will be honored. In case of error in extension of Bid Price, the Unit Bid Price shall govern.

15. Offeror Information

Offeror shall provide information regarding its Large-Scale Food Service Operations Experience; K-12 and USDA Child Nutrition Program Expertise; Large-Scale Production Kitchen Workflow Experience; Facility Start-Up, Commissioning and Stand-Up Experience; Food Distribution and Cold-Chain Logistics Experience; SOP and Food-Safety Systems Experience, and STATE's point-of-contact on the Exhibit A. Exhibit A shall be provided within three (3) working days from the STATE's request. Offeror may be requested to provide documentation and/or additional information necessary to verify acceptability of Offeror's experience.

16. References

Offeror shall list on the Exhibit A at least two (2) companies or government agencies other than the Hawaii State Department of Education, with whom Offeror was or is providing professional operational planning, implementation, and readiness support in a comparable scope, size, complexity, or operational environment and who can attest to the quality level and reliability of all aspects of the Offeror's work, services, and personnel. Exhibit A shall be provided within three (3) working days from STATE's request. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

17. Wage Certificate

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

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

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

18. Liability Insurance

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

19. Offer Guaranty

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

BID SUBMITTAL

20. Submission of Bid

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

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

Before submitting a bid, each Offeror must:

- 20.1. examine the solicitation documents thoroughly for defects and questionable or objectionable material. Solicitation documents include this IFB, any attachments, plans referred to herein, and any other relevant documentation. Comments must be submitted in writing and received by the Hawaii State Department of Education, PCB no later than September 28, 2026. This will allow for issuance of addenda, if necessary.
- 20.2. become familiar with state, local, and federal laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work.

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

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

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

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

21. Confidential Information

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

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

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

22. Certification of Independent Cost Determination

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

- 22.1. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.

- 22.2. Unless otherwise required by law, the costs which have been quoted in this IFB have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the Contract.
- 22.3. No other attempt has been made or will be made by the Offeror to solicit or implore any other person or firm to submit or not to submit a bid in response to this IFB for the purpose of restricting competition.

23. Acceptance of Bid

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

BID EVALUATION

24. Disqualification of Offers

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

- 24.1. Hard copy offer not signed by an authorized individual.
- 24.2. More than one offer from an Offeror under the same or different names.
- 24.2.1. Legally distinct Offerors such as subsidiaries or jointly-owned companies may submit offers and these offers may be accepted for evaluation and award if such Offerors submit with their offer a certificate of non-collusion which affirms that the offer is made freely and without collusion with another Offeror.
- 24.2.1.1. Legally distinct Offerors such as subsidiaries or jointly-owned companies shall submit business registration information indicating that the entities were not created after the IFB was released.
- 24.3. Evidence of collusion among Offerors or prices obviously unbalanced, lack of responsibility and cooperation as shown by past work, being in arrears on existing contracts with the State of Hawaii, or defaulting on previous contract(s).
- 24.4. Lack of proper equipment and/or sufficient experience to perform the work contemplated.
- 24.5. Offer received after specified deadline for close of offers.
- 24.6. Evidence of any noncompliance with any applicable law, any unauthorized additions or deletions, of submission of conditional offer, incomplete offer, or irregularities of any kind which may make the offer incomplete, indefinite, or ambiguous as to its meaning.

25. Method of Award

Award, if made, shall be to the responsive, responsible Offeror submitting the lowest estimated Total Sum Bid Price (Items 1 through 8). However, if the Total Sum Bid Price (Items 1 through 8) of the qualified low offer exceeds allotted funds, the STATE shall have the option to shorten the Contract period to allow award to be made within the allotted funds. Offeror must bid on all items to qualify for award.

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

26. Protest

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

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

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

CONTRACT EXECUTION

27. Contract Award

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

No work will be undertaken by the CONTRACTOR prior to the commencement date specified on the Contract. The STATE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by a CONTRACTOR prior to official starting date.

28. Responsibility of CONTRACTOR

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

- 28.1. Chapter 237, General Excise Tax Law;
- 28.2. Chapter 383, Hawaii Employment Security Law;
- 28.3. Chapter 386, Workers' Compensation Law;
- 28.4. Chapter 392, Temporary Disability Insurance;
- 28.5. Chapter 393, Prepaid Health Care Act; and
- 28.6. One of the following:

- 28.6.1. That CONTRACTOR is registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business"); or
- 28.6.2. That CONTRACTOR is registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

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

29. Hawaii Compliance Express.

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

30. Timely Submission of All Certificates

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

31. Failure to Execute Contract

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

32. Availability of Funds

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

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

33. Wage Certificate

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

CONTRACTOR is obliged to notify its employees performing work under this Contract of the provisions of HRS § 103-55, and of the current wage rate for public employees performing similar work.

CONTRACTOR may meet this obligation by posting a notice to this effect in the CONTRACTOR's place of business in an area accessible to all employees, or CONTRACTOR may include such notice with each paycheck or pay envelope furnished to the employee.

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

34. Liability Insurance

The CONTRACTOR shall maintain in full force and effect, during the life of this Contract, liability and property damage insurance. This insurance shall protect the CONTRACTOR and the CONTRACTOR's subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this Contract, whether such operations be by the

CONTRACTOR or by a subcontractor or anyone directly or indirectly employed by either of them. If any subcontractor is involved in the performance of the Contract, the insurance policy or policies shall name the subcontractor as additional insured.

As an alternative to the CONTRACTOR providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, CONTRACTOR may require subcontractor to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy(ies) are in addition to the CONTRACTOR's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the CONTRACTOR, including its subcontractor(s) where appropriate:

<u>Commercial General Liability:</u> (Occurrence Form)	\$2,000,000 aggregate \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
<u>Workers' Compensation:</u>	The CONTRACTOR shall maintain workers' compensation and employer's liability insurance that comply with statutory limits.
<u>Automobile Liability:</u> (Combined Single Limit)	\$1,000,000 per accident

General liability and automobile liability policies required by this Contract, including a subcontractor's policy, shall contain the following clause:

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

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

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

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

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

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

PERFORMANCE OF CONTRACT

35. Authority of the Hawaii State Department of Education

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

36. Relief Available to STATE

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

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

37. Confidentiality Obligations

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

The CONTRACTOR, including its employees, agents, representatives, and assigns shall abide by the following with regards to Confidential Information: (i) They shall not disclose to any unauthorized party any Confidential Information, except as specifically permitted by the STATE and subject to the STATE's limitations on confidentiality of information and relevant legal requirements of the State to include, but not

limited to the Family Educational Rights and Privacy Act (FERPA). Permission will be granted through a formal written agreement concerning the disclosure of personally identifiable information (PII) from student education records, signed by the STATE and the CONTRACTOR, and must be provided as an attachment to this Contract; (ii) They shall only permit access to Confidential Information to employees, agents, representatives, and assigns having a specific need to know in connection with performance under this Contract; and (iii) They shall advise each of their employees, agents, representatives, and assigns of their obligations to keep such Confidential Information confidential in compliance with all relevant state and federal laws.

CONTRACTOR, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The CONTRACTOR shall provide the STATE with a list of individuals (by name and position) who are authorized to handle the Confidential Information (hereinafter referred to as "Authorized Handlers"). Authorized Handlers shall ensure the security of the Confidential Information. Only Authorized Handlers shall have access to the Confidential Information, which will be kept on password protected computers with the hard copy documents kept in a locked file cabinet. CONTRACTOR shall ensure that procedures exist to prohibit access to the Confidential Information by anyone other than an Authorized Handler.

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

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

38. Records Retention

Should the CONTRACTOR be aware of or be made aware of any dispute, disagreement, or request relating to the files, books, or records prior to their destruction, the CONTRACTOR shall retain the files, books, and records until said dispute, disagreement, or request has been fully resolved, including any potential lawsuits or appeals. Said files, books, and records may thereafter be destroyed upon obtaining the agreement of the STATE.

PAYMENT

39. Invoicing

CONTRACTOR shall submit original invoice to the following address:

Hawaii State Department of Education
School Food Services Branch
1106 Koko Head Avenue
Honolulu, Hawaii 96813

Invoices shall reference both the Contract number and the solicitation number and must have the following information identified: invoice number, date of invoice, CONTRACTOR's name and remittance address, deliverable, and total amount due.

40. Payment

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

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

The **final payment** under the Contract shall be for services performed and/or goods delivered during the billing period just prior to the Contract anniversary date.

In addition to the requirements set forth in the General Conditions, the following shall accompany the final payment invoice:

- 40.1. A valid (not over 2 months old) and original *Tax Clearance Certificate* (TCC) must accompany the final payment invoice. In accordance with HRS § 103-53, all CONTRACTORs must provide a TCC from the State of Hawaii Department of Taxation and the U.S. Internal Revenue Service as a prerequisite to receipt of final payment.
- 40.2. The Certification of Compliance for Final Payment (DOE Form-22) with an original signature of an authorized representative of the CONTRACTOR.
- 40.3. In lieu of the above, the CONTRACTOR may submit an original *Certificate of Vendor Compliance* as issued via the online system, also referred to as "Hawaii Compliance Express". Details regarding this online application process may be viewed at: <http://vendors.ehawaii.gov/hce/>.

APPROVALS

41. State of Hawaii's General Conditions

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

42. Approvals

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

Offeror: _____

EXHIBIT A

OFFEROR INFORMATION

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

A. Large-Scale Food-Service Operations

At the time of bidding, the Offeror shall have a minimum of three (3) years of documented experience providing consulting, operational planning, management, implementation, or technical services for centralized or high-volume food-production operations producing approximately 1,000 meals per day or greater.

1. Relevant experience may include:
 - a. Central kitchens;
 - b. Commissaries;
 - c. School district production kitchens;
 - d. Healthcare or institutional food service;
 - e. Government or military feeding operations; or
 - f. Comparable high-volume commercial food-production operations.

Number of Years and Months of Experience: _____

B. Kindergarten through Twelfth Grade (K-12) and USDA Child Nutrition Program Expertise

1. At the time of bidding, the Offeror shall have a minimum of three (3) years of demonstrated experience or in-depth professional expertise involving USDA Child Nutrition Programs, including the National School Lunch Program (NSLP) and/or School Breakfast Program (SBP).

Number of Years and Months of Experience: _____

2. The Offeror shall demonstrate knowledge of the operational relationship among menu planning, USDA meal-pattern requirements, standardized recipes, production records, procurement, receiving, storage, inventory, food safety, production, and school meal service.

The Offeror shall demonstrate this knowledge by attaching a narrative not exceeding two (2) pages describing one or more completed projects that demonstrate the Offeror's understanding of the operational relationship among menu planning, USDA meal-pattern requirements, standardized recipes, production records, procurement, receiving, storage, inventory, food safety, production, and school meal service. The narrative shall identify the client, project dates, approximate daily meal volume, the Offeror's role, and the relevant work products or results. Resumes and project sheets may be included as supporting documentation.

Required Narrative and Supporting
Documentation Attached ☐ Yes

Offeror: _____

C. Large-Scale Production Kitchen Workflow

At the time of bidding, the Offeror shall have a minimum of three (3) years of experience designing, implementing, evaluating, or improving high-volume commercial or institutional kitchen workflows using commercial food-service equipment. Relevant experience should include production volume, equipment capacity, labor workflow, cooling, holding, packaging, food safety, and distribution.

Number of Years and Months of Experience: _____

D. Facility Start-Up, Commissioning and Stand-Up Experience

1. At the time of bidding, the Offeror shall have at least two (2) years of demonstrated experience supporting operational start-up, commissioning, transition, or stabilization of newly constructed or significantly renovated high-volume commercial, institutional, centralized, or school food-production facilities and shall demonstrate experience with at least one such facility producing approximately 1,000 meals per day or greater.
2. Relevant experience should include coordination among equipment start-up, operational testing, staff readiness, production, SOP development, food safety, training, trial production, and transition to normal operations.

Number of Years and Months of Experience: _____

E. Food Distribution and Cold-Chain Logistics

1. At the time of bidding, the Offeror shall have at least two (2) years of experience with food-service logistics involving temperature-controlled transportation, cold-chain management, delivery scheduling, route planning, centralized distribution, delivery routing software and/or systems, or comparable institutional food-distribution operations.
2. Relevant experience may include procuring, configuring, or optimizing temperature-controlled delivery vehicles and routing systems for efficiency and food-safety compliance. Ownership of transportation vehicles is not required.

Number of Years and Months of Experience: _____

F. Standard Operating Procedures and Food-Safety Systems

At the time of bidding, the Offeror shall have at least five (5) years of experience developing customized, complete, and ready-to-implement SOPs or operating manuals for major institutional or high-volume food-service functions, including receiving, storage, inventory, production, sanitation, food safety, transportation, distribution, and meal service.

Number of Years and Months of Experience: _____

Offeror: _____

G. Personnel:

1. The Offeror shall designate at least one (1) employee as the primary STATE Point of Contact (POC) for this Contract.
2. The POC shall:
 - a. Be available during regular Hawaii business hours, Monday through Friday, excluding State holidays;
 - b. Coordinate CONTRACTOR personnel, activities, and deliverables;
 - c. Participate in required project meetings;
 - d. Respond to STATE questions;
 - e. Resolve or elevate project issues; and
 - f. Ensure timely follow-up on assigned actions.

POC Name _____

Office Telephone Number _____

Cell Phone Number _____

Email Address _____

3. The Offeror shall identify all key personnel expected to perform significant portions of the work and describe their qualifications and proposed responsibilities.
4. Qualifications represented at the time of bidding shall be maintained throughout the Contract. Replacement of key personnel shall require personnel with qualifications equal to or greater than those originally proposed and shall be subject to STATE approval as permitted by the Contract.

Key Personnel Name: 1. _____ 	Qualifications and Proposed Responsibilities:
Key Personnel Name: 2. _____ 	Qualifications and Proposed Responsibilities:

Offeror: _____

Key Personnel Name: 3. _____	Qualifications and Proposed Responsibilities:
Key Personnel Name: 4. _____	Qualifications and Proposed Responsibilities:
Key Personnel Name: 5. _____	Qualifications and Proposed Responsibilities:
Key Personnel Name: 6. _____	Qualifications and Proposed Responsibilities:
Key Personnel Name: 7. _____	Qualifications and Proposed Responsibilities:
*If additional space is needed, please include an additional page with the same information.	

Offeror: _____

H. References

Offeror shall provide the names of at least two (2) companies or government agencies other than the Hawaii State Department of Education, with whom Offeror was or is providing professional operational planning, implementation, and readiness support in a comparable scope, size, complexity, or operational environment and who can attest to the quality level and reliability of all aspects of the Offeror's work, services, and personnel. The STATE reserves the right to contact the references listed to inquire about Offeror's past and/or current performance.

1. Company Name		
Address		
Contact Name and Title		
Telephone Number		
Email Address		
Dates Services Were Performed	Start Date:	End Date:
Brief Description of the Work Performed		

2. Company Name		
Address		
Contact Name		
Telephone Number		
Email Address		
Dates Services Were Performed	Start Date:	End Date:
Brief Description of the Work Performed		

GENERAL CONDITIONS

Table of Contents

Page(s)

1.	Coordination of Services by the STATE	2
2.	Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.....	2
3.	Personnel Requirements	3
4.	Nondiscrimination	3
5.	Conflicts of Interest	3
6.	Subcontracts and Assignments	3
7.	Indemnification and Defense	4
8.	Cost of Litigation.....	4
9.	Liquidated Damages	4
10.	STATE'S Right of Offset.....	4
11.	Disputes	4
12.	Suspension of Contract.....	4
13.	Termination for Default.....	5
14.	Termination for Convenience	6
15.	Claims Based on the Agency Procurement Officer's Actions or Omissions.....	8
16.	Costs and Expenses	8
17.	Payment Procedures; Final Payment; Tax Clearance	9
18.	Federal Funds	9
19.	Modifications of Contract.....	9
20.	Change Order.....	10
21.	Price Adjustment	11
22.	Variation in Quantity for Definite Quantity Contracts	11
23.	Changes in Cost-Reimbursement Contract.....	11
24.	Confidentiality of Material	12
25.	Publicity.....	12
26.	Ownership Rights and Copyright	12
27.	Liens and Warranties	12
28.	Audit of Books and Records of the CONTRACTOR.....	13
29.	Cost or Pricing Data	13
30.	Audit of Cost or Pricing Data	13
31.	Records Retention.....	13
32.	Antitrust Claims.....	13
33.	Patented Articles.....	13
34.	Governing Law	14
35.	Compliance with Laws	14
36.	Conflict between General Conditions and Procurement Rules	14
37.	Entire Contract.....	14
38.	Severability	14
39.	Waiver	14
40.	Pollution Control	14
41.	Campaign Contributions.....	14
42.	Confidentiality of Personal Information.....	14

GENERAL CONDITIONS

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

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

3. Personnel Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Termination for Default.

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

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

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

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

14. Termination for Convenience.

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

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

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

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

- d. Compensation.

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

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

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

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

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

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

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

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

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

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

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

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

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

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

17. Payment Procedures; Final Payment; Tax Clearance.

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

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

19. Modifications of Contract.

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

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

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

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

21. Price Adjustment.

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

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

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

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

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

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
 - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
 - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

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

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

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

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

b. Confidentiality of Material.

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

c. Security Awareness Training and Confidentiality Agreements.

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

d. Termination for Cause. In addition to any other remedies provided 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.