

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
INFORMATION AND COMMUNICATION SERVICES DIVISION

LEGAL AD DATE: MAY 8, 2013

REQUEST FOR PROPOSALS
No. RFP-13-005

SEALED PROPOSALS
TO
REPLACE TIVOLI STORAGE MANAGER SERVERS (TSM) RUNNING ADVANCED
INTERACTIVE eXecutive (AIX) UNDER A LEASE FOR THE STATE OF HAWAII

WILL BE RECEIVED UP TO 2:00 P.M. (HST)

ON

JUNE 3, 2013

IN THE INFORMATION AND COMMUNICATION SERVICES DIVISION (ICSD),
KALANIMOKU BUILDING, 1151 PUNCHBOWL STREET, ROOM B-10, HONOLULU,
HAWAII 96813. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO
MR. WAYNE SASAKI, TELEPHONE (808) 586-1940, EXTENSION 343, FACSIMILE
(808) 586-1922, OR E-MAIL AT WAYNE.T.SASAKI@HAWAII.GOV. PROCUREMENT
QUESTIONS RELATING TO THIS REQUEST FOR PROPOSALS SHALL BE
DIRECTED TO MS. SHARON WONG, TELEPHONE (808) 586-1920, EXTENSION
309, FACSIMILE (808) 586-1922, OR E-MAIL: SHARON.N.WONG@HAWAII.GOV.



State Comptroller

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1 INTRODUCTION AND KEY DATES

1.1 NOTE TO OFFERORS

Offerors are encouraged to read each section of the RFP thoroughly. While sections such as this Introduction and Key Dates may appear similar among RFPs, they may not be identical. It is the responsibility of the Offeror to understand the requirements of this RFP.

Offerors shall note that this RFP will result in a requirements contract for the Department of Accounting and General Services' Information and Communication Services and Accounting Divisions

1.2 PROCUREMENT TIMETABLE

Offerors shall note that the procurement timetable represents the State's best estimated schedule. If a component of this timetable is delayed, the rest of the timetable may be adjusted by the same number of days. Contract start dates may be subject to the issuance of a notice to proceed. All modifications of the estimated schedule as well as any part of this RFP will be made through the issuance of an Addendum.

| Activity | Scheduled Date |
|---|--|
| Public Advertisement of RFP and Pick-up | 05/08/2013 |
| RFP orientation session | N/A |
| Site visit | Between the Proposal Pick-up date and the day before the Proposal due date |
| Deadline for Written Inquiries, 2:00 p.m. (HST) | 05/17/2013 |
| State's Response to Offeror's Written Inquiries | 05/22/2013 |
| Proposal Submittal Deadline, 2:00 p.m. (HST) | 06/03/2013 |
| Offeror's Presentations and Discussions, if required | Within 14 days after RFP Proposal Submittal Deadline |
| Best and Final Offer (BAFO) Deadline, 2:00 p.m. (HST) | To Be Determined |
| Proposal Evaluation Period | Within approximately 14 days after Date of BAFO |
| Contractor Selection | Within approximately 21 days after Date of BAFO |
| Estimated Date of Notice of Award | Within 7 days after Contractor Selection |
| Estimated Contract Start Date/Notice to Proceed | Within 7 days of Notice of Award |

1.3 WEBSITE REFERENCES

All applicable websites referenced by this RFP are listed in this section. For general information on procurement, Offerors should refer to the State Procurement Office (SPO) website at <http://hawaii.gov/spo/>.

1.3.1 SPO Websites

Specific information:

| For | Website References |
|--|---|
| Hawai'i Administrative Rules | http://www.spo.hawaii.gov/statutes-and-rules/admin-rules |
| Protest Forms/Procedures | http://www4.hawaii.gov/StateFormsFiles/spoh806_0403.pdf |
| SPO Form-22 "Certification for Compliance for Final Payment" | http://www4.hawaii.gov/StateFormsfiles/form221.pdf |

1.3.2 Non-SPO Websites

Offerors should note that website addresses may change from time to time. If a link is not active, try the State of Hawai'i website at <http://hawaii.gov>.

| For | Website References |
|------------------------------|---|
| Campaign Spending Commission | http://hawaii.gov/campaign |
| Hawai'i Compliance Express | http://vendors.ehawaii.gov/hce |

1.4 AUTHORITY

This RFP is issued under the provisions of the Hawai'i Revised Statutes (HRS) Chapter 103D and its administrative rules. All prospective Offerors are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any Offeror shall constitute admission of such knowledge on the part of such Offeror.

Failure to comply with any requirement may result in the rejection of the proposal. The ICSD reserves the right to reject any or all proposals received, or to cancel this RFP, if it is in the best interest of the State.

1.5 RFP ORGANIZATION

This RFP is organized into four sections.

Section 1, Introduction and Key Dates: Provides prospective Offerors with an overview of the procurement process.

Section 2, Background Information, General Specifications, and Technical Requirements: Provides Offerors with a general description of the tasks to be performed, delineates Offeror responsibilities, defines deliverables (as applicable), and technical requirements.

Section 3, Proposal Preparation Instructions: Describes the required format and content for the proposal.

Section 4, Proposal Evaluation: Describes how proposals will be evaluated by the State purchasing agency.

Appendix: Provides Offerors with information and forms necessary to complete the proposal.

1.6 CONTRACTING OFFICE AND DESIGNATED STATE PERSONNEL

The Contracting Office is responsible for overseeing the contract(s) resulting from this RFP, including system operations, fiscal agent operations, and

monitoring and assessing performance. The Contracting Office shall serve as the primary liaison with Offerors during all phases of the RFP process and with the Contractor during all phases of the contract. The Contracting Office is:

Department of Accounting and General Services
 Information and Communication Services Division
 Planning and Project Management Office
 Kalanimoku Building
 1151 Punchbowl Street, Room B10
 Honolulu, HI 96813

The following State personnel are designated to perform the following roles in this procurement:

| | |
|----------------------------------|--|
| Head of State Purchasing Agency: | |
| Name: | Dean H. Seki |
| Title: | Comptroller |
| Business Address: | State of Hawai'i, Department of Accounting and General Services 1151 Punchbowl Street, Room 412, Honolulu, HI 96813 |

| | |
|----------------------|--|
| Procurement Officer: | |
| Name: | Sharon N.H. Wong |
| Title: | Acting ICSD Administrator |
| Business Address: | State of Hawai'i, Department of Accounting and General Services, Information and Communication Services Division 1151 Punchbowl Street, Room B-10, Honolulu, HI 96813 |

| | |
|---------------------|--|
| RFP Contact Person: | |
| Name: | Wayne T. Sasaki |
| Title: | Systems Services Branch Chief |
| Phone: | (808) 586-1940 extension 343 |
| Business Address: | State of Hawai'i, Department of Accounting and General Services, Information and Communication Services Division 1151 Punchbowl Street, Room B-20, Honolulu, HI 96813 |
| Fax: | (808) 586-1922 |
| Email: | wayne.t.sasaki@hawaii.gov |

| | |
|-------------------------|--|
| Contract Administrator: | |
| Name: | Wayne T. Sasaki |
| Title: | Systems Services Branch Chief |
| Business Address: | State of Hawai'i, Department of Accounting and General Services, Information and Communication Services Division 1151 Punchbowl Street, Room B-20, Honolulu, HI 96813 |
| Phone: | (808) 586-1940 extension 343 |
| Fax: | (808) 586-1922 |
| Email: | wayne.t.sasaki@hawaii.gov |

| | |
|-------------------|--|
| Project Manager: | |
| Name: | Wayne T. Sasaki |
| Title: | Systems Services Branch Chief |
| Business Address: | State of Hawai'i, Department of Accounting and General |

| | |
|----------|---|
| Address: | Services, Information and Communication Services Division 1151 Punchbowl Street, Room B-20, Honolulu, HI 96813 |
| Phone: | (808) 586-1940 extension 343 |
| Fax: | (808) 586-1922 |
| Email: | wayne.t.sasaki@hawaii.gov |

1.7 ORIENTATION/SITE VISIT

The State is agreeable to permitting site visits upon request by prospective Offerors. Such site visits will be at the convenience of the State prior to the Proposal Submittal Deadline in RFP Section 1.2 PROCUREMENT TIMETABLE and shall be requested by Offerors through the RFP Contact Person.

1.8 SUBMISSION OF QUESTIONS

Offerors may submit questions to the RFP Contact Person identified in RFP Section 1.6, Contracting Office and Designated State Personnel. All written questions will receive a written response from the State purchasing agency as indicated in the Procurement Timetable in RFP Section 1.2 PROCUREMENT TIMETABLE.

Offerors should carefully review this RFP, and bring to the attention of the RFP Contact Person any defects, questions or objections. This will allow any appropriate amendments to the RFP and will help prevent the opening of a defective solicitation and exposure of Offeror's proposal upon which award could not be made.

Written responses will be sent by electronic mail, faxed or mailed to each prospective Offeror who has provided a mailing address, electronic mail address or facsimile number to the State. The State shall not be responsible to notify those prospective Offerors who have failed to provide the necessary contact information.

1.9 SUBMISSION OF PROPOSALS

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

Before submission of a proposal each Offeror should:

1. Examine the RFP documents thoroughly (documents include this RFP, any addenda, attachments, and other relevant documentation), and
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 required by this RFP.

1.9.1 Forms/Formats

The following forms are required and are to be submitted as part of an Offeror's proposal. The formats specified must be followed when the proposal is being prepared.

1. Offer Form. The Offer Form is included as part of Appendix A. Offerors must submit their proposals with a completed Offer Form using Offeror's exact name as registered with the Department of Commerce and

Consumer Affairs. The authorized signature on the first page of the Offer Form (Appendix A) shall be an original signature in ink. If the proposal is unsigned or the affixed signature is a facsimile, photocopy or stamp, the proposal shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

2. Proposal Cost Worksheet. The Proposal Cost Worksheet is included as part of Appendix B. The Proposal Cost Worksheet provides the State with an overview of the costs associated with the Offeror's proposal and a consistent format from which to evaluate proposals submitted.
3. Proposal Table of Contents. The Sample Proposal Table of Contents is included as part of Appendix C. Proposals submitted should use the format and verbiage provided therein.
4. RFP Section 3 PROPOSAL PREPARATION INSTRUCTIONS. This section provides the format of the proposal and instructions Offerors are required to follow when preparing proposals.

1.9.2 Specific Requirements

Specific requirements and specifications are included in RFP Section 2 BACKGROUND INFORMATION, GENERAL SPECIFICATIONS, AND TECHNICAL REQUIREMENTS. These requirements detail the scope of work, technical specifications and special considerations, if any, for this solicitation.

1.9.3 Multiple or Alternative Proposals

An Offeror may submit only one proposal in response to this RFP. If an Offeror submits more than one proposal in response to this RFP, then all such proposals shall be rejected. Similarly, an Offeror may submit only one proposal for each line item (if any). If an Offeror submits more than one proposal per line item, then all proposals by that Offeror for that line item will be rejected (if any). Multiple or alternate proposals shall not be accepted.

1.9.4 Certificates

The following certificates must be submitted upon award of the contract. The State may rescind award if the required certificates are not timely submitted.

1. **Tax Clearance.** Certificates of Vendor Compliance (See 1.9.5).
2. **Insurance.** The Contractor shall deposit with the State of Hawai'i certificate(s) of insurance necessary to satisfy the State that the following insurance provisions have been satisfied and shall keep such insurance in effect and the certificate(s) therefor on deposit with the State during the entire term of the contract. Insurance shall include insurance for subcontractors, where appropriate. Upon request by the State, the Contractor shall furnish a complete copy of the policy or policies.

The Contractor shall maintain in full force and effect during the entire term of the contract (including extensions, if any) liability and property damage insurance to protect the State, the Contractor and its subcontractors, if any, from claims for damages for personal injury, accidental death, and property damage which may arise from operations under the contract, whether such operations be by the Contractor or by

any 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 State and subcontractor as additional insureds.

As an alternative to the Contractor providing insurance to cover work performed by a subcontractor and naming the subcontractor as an additional insured, the Contractor may require subcontractor to provide its own insurance which meets the requirement of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for Commercial General Liability (CGL). It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own insurance policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s), as applicable.

| <u>Coverage</u> | <u>Limits</u> |
|--|--|
| Commercial General Liability (CGL) (occurrence form) | \$2,000,000 combined single limit per occurrence for personal injury, bodily injury, and property damage |
| Automobile Liability | \$1,000,000 combined single limit including bodily injury and property damage minimum per accident |

Each insurance policy, including a subcontractor's policy, shall contain the following clauses:

1. "This insurance shall not be canceled, limited in scope of coverage or non-renewed until after 30 days' written notice has been given to the ICSD, Kalanimoku Building, 1151 Punchbowl Street, Room B-10, Honolulu, Hawai'i 96813."
2. "The State of Hawai'i is added as an additional insured as respects work performed for the State of Hawai'i."
3. "It is agreed that any insurance maintained by the State of Hawai'i will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawai'i Insurance Code throughout the entire term of the contract, including any extensions thereof.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as a material default under the contract, and entitle the State to exercise any or all of the remedies provided in the contract for a default of the Contractor.

The procuring of the required insurance shall not be construed to limit the Contractor's liability under the contract or to fulfill the indemnification provisions and requirements of the contract. Notwithstanding said policy or policies of insurance, Contractor shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect or willful misconduct connected with the contract.

1.9.5 Hawai'i Compliance Express (HCE)

Vendors shall use the Hawai'i Compliance Express (HCE) to show proof of compliance with the requirements of § 103D-310(c), HRS. The HCE allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> for an annual fee payable to Hawai'i Information Consortium, LLC to acquire a "Certificate of Vendor Compliance," which provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance" indicating that vendor's status is compliant with the requirements of §103D-310(c), HRS, is required for both contracting purposes and final payment.

1.9.6 Confidential Information

If an Offeror believes any portion of a proposal contains information that should be withheld as confidential, the Offeror shall request in writing designated proprietary data to be confidential and provide justification to support confidentiality. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal to facilitate eventual public inspection of the non-confidential sections of the proposal.

Offerors shall note that price is not considered confidential and will not be withheld.

1.9.7 Proposal Submission

All mail-ins shall be received by the State purchasing agency no later than the Proposal Submittal Deadline indicated on RFP Section 1.2 PROCUREMENT TIMETABLE. Proposals shall be rejected if received after the proposal submittal deadline.

The number of copies required is specified in RFP Section 3.2 GENERAL INSTRUCTIONS FOR COMPLETING PROPOSAL.

Faxed proposals, proposals submitted solely on diskette/CD, or proposals transmitted via email are not permitted and will not be considered.

1.9.8 Disposition of Proposals

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

1.9.9 Final Payment Requirements

A Contractor is required to submit a tax clearance certificate for final payment on the contract. The "Certificate of Vendor Compliance" issued by the HCE fulfills this requirement. In addition, an original "Certification of Compliance for Final Payment" (SPO Form-22, see RFP Section 1.3.1 SPO Websites) is required for final payment.

1.9.10 Withdrawal or Modification of Proposals

A proposal may be withdrawn or modified at any time prior to, but not after, the proposal submittal deadline. Withdrawal or modification shall comply with the requirements of HAR section 3-122-16.07. This withdrawal or modification must be submitted before the proposal submittal deadline, but shall not prejudice the right of an Offeror to submit a new proposal or a modification before or on the proposal submittal deadline.

1.10 DISCUSSION WITH OFFERORS

The contents of any proposal will not be disclosed during the review, discussion or evaluation process.

1.10.1 Prior to Submission Deadline

Offerors are encouraged to submit written questions if they desire. All questions must be submitted in writing, facsimile, or email no later than the date specified in the RFP Section 1.2 PROCUREMENT TIMETABLE, Deadline for Written Inquiries, in order that an official answer may be generated. Questions over the telephone will not be accepted or answered. Official responses will be provided to all Offerors providing an email, facsimile or mailing address.

1.10.2 After Proposal Submission Deadline

Discussions may be conducted with Offerors whose proposals are determined to be reasonably susceptible of being selected for award, but proposals may be accepted without discussions, in accordance with HAR section 3-122-53. If more than three proposals are received, a priority list of not less than three Offerors submitting the highest ranked proposals shall be generated. The evaluation committee may have additional discussions with priority-listed Offerors prior to the submission of the best and final offers.

1.11 OPENING OF PROPOSALS

Upon receipt by the State, proposals, modifications of proposals, and withdrawals of proposals shall be date-stamped and time-stamped. All documents so received shall be held in a secure place by the State purchasing agency and not examined for evaluation purposes until the submission deadline.

Proposals will be opened at the date and time specified in RFP Section 1.2 PROCUREMENT TIMETABLE, as it may be amended. Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials.

The register of proposals and Offerors' proposals (except those portions determined to be confidential in accordance with section 3-122-58, HAR), shall be opened to public inspection after a contract has been awarded and notice of award has been posted.

1.12 ADDITIONAL MATERIALS AND DOCUMENTATION

Upon request from the State purchasing agency, each Offeror shall submit any additional materials and documentation reasonably required by the State purchasing agency in its evaluation of the proposals.

Specific time frames for submitting the requested documents can be found in RFP Section 3.5 SUBMISSION OF REQUESTED INFORMATION AND DOCUMENTS.

1.13 RFP AMENDMENTS

The State reserves the right to amend this RFP at any time prior to the closing date for submission of best and final offers. If during discussions, there is a need for substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or

change. Addenda to the RFP after determination of the priority-listed Offerors shall be distributed only to priority-listed Offerors.

1.14 BEST AND FINAL OFFERS

Following discussion, priority-listed Offerors will be invited to submit their best and final offers in the manner, and by the date and time specified by the State purchasing agency. If a best and final offer is not submitted, the previous submittal shall be construed as the Offeror's best and final offer. The Offerors shall submit either (1) **only** the section(s) of the proposal that are amended or (2) resubmit the entire proposal. Please note that if the Offeror elects to submit only the section(s) that were amended, the State shall not be responsible for incorrect or misplaced pages. After best and final offers are received, final evaluations will be conducted for an award.

After receipt and evaluation of best and final offers, the evaluation committee will recommend award to the Comptroller and the Procurement Officer. The contract will be awarded to the Offeror whose proposal is determined to be the most advantageous to the State, taking into consideration price and the other evaluation criteria.

1.15 CANCELLATION OF REQUEST FOR PROPOSALS

The RFP may be canceled and any or all proposals may be rejected in whole or in part, when it is determined to be in the best interests of the State.

1.16 COST FOR PROPOSAL PREPARATION

Any costs incurred by Offerors in preparing or submitting a proposal are the Offeror's responsibility. The State will not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by any Offeror in the event this RFP is cancelled or a proposal is rejected in whole or in part.

1.17 REJECTION OF PROPOSALS

The State reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in this RFP which demonstrate an understanding of the problems involved and comply with the specifications. Any proposal offering any other set of terms and conditions or terms or conditions contradictory to those included in this RFP may be rejected without further notice.

A proposal may be automatically rejected for any one or more of the following reasons:

- 1) failure to cooperate or deal in good faith;
- 2) late proposal;
- 3) inadequate response to request for proposals;
- 4) proposal not responsive; or
- 5) Offeror not responsible

1.18 NOTICE OF AWARD AND EXECUTION OF CONTRACT

A Notice of Award or Notice of Non Selection shall be provided to Offerors by mail upon completion of the evaluation of all proposals.

Award, if any, will be made as indicated in the Procurement Timetable, after opening of proposals or best and final offers, as the case may be. Prices quoted by Offerors shall remain firm for the period.

The RFP, any addenda issued, and the successful proposal shall become part of the contract. No work is to be undertaken by the awardee prior to the contract commencement date. The State of Hawai'i is not liable for any costs incurred prior to the official commencement date.

The successful Offeror receiving award shall be required to enter into a formal written contract. No performance or payment bond is required. Upon execution of the contract, a Notice to Proceed will be issued. The official commencement date of the resulting contract shall be the date indicated in the Notice to Proceed.

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

1.19 PROTESTS

Any Offeror may file a protest against the award of the contract. The Notice of Protest form is available on the SPO website. Only the following matters may be protested:

1. A State purchasing agency's failure to follow procedures established by Chapter 103D, Hawai'i Revised Statutes.
2. A State purchasing agency's failure to follow any rule established by Chapter 103D, Hawai'i Revised Statutes; and
3. A State purchasing agency's failure to follow any procedure, requirements, or evaluation criterion in a request for proposals issued by the State purchasing agency.

The Notice of Protest shall be postmarked by USPS or hand delivered to: 1) the head of the State purchasing agency conducting the protested procurement; or 2) the procurement officer who is conducting the procurement within five working days of the postmark of the Notice of Award or Notice of Non-Selection sent to the protestor. Delivery services other than USPS shall be considered hand deliveries and considered submitted on the date of actual receipt by the State purchasing agency.

1.20 AVAILABILITY OF FUNDS

The award of a contract and any allowed renewal or extension thereof, is subject to allotments made by the Director of Finance, State of Hawai'i, pursuant to HRS Chapter 37, and subject to the availability of State and/or Federal funds.

1.21 GENERAL AND SPECIAL CONDITIONS OF CONTRACT; LIQUIDATED DAMAGES

The general conditions that will be imposed contractually can be found in Appendix E **Standard Contract General Conditions** and Appendix M **SPO General Provisions**. Special conditions may also be imposed contractually by the State purchasing agency, as deemed necessary.

Refer to Paragraph 9 of the General Conditions. Liquidated damages are fixed at the specified sum indicated below, per calendar day for any failure of the Contractor to perform in whole or in part any of its obligations:

| | |
|--------------------------------------|--------|
| Liquidated damages per calendar day: | \$1000 |
|--------------------------------------|--------|

1.22 COST PRINCIPLES

In order to promote uniform purchasing practices among State purchasing agencies, State purchasing agencies will utilize standard cost principles. Nothing in this section shall be construed to create an exemption from any cost principle arising under federal law.

2 BACKGROUND INFORMATION, GENERAL SPECIFICATIONS, AND TECHNICAL REQUIREMENTS

2.1 BACKGROUND AND PURPOSE

The State of Hawai'i currently operates an IBM P570 and IBM 3494 in support of its Tivoli Storage Manager server parts of which have been in operation since the year 2000. The State also operates an IBM P520 that supports NIM operations and provides "mksysb" support for AIX servers. All configurations are found in Appendix J **Current Configurations**.

The TSM server is responsible for backing up data on production servers hosted at ICSD. This amounts to servicing 156 servers with the total amount of data backed up at 12 TB per week.

The purpose of this RFP is to replace these systems with current technology as the current servers and tape library substantially lack the resources or capacity to keep pace with the increasing workload and/or is not supported by upcoming versions of the AIX operating system.

The work described in this RFP is comprised of those specifications that will aid the Offeror in preparing a proposal that will best meet the needs of the State. The price list resulting from this RFP should be one rate that applies to all software skills. The State is also seeking one Contractor to provide all services due to limited staff resources.

2.2 OBJECTIVES

The State has the following objectives.

1. The State must replace its P570 and P520 as these resources cannot provide for anticipated demand.
2. The State wishes to add a data De-duplication appliance.
3. The State requires the Offeror to propose as an option the replacement of the 3494 tape library.
4. The upgrade or replacement of the existing equipment must be performed with minimal disruption of services. If required, disruptions must be limited to the minimum possible and must be approved in advance by the STATE PM.
5. The replacement configuration will be leased for a period specified in RFP Section 2.21 LEASE OF EQUIPMENT. The annual lease cost shall not exceed the budgeted amount specified in RFP Section 2.21.1 Funding Cap.

The equipment identified in objectives 1, 2 and 3 are collectively referred to as the "TSM Replacement System".

2.3 RESPONSE GUIDELINES

This RFP describes the minimum requirements and specifications for the State's replacement of the current system. Equipment characteristics and description found in this document are intended to be functional descriptions only. The actual equipment offered may provide these functions in different configurations but all proposals shall be evaluated for their benefit to the State.

2.3.1 Ease of Management

The equipment offered must provide ICSD with an architecture utilizing techniques that reduce the management effort needed to manage the configuration of the equipment components proposed.

2.3.2 Minimum Component

A minimum number of different components mean fewer spares, fewer manuals, and fewer training requirements. Equipment modules should be interchangeable between different chassis sizes. Simple solutions are preferred.

2.3.3 Space Efficiency

Space is at a premium at the identified locations. The equipment offered must make optimum use of floor space.

2.3.4 Simplicity

Simplicity in designing, packaging, installing, configuring, troubleshooting, maintaining, and repairing is highly valued.

2.3.5 Reliability

With minimal local support resources and remote second level support, any features that provide fault tolerance, fault containment, and automatic fault isolation have significant value. In addition, the State has legal obligations to maintain operational systems even during major disasters. Every component, system, and facility shall be capable of rapid recovery through alternate facilities.

2.3.6 Interoperability and Integration

This RFP is forward looking. Therefore, interoperability and integration are important considerations. All proposed equipment shall at a minimum provide equivalent connectivity and inter-operate with the current State systems.

2.4 WORK PLAN

The purpose of the plan is to ensure the proper coordination of all organizations and activities. The plan shall include, but not be limited to: identification of specific phases, tasks and activities, schedules, deliverables, identification of personnel responsibilities, and other information required to ensure a successful installation.

The Contractor shall be responsible for designing and submitting to the State all required plans, drawings, and spreadsheets for the ICSD computer room.

2.5 GENERAL INSTALLATION

Installation as described below, and including conversion of all existing data formats, if necessary, shall be completed within ninety (90) business days from the date of the STATE PM approval of Contractor's design and plan. The STATE PM will approve the design and plan five (5) days after the first meeting on hardware, software, and services implementation assurance. Contractor in performing all work identified in this RFP shall include, at a minimum, the following:

2.5.1 Project Initiation

Conduct the first meeting on hardware, software, and services implementation assurance.

2.5.2 Hardware Installation

- a. Specify electrical connections and perform all electrical work necessary for the installation of the equipment. The cost of electrical work shall be included in the cost of the proposal and all electrical work must be coordinated with the State. Electrical work specifications, as required, shall be included in Proposal Section 8, Technical Information, on a separate page titled "Electrical Work".
- b. Specify floor tile modifications required for equipment and place equipment as directed by the State. Floor tile modification, as required, shall be included in Proposal Section 8, Technical Information, on a separate page titled "Floor Tile".
- c. Connect all electrical and passive connections for all equipment and any sub-assemblies to the equipment so that the TSM Replacement System is operable and ready for the acceptance test, RFP Section 2.12 ACCEPTANCE TEST.
- d. Provide any cabling required by the State to connect the proposed TSM Replacement Systems with existing equipment and/or telecommunication network devices as necessary. All cabling must be in compliance with existing fire code, IEEE, and CCITT standards.
- e. Provide all equipment or hardware devices needed to make the TSM Replacement Systems operational and ready to perform the acceptance test, RFP Section 2.12 ACCEPTANCE TEST, and operate in production mode.
- f. Assemble the components, and make all the connections required to complete the installation process.
- g. Install and configure firmware on the proposed equipment and insure the correct operation and function of the firmware according to manufacturer specification.
- h. Provide a facility to connect the TSM Replacement Systems to the maintenance provider's remote support facility to keep microcode current and electronically report malfunctions. Offeror shall refer to RFP Section 2.10.6 Diagnostic Tools and Test Equipment for requirements. This facility will be consistent with item i immediately following this item.
- i. The Offeror shall propose an Internet connection to its remote support facility, the cost of which will be listed as a separate line item (r) on the Proposal Cost Work Sheet attached as RFP Appendix B. The Offeror must describe the configuration as part of Proposal Section 8, Technical Information, with an explanation of how transmissions are safeguarded and titled "Remote Support" on a separate page.
- j. Comply with National Electric Code (NEC), local building and safety codes, as applicable to installation of electronic equipment. All work must be performed by licensed personnel.
- k. Perform basic machine diagnostic tests as required by the hardware manufacturer to certify the equipment operational and ready for use.
- l. As an option, propose the removal of existing leased hardware from State premises as directed by State. This shall include the return of the existing systems and all attached signaling cables, power cables, and connectors that are part of the hardware. Contractor shall coordinate this with State PM or his designee.

- m. Determine and provide all necessary fiber and copper cables, connectors, adapters including gender changers, and other devices regardless of size or capabilities needed or required to make the TSM Replacement System function.
- n. Be responsible for and repair all damages to any building, support structure or equipment caused by its workers or subcontractors. Contractor shall report to the State any damage to the property or equipment that exists prior to installation.
- o. Be responsible for determining and providing all necessary generic installation components required to facilitate the installation. All items such as mounting hardware, nuts, bolts, screws, cable wraps, etc., while not specifically listed, are to be provided by the Contractor.
- p. Remove tools, equipment, and all rubbish including but not limited to skidding, packing, and crating from the premises and leave the premises clean and neat. Rubbish should be disposed of in compliance with all federal and State laws.
- q. Keep hardware and firmware current with patches or modification from the manufacturer until the State has accepted equipment.
- r. For hard disk drives on the replaced machines, the Offeror shall include the electronic erasure and certify that data on the disks have been destroyed. The Offeror must describe this service as part of Proposal Section 8, Technical Information, with an explanation of what is included as part of this service. Title this as "Disk Data Destruction" on a separate page.

2.5.3 Services

The Offeror must describe the services the Offeror will provide to complete the service listed below in this section as part of Proposal Section 8, Technical Information, with an explanation of how transmissions are safeguarded and titled "Remote Support" on a separate page.

- a. Install the current version of AIX.
- b. Establish the partitions as directed by the STATE PM or his designee.
- c. Install the current version of TSM and modify and configure TSM as directed by the STATE PM or his designee.
- d. Migrate the TSM database and data to the replacement servers and optional tape library.
- e. Configure the AIX servers including file systems as directed by the State.
- f. Document the configuration of the TSM Replacement System in a format acceptable to the STATE PM or his designee.

2.5.4 Documentation

Provide Documentation as prescribed in RFP Section 2.16 DOCUMENTATION.

2.5.5 Maintenance

Provide Maintenance as prescribed in RFP Section 2.10 MAINTENANCE REQUIREMENTS.

2.5.6 Training

Provide Training as prescribed in RFP Section 2.13 TRAINING REQUIREMENTS.

2.5.7 Turn Over

Turn over the proposed TSM replacement system, and optional Tape Library for Acceptance Test as prescribed in RFP Section 2.12 ACCEPTANCE TEST.

2.6 WORK PARAMETERS

1. Prior to final design and installation, the Contractor shall submit all drawings, details or design alternatives pertinent to the proposed TSM Replacement System to the STATE PM for approval. This submittal shall include detailed drawings of various equipment showing exact location of equipment, including but not limited to State owned equipment, existing infrastructure, proposed equipment, cross-connects, and ancillary equipment.
2. Labeling methodology shall be submitted to the STATE PM for approval prior to final labeling. All equipment and cables shall be labeled appropriately at both ends and shall be machine generated.
3. Contractor shall provide a record identifying all equipment installed as part of this RFP. Contractor shall submit records in hard copy and electronic files on machine readable format approved by the STATE PM for review and approval before acceptance tests. All records and files shall be submitted utilizing the software program versions approved by the STATE PM at the time of submittal.

2.7 PROJECT MANAGER

Offeror shall designate an on-island (O'ahu) Project Manager (PM) to be responsible for installation, testing, and acceptance of all work performed under this RFP. The PM shall have technical and operational decision making authority.

The PM shall prepare and deliver preliminary plans and documentation to include all of the planned equipment. The preliminary plans shall include floor space, power, cabling, equipment locations, and other documentation as required. In addition, the Contractor shall perform the following:

1. Provide verbal and written progress reports in project coordination meetings.
2. Submit written notification and explanation of any schedule changes, installation delays, and problem resolution foreseen by the Contractor to the STATE PM.
3. Coordinate the overall project schedule and be responsible for ensuring all products, labor, and other related elements necessary to facilitate the installation are identified and made available in order to meet the project schedule.
4. Be responsible for monitoring the project, bringing all changes, modifications, or discrepancies to the attention of the STATE PM.
5. Schedule all work with the STATE PM.
6. Coordinate with the STATE PM any corrective actions or additional components that the STATE PM determines must be supplied to insure the correct operation of the TSM Replacement System.

2.8 QUALITY OF EQUIPMENT

Equipment furnished under this RFP shall be new or certified as new for manufacturer maintenance certification. All equipment supplied shall be labeled and/or embossed with the manufacturer's name, logo, serial number, and/or part number. It shall be free from defects that may render it unfit for use. Damaged or rejected items shall be immediately removed from the site and replaced with items of the quality required.

No payment, whether partial or final, shall be construed to be an acceptance of defective materials. The Contractor shall be liable for latent defects, fraud, or gross misrepresentations that amount to fraud.

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

2.9 DELIVERY REQUIREMENTS

Delivery shall be to the specified installation site and coordinated through the Production Operations Support Section, Production Services Branch, ICSD (POSS). Contractor must call to receive delivery instructions and confirm delivery date which shall not be less than four (4) days from the Contractor's call. The POSS contact is Selma Murota at 808-586-1901 extension 446, 448 or 420.

Delivery shall include the transportation of all equipment to the site; uncrating; unpacking; removal of crating, packing, and skidding; and the positioning of the equipment for installation.

Contractor shall take necessary care and precautions not to damage State property or structures.

The Contractor shall be responsible for the risk of loss or damages that occur during delivery and installation of the equipment.

All loading, packing, crating, and skidding used in the shipment of the equipment shall be the property of the Contractor and shall be removed by the Contractor from the State's premises immediately following the installation of equipment or as directed by the State.

2.10 MAINTENANCE REQUIREMENTS

2.10.1 Parts Availability

The Offeror is required to maintain a parts inventory on the island of O'ahu in a nearby local office storage area or in a portable parts kit maintained by the Contractor's service representatives. The State requires that at time of proposal the Contractor maintain a local parts inventory of at least 95 percent of parts required to effect immediate repairs. The Offeror must be prepared to demonstrate a local parts inventory management system to the State upon two (2) days' notice. The demonstration must include, but not be limited to, showing the local inventory level/reorder procedures in order that the State may verify that 95 percent parts availability levels are maintained.

2.10.2 Parts Non-availability

In the event that a failing component, assembly, or part is not available from the local parts inventory, the Contractor at its expense will be required to air

ship the replacement component or part to Hawai'i and deliver it to the State's site by special courier within twenty-four (24) hours of the identification for replacement or repair. In the event that an item of equipment is inoperative for more than twenty-four (24) hours due to equipment failure, the Contractor shall take one or more of the following actions at no additional cost to the State and subject to the State's prior approval:

1. Provide backup equipment
2. Provide on-site personnel for thorough analysis of the problem
3. Provide replacement for the failing equipment

When the system is operational but not fully functional, replacement of the failing component, assembly, or part must be at the State's site within twenty-four (24) hours after identifying the need for replacement or repair.

The State will be the sole judge in determining if the system is not operational or is operational, but not fully functional. In all cases, priority air shipment is required for expeditious delivery of required component, assembly, and/or part.

2.10.3 Engineering Changes

From time to time, manufacturer may make technical equipment improvements to existing installed and operational equipment at the State. These are accomplished through field engineering changes. These engineering changes are not only desirable but shall be critical when they are prerequisites to the addition of features to equipment and when they are required to be consistent with the equipment configuration and microcode levels. Therefore, the Contractor must track the requirement for and the installation activity of these engineering changes on each model type of equipment. Services to perform engineering changes, including parts, labor, equipment, transportation, etc., shall be furnished by the Contractor at no expense to the State. The Contractor must have the capability to effectively track engineering changes requirement to the equipment from the manufacturer.

2.10.4 Equipment Modifications

The Contractor shall perform all manufacturer sponsored modifications to equipment. The all-inclusive cost to perform equipment modifications shall be included in the proposal price. Any equipment modification shall be done only with the prior approval of the State.

2.10.5 Maintenance Reports

The Contractor shall furnish a maintenance report to the ICSD Computer Operations Supervisor at the ICSD Computer Center upon completion of each maintenance call. The report shall include, but is not limited to, the following:

1. Date and time Contractor was notified
2. Date and time of Contractor's personnel arrival
3. Type and model number(s) of equipment
4. Time spent for repair
5. Description of malfunction
6. List of parts replaced
7. Additional charges, if applicable

8. Date and time of turnover to State and signature of person accepting service performance for State
9. Signature of person performing repair/maintenance

2.10.6 Diagnostic Tools and Test Equipment

All special diagnostic tools and test equipment designated by the manufacturer as necessary to detect, isolate, and correct machine malfunctions shall be available at the local service office or ICSD Computer Center.

The State also requires the Offeror to propose a remote support system that will provide the appropriate service personnel with the capability to remotely access error logs, system status, and run diagnostic tests. This remote support system will allow the customer engineer to view error logs daily and to see if the TSM Replacement System is posting errors that could point to a component failure. When there is a hardware problem call placed, the failing device can be checked instantly by the customer engineer and the operator can be given instructions to correct the problem if possible. The hardware support equipment shall further provide the remote customer engineer with the capability to transmit corrective microcode maintenance from his/her remote site directly into the equipment and apply such maintenance to correct hardware problems.

2.10.7 Periods of Maintenance

The Contractor's hardware maintenance staff shall be available to respond on an on duty basis, seven (7) days per week and twenty four (24) hours per day including holidays. The State requires that the hardware maintenance staff call back within twenty (20) minutes after the initial trouble call. If the State requires on site assistance, the Contractor's hardware maintenance staff shall respond on site within two (2) hours of the initial trouble call unless other arrangements have been made with the State's permission.

2.10.8 Hardware Maintenance Services to be Provided

Offeror must detail maintenance services to be provided. They shall include preventative maintenance, remedial maintenance, and predictive maintenance. They shall also include providing replacement parts and equipment updates.

This section identifies State's requirement for hardware maintenance. The State will further identify its response requirements for remedial maintenance in RFP Section 2.10.9 Hierarchy of Support for On Site Repair.

Preventative Maintenance. Preventative maintenance shall provide a schedule mutually agreed to between Contractor and State, and shall keep proposed equipment in a condition ready for ordinary use. Preventative maintenance shall include periodic inspection, cleaning, lubrication, adjustment and, as needed, replacement of parts or components of the equipment. Contractor shall specify in advance the length of time it will require for each such preventative maintenance visit for a specific item of equipment, and State shall make each such item available to Contractor to perform preventative maintenance. Contractor agrees that preventative maintenance will be accomplished during times that are convenient to the State's work schedule and will comply with the State's security regulations.

Remedial Maintenance. Contractor shall perform remedial maintenance at State's location when State notifies Contractor of an equipment failure. Remedial maintenance shall include putting the equipment in good working order, repair and testing of failing systems or exchange of a machine which cannot be repaired in the time frames set out herein. Under an exchange, Contractor will provide an exchange machine. An exchange machine may not be new but will be certified for manufacturer maintenance.

Predictive Maintenance. Contractor shall track, predict, and correct potential malfunctions on equipment to avoid adversely impacting the State's system. When transient error recording exceed established thresholds, maintenance will be scheduled and performed on indicated units to enhance State's system or equipment availability. Predictive maintenance will include:

1. Analysis of trend reports generated by programs that provide equivalent IBM programs like Error Recording Editing Program (EREP) data.
2. System and component status monitoring, logging and analysis procedures.
3. Use of system diagnostics or tools to exercise equipment.
4. Analysis of I/O error statistical reports.

Replacement Parts. During preventative maintenance, Contractor may install or replace parts as necessary. Such parts may be new or refurbished as new. During remedial maintenance, Contractor will use only new parts or components, or parts and components of equal quality. All parts and/or components thereof replaced, become the property of the Contractor. Replacement parts will be provided as part of the basic maintenance service unless excluded herein.

Safety Devices. Contractor will install, without charge, all safety devices it deems necessary.

Firmware. Contractor will install as part of its hardware maintenance service all the equipment manufacturer releases as mandatory. The installation of optional releases shall be coordinated with the State's Computer Center Supervisor.

2.10.9 Hierarchy of Support for On Site Repair

The State recognizes that complex equipment malfunctions may occur which require service resources beyond that available at the local level. It therefore is mandatory that the Contractor make available to the State, at no extra charge, hierarchies of support to quickly isolate and resolve these complex equipment malfunctions. When equipment fails or becomes inoperative, corrective maintenance will be provided as follows:

1. **First Level Technical Support.** After Contractor's service personnel arrive at the State's installation to respond to a remedial maintenance call and the equipment malfunction has not been diagnosed and repair begun within two (2) hours of the time of arrival of the service personnel, the Contractor shall utilize second level technical support. In the event that four (4) additional hours elapse from the time of response at the second level of technical support and the equipment malfunction has not been diagnosed and repair begun, the Contractor shall utilize third level technical support. If such a failure remains unresolved for twelve (12)

hours, a higher level of support service personnel will be invoked at no cost to the State.

2. **Second Level Technical Support.** A local support engineer with additional training and/or experience who specializes in providing diagnostic assistance and/or repair expertise when a problem cannot be resolved at the initial level of support.
3. **Third Level Technical Support.** A specialist who has received in-depth specialized training and/or experience and who specializes in providing diagnostic assistance and consultation to assist on unusually complex problems that cannot be resolved at the first or second support levels.
4. **Higher Level Support.** A specialist who has received in-depth specialized training and/or experience beyond the third level Technical Support Specialist and specializes in providing diagnostic assistance and consultation to assist in unusually complex problems that cannot be resolved at the first, second, or third support levels.

The Offeror must include in its proposal the names, years of experience, and location of these specialists at each support level. For Third and Higher Level Support, the Offeror must provide name and location of the facility.

2.10.10 Hardware Maintenance Staffing

Offeror's hardware maintenance personnel must be fully qualified to maintain and service all equipment proposed. The Offeror shall have a full-time staff of on duty support personnel based on the island of O'ahu. Proof of qualification acceptable to the State must be submitted as part of the Offeror's proposal.

Hardware Maintenance Engineer

The State requires a minimum of four (4) engineers, each with a minimum of three (3) years of experience maintaining the equipment offered. Hardware maintenance personnel must be on duty and available twenty-four (24) hours per day, seven (7) days per week, including holidays.

Because of the importance that the State places on maintenance and support, an adequately staffed local office is mandatory. Required staffing levels will insure the availability of support personnel in the event personnel become unavailable due to causes beyond the control of the Contractor. The Offeror must provide the names, titles, years, and types of experience for those individuals.

2.10.11 Safeguard Data

Due to the confidential and critical nature of the State's data, Contractor shall ensure appropriate safeguards to protect the confidentiality of the State's data are in place and maintained at all times.

2.10.12 Disaster Recovery Support

The Offeror shall detail its disaster recovery support policy in place at the time of submission of its offer/proposal. The Offeror shall also provide a list of private companies and government agencies to which disasters have occurred and the length of time that elapsed following the disaster before the Offeror delivered replacement equipment or brought its system into full operation.

2.10.13 **Hard Disk Retention Option**

The State of Hawai'i is required to comply with stringent information security standards which require the destruction of personal identity information or federal tax information from hard disk drives. To comply with this requirement the State shall require Offerors to include the cost for retaining failed hard disk drives for physical destruction. This cost shall be included in the Offeror's Proposal and be subject to the stated budget limit identified in RFP Section 2.21 LEASE OF EQUIPMENT.

2.11 **STAFFING FOR PROJECT**

Staffing for this project shall be included in the Offeror's Proposal. Once the proposal is accepted any change, whether deletions, additions, reductions, or replacements, to the staffing shall be approved by the State prior to being made.

The Contractor shall provide technical guidance and assistance in the following categories:

1. **System Specialist/Technical Coordinator**

The State requires a minimum of one (1) System Specialist to be available to the State at no additional cost and who has a minimum of three (3) years of experience in computer and disk management, performance analysis, and operating system tuning. This person shall also be responsible for coordinating the Contractor's efforts to service and support the State. If more than one (1) system specialist is available, one (1) system specialist shall be designated primary and shall have a minimum of three (3) years of experience in all aspects of maintenance and support of large systems customers. The System Specialist shall be available to assist on an ongoing basis without limit as to hours and must be on site within two (2) hours of request from 8:00 AM to 5:00 PM, Monday through Friday. For weekends, holidays and hours outside of 8:00 AM and 5:00 PM on weekdays (the normal business day), the System Specialist shall be available with one day's notice at no cost to the State.

2. **Installation Planning Specialist**

The State of Hawai'i requires an Installation Planning Specialist with a minimum of three (3) years of experience in planning and installing the equipment offered to assist the State by providing recommendations and guidance in the following areas:

- a. **Machine Placement and Location/Room Layout.** The State requires the Installation Planning Specialist to guide the process of determining proper service clearances, cable layouts, and cable lengths.
- b. **Electrical Requirements.** The State requires the Installation Planning Specialist to determine the electrical specifications and power requirements of machines offered.
- c. **Cooling Requirements.** The State requires the Installation Planning Specialist to determine the machine cooling requirements.

- d. **Environmental Factors**. The State requires the Installation Planning Specialist to assist the State in measuring and/or determining the source of environmental problems such as radio frequency interference, voltage fluctuations, inadequate cooling/air conditioning, etc.
- e. **New Machine Installation**. The State requires that the Installation Planning Specialist provide assistance in planning the machine room layout and site preparation for new machines with the exception of machines designated for State setup.

3. **Programming Support Specialist**

The State requires the assistance of one (1) Programming Support Specialist in problem determination by analysis and diagnosis of traces, error logs and dumps, and the support and management for all installed versions and releases of the software identified in RFP Section 2.22 Knowledge and Skills Requirements. The Programming Support Specialist must also be available to guide software maintenance application and program planning for hardware installation and reconfiguration of the State's system. If more than one (1) Programming Support Specialist is available, one (1) Programming Support Specialist shall be designated primary and the other alternate. The Programming Support Specialist shall be available to the State to assist on an ongoing basis without limit as to hours and must be on site within two (2) hours of request from 8:00 AM to 5:00 PM, Monday through Friday. For weekends, holidays and hours outside of 8:00 AM and 5:00 PM on weekdays (the normal business day), the Specialist shall be available with one day's notice at no cost to the State.

- 4. Except for the following two (2) conditions, the State will not accept a single individual functioning in multiple categories.
 - a. One individual can function as both an installation specialist and hardware maintenance engineer.
 - b. One individual can function as both a programming support specialist and system specialist.

2.12 **ACCEPTANCE TEST**

The Contractor shall notify the STATE PM of completion of installation and of all diagnostic tests. The STATE PM will schedule its acceptance test that consists of operating the TSM Replacement System; hardware, software and/or services proposed; in production for thirty (30) days. This test shall begin within ten (10) days after Contractor's notification that the installation is complete or as agreed upon by the PM and the STATE PM.

Upon successful completion of the acceptance test the State shall notify the Contractor in writing and authorize payments.

2.13 **TRAINING REQUIREMENTS**

Some training will be necessary for operations and systems software personnel in equipment operation, and problem tracing and determination. The Contractor shall be prepared to conduct training within three (3) weeks of a request by the State at the State's site.

1. **Operator Training** – The purpose is to provide Shift Supervisors and/or Lead Operators with one (1), one (1) hour session of extensive hands-on training in the operational use of the proposed equipment.
2. **System Programmer Training** – The purpose is to provide group sessions with extensive training for systems software personnel in file migration, system generation, and system configuration. Follow-up sessions shall also include tuning and data recovery and be provided within two (2) weeks of request.

2.14 SOFTWARE TERMS AND CONDITIONS

1. Grant of License

Contractor shall grant to the State a perpetual, non-transferable, and non-exclusive license for all of the features and functionality contained in software including all of the computer program(s) consisting of a series of instructions or statements in machine readable object code form, any revisions or updates provided by Contractor to State pursuant to the contract, and the Program Documentation, for State users to use. Term of the license shall begin with the effective date of CONTRACT. State's rights under the resulting contract shall not be assigned, sublicensed, or otherwise encumbered or transferred by the State except with the prior written consent of the Contractor. Transfer of the equipment to another State agency shall not constitute an assignment requiring Contractor's consent. However, if such a transfer is made, State will notify Contractor as soon as reasonably practicable.

Title in, and ownership of software, shall remain at all times with the Contractor. The Term of the license shall coincide with the term of the contract that begins upon acceptance of the equipment.

2. Use and Protection of Software

Software shall be installed on the computer system(s) that are part of the Offeror's proposal and shall be used by the State, its authorized employees, consultants, and subcontractors under contract to the State, working solely for the benefit of the State, and those Private Agencies authorized to access software. State's sole responsibility for consultants and subcontractors on contract to the State will be limited to that described in the Other Software Requirements later in this section. State shall use its best efforts to not permit or provide for transfer or reproduction of software, or any portion thereof, to be placed on a computer not at the installation site, by physical or electronic means, unless specifically authorized. State shall not make and shall use its best efforts to not allow others to make copies or reproductions of software, or any portion thereof, or documentation in any form without the prior written consent of the Contractor. The State shall not and shall use its best efforts not to allow the distribution or disclosure of software, including derivative works, modifications, or adaptations, made by the Contractor.

Except as expressly stated herein, the State may not alter, modify, or adapt software, including but not limited to translating, reverse engineering, decompiling, disassembling, or creating derivative works, and may not take any other steps intended to produce a source language

statement of software or any part thereof without the Contractor's prior express written consent which shall not be unreasonably withheld.

State will be the sole owner of all codes developed or generated by or for the State through the use of software, provided that such codes contain no source or object codes of software. Further, the State will be the sole owner or custodian of data transmitted, received, or manipulated by software.

State shall be authorized to copy and use software for backup, archival, and disaster recovery purposes. Software may be used on a backup CPU whenever the ICSD's computer system is temporarily inoperable, until such CPU is restored to operation. Software may be used on a backup CPU concurrently for up to one (1) month for disaster recovery testing per year and for any period for actual disaster recovery.

3. **Other Software Requirements**

State shall use its best efforts to keep confidential all software not protected by copyright. State will reasonably protect such information and, at minimum, provide the same safeguards afforded its own confidential information. Contractor will keep confidential all information to which it has access in the performance of the resultant contract executed pursuant to this RFP. Confidential information shall not include information now or hereafter in the public domain, information already in the possession of the other party, information obtained from another source without obligations of confidentiality, information independently developed, or information required by a court or government order or applicable law.

4. **Software Maintenance**

As part of the Offeror's proposal, software that is required or necessary as part of the installation or on-going operation of the new TSM Replacement System shall be included in the lease price and identified on Appendix B **Proposal Cost Worksheet**.

a. **Purchased Software**

Software proposed on a one-time license fee or purchase basis shall provide a minimum warranty period of sixty (60) days. The cost of annual maintenance fees for proposed software shall take into account the warranty period for the software and be included in the lease price and identified on Appendix B **Proposal Cost Worksheet**. At the termination of the lease, the software license shall remain with the State but maintenance shall end.

b. **Licensed Software**

Software proposed on an annual or monthly license fee basis shall include a warranty period of one (1) year. The cost of annual license fees for proposed software shall take into account the warranty period for the software and be included in the lease price and identified on Appendix B **Proposal Cost Worksheet**. At the termination of the lease, the software license shall end.

5. Software Maintenance Renewal

This RFP and its resultant contract shall not provide for renewal of either software maintenance or annual or monthly license fees. The State shall have the option to renew in accordance with State procurement laws and practices in effect when this RFP and its resultant contract terminates.

6. Software Warranty

Contractor warrants that it has full power and authority to grant the rights herein described. Contractor's obligation and liability under this Section shall be to obtain any authorization necessary to make effective the grant of license to the State to use software, at the Contractor's own cost and expense.

Contractor warrants that software will conform to the published product specifications and Program Documentation in effect at the effective date of the contract. Contractor further warrants that, for the term of the contract, software will perform substantially in accordance with its documentation. Contractor does not warrant that the operation of software will be error free. Contractor's obligation and liability under this Section and the Contract shall be to replace or correct software so that it will so perform. In its obligation to correct software, the Contractor will also provide assistance and consultation to the State, at no additional charge to the State, for problem determination and resolution with the use of software. This will include diagnosis and verification of problems, and correcting errors and defects in software.

State's sole remedies for damage or loss (except personal injury or property damage) arising from use of software, Contractor services, or breach of warranty shall be the repair or replacement of software. Contractor shall have no liability or responsibility for problems in software caused by alteration or modification by the State not authorized by the Contractor, or for problems arising out of the malfunction of equipment or other software not supplied by the Contractor.

2.15 SAFEGUARD DATA

Due to the confidential and critical nature of the State's data, Contractor shall ensure that appropriate safeguards to protect the confidentiality of the State's data are in place and maintained at all times. Offerors are required to comply with General Condition Paragraph 42 (Refer to RFP Appendix E **Standard Contract General Conditions**) as Federal Tax Information (Refer to RFP Appendix I **Federal Requirements**) or Personal Identity Information may be involved.

2.16 DOCUMENTATION

a. As Built

The Offeror shall provide "as-built" diagrams for all equipment to be installed as part of the proposal including but not limited to equipment, racks, cable distribution, pathway infrastructure, cross-connects, and room layouts.

All drawings shall be submitted on hard copy and electronic soft copy in a format acceptable to the STATE PM. Documentation shall be provided as

part of the Offeror's proposal. The Offeror should confirm with the State prior to submission the appropriate format.

b. Hardware Manufacturer

The Contractor shall provide all manufacturer hardware manuals needed to operate, configure, and customize the TSM Replacement System. This documentation shall be provided on machine readable format acceptable to the STATE PM by the delivery date of the equipment.

c. Software Publisher

The Contractor shall provide all software manuals needed to operate, administer, and customize the software on the TSM Replacement System. This documentation shall be provided in machine readable format acceptable to the STATE PM by the delivery date of the software.

d. State Required Procedures

The Contractor will create written "run books" documenting the procedures and tasks needed to be performed by the intended audience of the hardware, software and/or services proposed on a day-to-day basis. The audience consists of operators. This documentation shall be provided on machine readable format acceptable to the STATE PM within four (4) weeks of the completion of the requirements in RFP Section 2.12 ACCEPTANCE TEST.

The Contractor should consult with the STATE PM prior to the commencement of this requirement.

e. State Requested

The State may request additional information, documentation, and drawings which shall be submitted on hard copy and reproducible electronic format as directed by the STATE PM. Documentation shall be provided in accordance with RFP Section 3.5 SUBMISSION OF REQUESTED INFORMATION AND DOCUMENTS.

2.17 ON SITE VISIT

The State is agreeable to providing site visits (RFP Section 1.7 ORIENTATION/SITE VISIT) upon request by prospective Offerors to verify machine placement and configuration, and facilities available at the ICSD Computer Center. On-Site visits are provided to aid the Offeror to make its proposal better meet the requirements of this RFP. Such site visits shall be at the convenience of the State and shall be arranged with the STATE PM.

The State will make the final determination of any issues with equipment placement, floor load bearing capacity, and precautionary actions necessary to protect State facilities and property.

2.18 FEDERAL REQUIREMENTS

The State operates several servers both physical and virtual that contain federal information. As a result Contractors must comply with the applicable requirements identified in RFP Appendix I. All Offerors are required to accept and comply with the requirements stated.

2.19 TSM SERVER CONFIGURATION AND TECHNICAL REQUIRMENTS

This Section contains the technical specifications and configurations of equipment currently on lease by ICSD. The following information shall be considered by the Offeror during proposal preparation.

2.19.1 Current Environment Overview

ICSD utilizes TSM to provide backup services to servers in the ICSD data center. This amounts to servicing 156 servers with the total amount of data backed up at around 12 TB per week. All servers that utilize TSM for backups are connected to the TSM servers through a separate 10 GB Ethernet network with switches that go down to 1GB.

The TSM infrastructure currently consists of a P5 570 housing 4 TSM server partitions, a 3494 tape library, a DS8100, disks attached to the P5 570, and a P5 520 providing NIM services.

2.19.2 Current Configuration

The current TSM infrastructure hardware and software is listed in RFP Appendix J. The Offeror shall have prior experience with installations of substantially similar equipment in networks of equal or greater complexity to the State. The Offeror shall provide the necessary equipment, professional services and support, and other applicable services to guarantee a complete, functional TSM Replacement System in compliance with all sections and objectives of this RFP.

Offerors shall be aware that the State cannot fund any monthly payments that exceed the annual payments in RFP Section 2.21.1 Funding Cap.

2.19.3 Anticipated Configuration

The configuration proposed should address the following components:

- (2) P770 16 core 8 active 3.3 GHz 256GB (2 frames)
- (2) 146GB 15K & (18) 300GB 15K DDM
- (1) Integrated Multifunction card
- (12) 2 port 8GB HBA
- (1) 4 port 10/100/1000
- (2) 10GB Ethernet SR
- (1) IO Drawer with SFF Disk bays
- (2) 720 NIM Server (rack mounted)
- (2) HMC & Monitor
- (2) TS7620 Appliance / 18TB Capacity / Replication Support

2.19.4 Compatibility with Existing Hardware and Software

1. Software Requirements

The Offeror must identify how the proposed software is compatible with the current version of AIX and TSM. This shall include firmware, microcode or any software included in the proposal.

2. Hardware Requirements

The proposed equipment shall be totally hardware compatible with all the equipment and software listed in RFP Appendix J **Current Configurations**. This shall mean that the continued operation and use of this equipment listed in RFP Appendix J **Current Configurations** shall not require any modification of any software or hardware connected to the proposed equipment.

3. Operational Environment

All proposed equipment must operate and maintain specified performance while operating within a temperature range of 73 to 77 degrees Fahrenheit and a relative humidity range of 45 to 55 percent. Air handlers installed at the ICSD Computer Room have an air flow capacity specification of 6980 cfm.

4. Floor Space and Weight Requirements

The floor space requirements of the equipment proposed must be the minimum possible. The Offeror must state the total space requirements including service clearances and the weight per square inch of floor space for the proposed equipment. Please note that the raised flooring in the computer area has a weight support rating of 1000 static pounds per square inch.

5. Power Requirements

The environmental and electrical requirements of the equipment proposed must be the minimum possible. The Offeror must state the total power requirements for the proposed equipment. The power service available within the installation site ranges from 110 VAC, 60Hz. to 208 VAC, 60 Hz, 3 phase. The Offeror shall state the individual and cumulative total of the power requirements in amperes.

2.19.5 Migration Services

The current infrastructure supports partitions for three (3) TSM server images, on the P570 and the P520. The resource assignments for each of the partitions have been detailed in RFP Appendix J **Current Configurations**.

Offerors shall provide migration services to assist in moving server images to the replacement TSM infrastructure. In particular the migrations shall be performed in such a manner that it provides for a seamless migration for the client servers.

Offerors shall also include migration services for the migration of related equipment proposed as part of their proposal.

Offerors will provide a detailed explanation of how their proposal complies with these requirements, in Proposal Section 8, Technical Information on a separate page titled "Migration of Existing Partitions".

2.19.6 Firmware, HMC and Software installation

The Contractor shall be responsible for the installation of all firmware, HMC software and VIO software. The Contractor must also keep the installed firmware, HMC software and VIO software current with respect to each individual software publisher's announced release dates until the completion of the State's acceptance test. Prior to the installation of any software, the

Contractor shall prepare an installation checklist identifying all of the tasks required and back out steps required in the event of an error. On the case of the HMC and VIO software, the Contractor shall customize the installation to meet the needs of the State as specified by the STATE PM. The State may assist and will observe the work of the Contractor.

The Contractor shall turn over all software installation media and material upon completion of the acceptance test. The Contractor shall also inform the State by updating the installation checklist of the location of any software backups taken as part of the installation procedure.

2.19.7 TSM Infrastructure Removal and Disposal

The Offeror will remove and dispose of the existing equipment replaced as a result of this RFP including at minimum the P570 and P520 in an environmentally responsible manner. The Offeror will also allow for the retention, by the State, of all hard disks contained within the P570 and P520 that were accessed by the defined partitions. As an option, destruction of data on all hard drives may be accomplished by electronic means but the destruction of the data must be certified in writing by the Contractor or Manufacturer. The destruction of the data whether by physical or electronic means must be included in the cost. This cost shall be identified in the RFP Appendix B **Proposal Cost Worksheet**.

The trade-in value (noted as trade-in) or disposal fee (noted as disposal fee) will be included on RFP Appendix B **Proposal Cost Worksheet** item q with the appropriate notation.

The Offeror shall also be aware that prior to release of the equipment for disposal the State must obtain authority to dispose of the State owned equipment. The State estimates that this process should be complete before the planned end of the project.

Offerors will provide a detailed explanation of how their proposal complies with the data destruction requirement, in Proposal Section 8, Technical Information, on a separate page titled "Data Destruction". Further, the Offeror shall provide a statement that it will accommodate the delay to allow the State to obtain approval to dispose of the equipment. This statement shall be included in Proposal Section 8, Technical Information, on a separate page titled, "Disposal".

2.19.8 Current Software Licenses

Software currently licensed by the State from IBM is identified in RFP Appendix J **Current Configurations**. Offeror shall provide a statement that software listed will function as it did on the equipment being replaced. This statement shall be included in Proposal Section 8, Technical Information, on a separate page titled, "Software Compatibility". Offeror shall also note in this section any license cost increase that apply as the result of licensing the software on the new machines.

2.20 CABLES AND CONNECTORS

The Offeror will include in its proposal all necessary cables as required in RFP Section 2.5.2 d, 2.5.2 j, 2.5.2 m, and 2.5.2 o, GENERAL INSTALLATION, Hardware Installation to make the TSM Replacement System operational.

In addition, the Offeror will include in its proposal twenty-five (25) fifty (50) foot fiber cables of a quality that they can be used to connect servers to the a the tape library or a SAN at the maximum transmission speed rated by the manufacturer. This item will be included on the RFP Appendix B **Proposal Cost Worksheet**.

2.21 LEASE OF EQUIPMENT

The funding for this project was allotted on the basis of a five year operating lease; i.e. rental agreement.

2.21.1 Funding Cap

Offerors are further advised that as funding for the lease originates from an appropriation, the State cannot accept Offers whose annual total lease cost is more than \$200,000 including all applicable taxes.

2.21.2 Operating Lease

Offerors propose must be an operating lease (rental agreement) that enables the State to treat lease payments as ordinary expenses, booked as they are incurred. The State's lease terms and conditions are part of the requirements of this RFP and attached as RFP Appendix L **State's Lease Terms and Conditions**, for operating leases. The State may require that the lease provide the State with the option to extend the lease for specific elements of the new TSM Replacement System.

2.21.3 Maintenance for Leased Equipment

The operating lease resulting from this RFP requires the inclusion of maintenance for the equipment and software over the life of the lease.

2.21.4 Lease Terms and Conditions Options

The lease options acceptable as responses to this RFP are as follows:

- a. A lease with payments to the Offeror named as the Contractor of the Contract issued for this RFP.
- b. A lease with the Offeror with payments assigned to a third party.

2.21.5 Treatment of Other Terms and Conditions

Any exceptions to RFP Appendix L **State's Lease Terms and Conditions** must be noted in Offeror's Proposal Section 10, Exceptions, with alternate language proposed. The RFP Section 4 PROPOSAL EVALUATION, contains the State's evaluation criteria and point assignments for Proposals.

2.21.6 Extended Warranty

The Contractor shall provide an extended warranty period for the full term of the lease contract for all hardware and software included as part of the proposal. The extended warranty may be comprised of the manufacturer's initial warranty plus maintenance for the remainder of the lease term.

2.22 Knowledge and Skills Requirements

The requirements for experience identified below are the minimums the State requires. Experience listed must include the minimums but experience with higher software versions, or hardware more current or capable of higher performance is acceptable. Due to the nature of the services being requested, the State is looking for the most current experience possible.

2.22.1 Hardware

The Offeror must have the necessary experience with the hardware being offered. The years of experience must be commensurate with the length of time the hardware has been marketed by the manufacturer.

2.22.2 TSM

The Offeror must have a minimum of five (5) years of hands-on experience with at minimum the installation, implementation, customization, maintenance (including patching), problem resolution and optimization of TSM. The Offeror must also have the following certifications: installation, database.

The Offeror must also have a minimum of five (5) years of hands-on experience with working with TSM, tape libraries (3494 and 3583), and storage systems like the DS8100.

2.22.3 AIX

The Offeror must have a minimum of five (5) years of hands-on experience with at minimum the installation, implementation, customization, maintenance (including patching), problem resolution, and optimization of AIX. The current software versions for AIX are 5.3 and 6.x. Related AIX experience involving the establishment and customization of a NIM Server (Network Installation Manager) is also required.

The Offeror must have at least five (5) years of experience with IBM Regatta P570, and P520. This shall include HMC maintenance upgrades, patches and problem resolution.

The ICSD has operated an IBM DS8100 storage system since 2007 with its Regatta systems. The Offeror must have five (5) years of experience with configuring and customizing AIX systems with a disk storage system like the DS8100 storage systems.

2.22.4 NIM Server

The Offeror must have a minimum of five (5) years of hands-on experience with the installation, implementation, customization, maintenance (including patching), problem resolution, and optimization of a Network Installation Manager server for the equivalent AIX versions installed at the State. This must include the installing and maintaining of AIX "mksysb" images.

The Offeror must also be able to provide guidance and recommendations on configuring a NIM server based on the requirements identified by the State.

The Offeror must be able to configure the NIM server to automatically transfer backup images to the NIM environment.

2.22.5 VIO Server

The State has implemented a Virtual I/O server to share access to attached disk storage system. The Offeror must have a minimum of two (2) years of experience with the installation, implementation, customization, maintenance (including patching), problem resolution, and optimization of a VIO server with AIX 6.1 or higher. This shall also include loading patches, backup and restore, and integration with ICSD's NIM server. The version of the VIO operating system is Version 2.1 or higher.

2.22.6 SDDPCM

The State has implemented the Subsystem Device Driver Path Control Module as part of the VIO server to handle IO to the multipath IO capable DS8100 storage subsystem. The Offeror must have two (2) years of experience with the installation, implementation, customization, maintenance (including patching), problem resolution, and optimization of SDDPCM in a VIO server with AIX 6.1 or higher. Higher levels of AIX and hardware more current than the State's AIX servers are acceptable. This experience shall also include loading patches, configuring the VIO server for SDDPCM, and integration with the DS8100 subsystem and other multipath capable devices.

2.22.7 HMC

The State has implemented several P series IBM processors that have a Hardware Management Console. The Offeror must have five (5) years of experience with HMC version 7.3.5 SP3 or higher with experience that includes installation, implementation, customization, maintenance (including patching), problem resolution, and optimization. The Offeror must have the skill and ability to research and become knowledgeable with previous and later versions as they are released.

2.22.8 Firmware

Firmware or microcode is shipped and is part of the hardware that controls its function. Firmware is part of but not limited to the HMC, P series technology processors like the P5 and P6 servers currently installed at ICSD.

The Offeror must have experience with the installation of firmware for hardware dating from the P5 series technology processors. Further, Offeror must have the skills and abilities to work with hardware engineers and hardware maintenance support to resolve firmware version level and installation issues.

2.22.9 Other Specific Knowledge, Skills and Abilities

The following items are related to the software listed above and are included as part of the experience, knowledge, skills and abilities required.

- The Offeror must possess knowledge of the virtual SCSI environment to either boot the LPAR or standalone AIX server from either local disk or SAN using MPIO facilities.
- The Offeror must possess knowledge and skills necessary to configure, manage and resolve problems in a virtual Ethernet environment with shared Ethernet adapter trunking and failover.
- The Offeror must possess knowledge and skills necessary to configure, manage and resolve problems with integrating and networking AIX servers in an Ethernet network with CISCO core switches, VPN, and virtual firewalls.

As the software experience requirements above are closely related to the hardware they are installed on, the Offeror must possess knowledge and skills necessary to install, configure, manage, and resolve problems with various IBM P-Series servers.

3 PROPOSAL PREPARATION INSTRUCTIONS

3.1 BASIC UNDERSTANDING

The intent of this section is to make proposal preparation easy and efficient, while giving Offerors ample opportunity to highlight their proposals. The format is also intended to make the evaluation process manageable and effective. When an Offeror submits a proposal, it shall be a complete proposal for accomplishing the tasks described in this RFP, including any supplemental tasks the Offeror has identified as necessary to successfully fulfill the requirements of this RFP. All proposals become the property of the State of Hawai'i.

3.2 GENERAL INSTRUCTIONS FOR COMPLETING PROPOSAL

Proposals shall be prepared in a straightforward and concise manner and shall describe the proposal and Offeror's capabilities in a format that is consistent and appropriate. Emphasis shall be on completeness and clarity. The sections outlined below will be referred to as Proposal Sections and are intended to provide a common format for the placement of information necessary for the State to evaluate proposals.

General instructions for completing proposals:

- All prices cited in the Offerors proposal must include Shipping and Tax. These items will be separately listed on the RFP Appendix B **Proposal Cost Worksheet**. If these items are applicable to several items in the Offerors proposal, then all shipping items and all tax items must be accumulated and reported on the Shipping and Tax line items on RFP Appendix B **Proposal Cost Worksheet**.
- All offers submitted shall be typewritten. Offerors are cautioned that illegible offers or item(s) may be automatically rejected to avoid any errors in interpretation by the reviewers during the evaluation process.
- Proposals shall be submitted to the State purchasing agency using the prescribed format contained herein.
- Offerors shall submit five (5) copies of their proposals, one (1) original and four (4) copies. All copies should be labeled as COPY x of 4. The original must be labeled "ORIGINAL". It is imperative that the Offeror submit only one original and the required number of copies. **DO NOT SUBMIT MORE THAN ONE ORIGINAL**. The ICSD shall not provide any reimbursement for the cost of developing, presenting, submitting, or evaluating any proposal in response to this RFP.
- Proposal Sections (1, 2, 3, etc.) should be tabbed using indexed tabs labeled according to the format specified in Appendix C **Sample Proposal Table of Contents**. Offerors may either label the tabs with the title of the proposal section or use the number that corresponds to the proposal section.
- Proposal Section numbering including the titles/subtitles shall be used. Proposal Section 3.3, Proposal Format specifies the section numbers and titles required.
- The Offeror's name and RFP number should be placed on the top right hand corner of each page as part of the page header.

- Offerors may include the instructions for each section.
- Proposal page numbering should be consecutive, beginning with page 1 and continue through the last page.
- Offerors are required to place their Proposals in a binder or similar device and secured so as not to come apart. The State shall not be responsible for proposals that come apart. If the Offeror's Proposal does come apart, the State will do its best to put the proposal together correctly but shall not be held responsible if it is not.
- Offerors must also include a Table of Contents with the Offer. See Format specified in Appendix C **Sample Proposal Table of Contents**.
- Offerors are strongly encouraged to review the evaluation criteria in RFP Section 4, Proposal Evaluation, when completing the Proposal.

3.3 PROPOSAL FORMAT

Proposals must be in the format and order specified in Appendix C **Sample Proposal Table of Contents**. Failure to follow the format prescribed in the Offeror's proposal may be cause for the proposal to be determined to be non-responsive or impact upon the Offeror's score. In addition, the instructions and information that follow provide direction regarding information expected by the State.

Offerors are encouraged to review the evaluation criteria and to provide all information necessary and useful for the State to evaluate Offeror's proposal. The following are the proposal sections required, corresponding to Appendix C **Sample Proposal Table of Contents**. Each proposal section described below contains information that the State requires to evaluate Offeror's proposal.

1. OFFER FORM OF-1

In this section, the Offeror shall include the required documents found in Appendix A in the following order.

- A completed Offer Form
- Hawai'i Compliance Express certificates required by RFP Section 1.9.4 Certificates, if available, should also be placed here.
- All documents that support or are related to the Offer Form. These documents shall be clearly labeled identifying the form, letter, or purpose for which they are included.

2. EXECUTIVE SUMMARY

The Offeror shall place in this section a brief overview to orient evaluators as to the key elements of Offeror's proposal, a written explanation and justification as to the appropriateness of the Offeror's proposal and methodology, and how the proposed solution is designed to address the goals, objectives, and requirements of the RFP as identified in RFP Section 2 BACKGROUND INFORMATION, GENERAL SPECIFICATIONS, AND TECHNICAL REQUIREMENTS.

This section should also contain, as the last paragraph of this section, a statement as to the financial stability of the Offeror. The information required shall include but not be limited to length of time in business,

number of employees, financial statement, and a brief description of work previously performed.

3. FIRM'S EXPERIENCE AND CAPABILITY

This section is intended to provide the Offeror the opportunity to demonstrate that it has the qualifications necessary to deliver the required goods and services.

This section requires similar experience. "Similar" in this context means:

- Equivalent or larger in size
- Utilization of the same or similar equipment as used by the ICSD as described in RFP Section 2 BACKGROUND INFORMATION, GENERAL SPECIFICATIONS, AND TECHNICAL REQUIREMENTS
- An installation that is equivalent to the requirements of this RFP

a. Necessary Skills and Experience

The Offeror shall place in this subsection information identifying the required unique and specialized skills, abilities, knowledge, and experience relating to the proposed equipment and services.

b. References

The Offeror shall provide in this subsection a list of experience with projects similar to the requirements of this RFP. These projects shall have ended within the past five (5) years. The Offeror must label this list "References".

For each reference, the following information shall be provided:

- Name of Company
- Address of Company
- Internet address for Company (if available)
- Description of Customer's Business
- Description of Services and/or Equipment Provided
- Date of Offeror's Service to Reference
- Name and Title of Contact Person
- Telephone Number for Contact Person
- Fax Number for Contact Person (if available)

The State may contact some or all of the references. The Offeror must clear such contact with the Reference to avoid any problems.

c. Support Hours

The Offeror shall provide in this subsection the hours during which the State will be able to obtain assistance for hardware and software problems or defects.

4. PROJECT ORGANIZATION AND STAFFING

a. Staffing

This subsection shall start with a representation that personnel shall not be substituted, removed, or added unless and until approved by

the State. The Offeror shall further attest that staff assigned, have the knowledge and skills required and the State shall have the right to request the removal of personnel from the project.

The Offeror shall next provide, starting on a new page, a comprehensive description of the firm's ability to meet the staffing requirements for this RFP.

The Offeror shall include job descriptions and resumes of all key personnel proposed to be assigned to the project. In addition, Offeror shall identify the number of years and type of experience each possesses. The Offeror must label as "Lead" the resume of the staff assigned the lead or primary staff position.

b. Subcontractors

In this section, if subcontractors are used, a statement from each subcontractor shall be included and signed by an individual authorized to legally bind the subcontractor. The following information shall be included in the Subcontractors statement:

- The subcontractor's name, mailing address, business address (if different), telephone number, fax number (if available), and contact person's name and title.
- The general scope of work to be performed by the subcontractor.
- The subcontractor's willingness to perform the work indicated.
- The subcontractor shall provide the same information required for Proposal Section 4.a Staffing but must be labeled as the subcontractor's staff.

No subcontract shall under any circumstances relieve the Contractor of its obligations and liability under the contract with the State.

c. Project Organization

In this subsection, the Offeror, including subcontractors, if any, shall provide the number and location of employees and resources that shall be committed to the project. The Offeror shall provide the names of all individuals who will be assigned to the project along with their function, duties, and roles in providing the services needed to deliver a functioning system.

All employees and resources listed here are required to have resumes included in Proposal Section 4, Project Organization and Staffing, a. Staffing and b. Subcontractors, for staff.

5. TECHNICAL SOLUTION

In this section, the Offeror shall include the following subsections. Each subsection shall be labeled as specified and start at the top of a new page.

Offerors shall be responsible to insure that the information provided is understandable to a technical manager.

a. Understanding of Requirements

This subsection shall contain a technical narrative that clearly demonstrates the Offeror's understanding of the scope, objectives, and requirements of RFP Section 2 BACKGROUND INFORMATION, GENERAL SPECIFICATIONS, AND TECHNICAL REQUIREMENTS.

This subsection shall start with a technical overview of the solution and must describe the TSM Replacement System and services proposed.

The Offeror shall clearly describe in detail the Offeror's solution and a work plan identifying every step required to provide the hardware, software and services required by this RFP. If any task is found to be missing, the Offeror if selected shall nevertheless complete the task at no cost to the State.

This subsection should also describe how the Offeror proposes to work and communicate with State personnel.

b. Maintenance and Support to be Provided

In this subsection, the Offeror will provide information to substantiate compliance with the following:

- 1) Offeror's Proposal must be in compliance with RFP Section 2.10 MAINTENANCE REQUIREMENTS and specifically, RFP Section 2.10.13 Hard Disk Retention Option.
- 2) Identify who will provide maintenance and support for the equipment if the Lessor will not be providing maintenance and support.
- 3) Identify the maintenance and support service plan that will cover all hardware and firmware provided as part of the Offeror's Proposal, the maintenance practices and policies of the maintenance provider, and the maintenance provider's ability to service the State.
- 4) Attest that maintenance personnel are factory trained and certified on the equipment proposed and specify their names and experience.
- 5) Offeror shall identify the circumstances under which additional charges will be assessed the State beyond that which is part of the normal maintenance services included as part of this proposal.

c. Equipment

In this subsection, the Offeror shall provide the following information:

- 1) A comprehensive part number listing for all hardware and firmware to be furnished. Each entry shall be in compliance with all sections of this RFP and specifically RFP Section 2.8 QUALITY OF EQUIPMENT.
- 2) A comprehensive list of software included as part of this proposal. Offeror shall provide for each software; the part number, specifications, dependencies, compatibilities with other software;

the Software Publishers software life cycle; and any hardware and software dependencies that may affect the placement of the TSM Replacement System into production use.

d. Assumptions

This subsection describes the assumptions made by the Offeror in developing the proposal, including price.

e. Potential Problems and Constraints

This subsection describes potential significant problems and constraints that the Offeror anticipates and the mitigating and/or proactive actions Offeror proposes to take with respect to these potential significant problems and constraints.

f. Diagrams

In this subsection the Offeror shall place all diagrams relevant to the requested goods and services. This should include but is not limited to "as built" diagrams indicating machine placement. When called for, additional diagrams are to be provided as required by RFP Section 3.5 SUBMISSION OF REQUESTED INFORMATION AND DOCUMENTS at no cost to the State.

g. Project Plan and Schedule

In this subsection, the Offeror shall place a statement that services will be available upon the execution of the contract resulting from the award of this RFP.

Offeror should reference RFP Section 2.4 WORK PLAN.

Offeror shall also place its project plan with dates relative to the Notice to Proceed as day 1.

h. Point Response

In this subsection the Offeror shall include a response to the specified items in RFP Appendix H **Itemized List for Offeror's Point Response** as to whether the offer 'Complies', 'Does not comply', or 'Takes Exception'. Explanations shall be provided for all responses as to why and how the Offeror 'Complies', 'Does not Comply' or 'Takes Exception'.

6. COSTS

In this section, the Offeror shall submit cost proposal(s) utilizing the pricing structure designed by the State purchasing agency as detailed below. The costs proposed should be reasonable and the items necessary for the execution and completion of the project described in this RFP.

a. Proposal Cost Worksheet

In this subsection, Offeror shall include the five (5) year lease **Proposal Cost Worksheet** in RFP Appendix B. The first page of this section shall be a table of contents for this subsection. This shall be followed by a narrative that provides an explanation, description,

and clarification of the costs. The Proposal Cost Worksheet shall be next. Documents and information supporting the five (5) year lease proposal should be placed immediately after the Proposal Cost Worksheet. Any Proposal Cost Worksheet related documents shall be included as the last pages of this subsection.

- i. Part 1 includes the reporting of all costs of interest and required by the State. The line item for Total Cost is the total cost used as input to calculate the five (5) year lease cost as appropriate.

Offerors shall include an itemized list of all component costs of the lease in their proposal that comprise the Total Cost. This should be included immediately after the five (5) year Proposal Cost Worksheets.

If the Offeror's proposal contains additional costs, they should be totaled as Other Cost Components and an itemized list of the costs attached after the respective Proposal Cost Worksheet as a separate page titled "Other Cost Components".

Part 1 of the Proposal Cost Worksheet also includes entries "Items for Proposal Evaluation" used to formulate the basis for scoring the cost component of this RFP. The specific methodology is specified in RFP Section 4.4.2 Phase 2 – Evaluation of Proposal

Assigned 400 points, item 6, Cost.

- ii. Part 2. Experiences. Part 2 includes the declaration of the knowledge, skills and abilities of both Contractor and Subcontractor personnel.
 - 1) The Offeror's response to each knowledge, skill or ability listed in Part 2 of the Cost Proposal Worksheet is to start on a separate page and labeled for each. For example, all AIX staff should be listed starting on a separate page and titled "AIX Staff", all NIM Server staff should be listed on the top of the next page and titled "NIM Server Staff", and similarly for all experience items listed.
 - 2) For each individual listed in a particular knowledge, skill or ability, summary information shall be provided. The information provided shall include, the resource name, the information identified for that item and the years of experience. For example hardware, list each by manufacturer, model and type, the years of experience and scope. Offeror shall refer to each item listed on Part 2 for the information required.
 - 3) If Offeror is submitting more than one staff, then each staff should be numbered starting with the lead as number 1 and labeled "LEAD". All subsequent staff will be "Additional Staff". Offerors should refer to RFP Section 2.11 STAFFING FOR PROJECT.
 - 4) The staff member's resume included as part of Proposal Section 4, Project Organization and Staffing, a. Staffing, and b. Subcontractors, must clearly corroborate meeting the

minimum experience requirements and list education and certifications, if applicable.

5) RFP Appendix F, **Proposal Cost Worksheet Evaluation.**

Offeror shall complete this form by entering the years of experience the "Lead" staff resource possesses for each listed item in the column titled Experience for Lead. Offeror shall also enter the years of experience for all staff resources including subcontractors declared for this project including the lead individual.

iii. Offeror shall include all components for hardware, software, and services necessary to place the proposed TSM Replacement System into production. Offeror shall include all costs identified on the RFP Appendix B **Proposal Cost Worksheet**. Services include but are not limited to:

1) Floor tile work and electrical work needed for installation of the proposed TSM Replacement System or removal of the existing configuration.

2) Removal of replaced systems identified in RFP Section 2.19.2 Current Configuration or as stipulated by the State PM.

3) Data Destruction identified in RFP Section 2.5.2 GENERAL INSTALLATION, Hardware Installation, item r.

iv. The State may request further pricing structure breakdowns during the proposal review. Offeror shall also provide a comprehensive description of how it will ensure the most favorable pricing to the State for new products and substitutions over the course of the contract term.

v. Offeror shall submit a single configuration priced for the lease period(s) specified in RFP Section 2.21, LEASE OF EQUIPMENT.

b. Supporting Documentation and Information

Offeror shall include documents or relevant information relating to the Cost here.

7. LEASE PROPOSAL

The Offeror shall place, as the first page, the following information titled "Lease Proposal" at the top. State's Lease Terms are included as RFP Appendix L **State's Lease Terms and Conditions**. The contents shall include the following and be labeled accordingly:

a. The name of the company through which the lease is being provided.

b. A statement that the Offeror is proposing an "Operating Lease".

c. Written acceptance of the State's lease terms.

d. If necessary, exceptions shall be included in Proposal Section 10, Exemptions, titled "Lease Proposal". Exceptions and proposed modifications of or additions to the State's lease terms proposed by the Offeror shall provide suggested language.

8. TECHNICAL INFORMATION

The Offeror shall place in this section an itemized list of the contents of Proposal Attachment A as the first page(s) and title that list "Documents in Proposal Attachment A".

Next, the Offeror shall include, on a separate page, the following titled "Technical Information Required by RFP Section x.x.x", (e.g., Technical Information Required by RFP Section 2.5.4.a) in the following order below. Please refer to the RFP Section cited for each of the required items the specific content and title requirements for that item.

- a. Provide information required by sections of RFP Section 2.5.2 a GENERAL INSTALLATION and Hardware Installation.
- b. Provide information required by sections of RFP Section 2.5.2 b GENERAL INSTALLATION, and Hardware Installation.
- c. Provide information required by sections of RFP Section 2.5.2 i GENERAL INSTALLATION, and Hardware Installation.
- d. Provide information required by sections of RFP Section 2.5.2 r GENERAL INSTALLATION, and Hardware Installation.
- e. Provide information required by sections of RFP Section 2.5.3 GENERAL INSTALLATION, and Services.
- f. Provide information required by sections of RFP Section 2.5.4.a, General Installation, and Services.
- g. Provide information required by sections of RFP Section 2.19.8 Current Software Licenses.
- h. Provide information required by sections of RFP Section 2.19.5 Migration Services.
- i. Provide information required by Section 2.19.7 TSM Infrastructure Removal and Disposal.
- j. Offeror shall provide their product development plans for the next twelve (12) months to twenty-four (24) months. The State is seeking reasonable assurance that the equipment being offered is not at the end of its life cycle and the product line is still being developed and supported by the manufacturer. If this information is a trade secret or proprietary, the information shall be included in Proposal Section 11, Confidential Information and shall include a statement, titled "Statement of Support", that the equipment, software and services will be supported, marketed, maintained, and parts or components for the life of the lease resulting from this RFP.
- k. Offeror shall provide pictorial drawings, technical specifications, network interfaces specifications, memory capacity, disk specifications, processor specifications, and other descriptions that demonstrate the performance, construction, and reliability of the equipment offered.

The Offeror shall place at the end of Proposal Attachment A all product brochures, descriptions, literature, or other materials required by this RFP or referenced in their proposal followed by a CD containing the

documents listed on the itemized list. Although the State prefers to receive these documents in soft copy, the Offeror may substitute printed versions of the documents.

Other brochures and/or specification literature not otherwise required by this RFP shall be submitted upon request. If requested, such brochures and/or specifications shall be delivered within two (2) business days of the request.

Offerors may include as the last pages of this Proposal Section, an explanation of how the Offeror's Proposal meets the evaluation criteria of RFP Section 4.4.2 Phase 2 – Evaluation of Proposal, 5 Technical Solution. This information shall be titled "Evaluation Criteria of RFP Section 4.4.2 Phase 2 – Evaluation of Proposal, 5 Technical Solution". Offerors should specifically identify each criteria by outline reference number, for example, "5.b.8, Does Offeror maintain an adequate inventory of spare parts".

9. LITIGATION

Offeror shall disclose any pending litigation to which it is a party, including the disclosure of any outstanding judgments. If applicable, please explain.

10. EXCEPTIONS

Offeror shall list any exceptions taken to the terms, conditions, specifications, or other requirements contained in this RFP including the General Conditions and the lease provisions. Offeror shall reference the RFP section where exception is taken, describe the exception, and provide a proposed alternative if appropriate. Failure to note any exception means that Offeror accepts and will comply with every term, condition and requirement of this RFP. The State reserves the right to not accept any exceptions or alternative proposals by an Offeror.

11. CONFIDENTIAL INFORMATION

Offerors shall identify each portion of the proposal where information is claimed to be proprietary or confidential and not subject to disclosure and shall provide a reason and justification for each such claim. Proprietary information shall be easily removable from the proposal. Price is NOT confidential.

12. ATTACHMENTS

Offeror shall include in Attachment A, all technical information required. Attachment B shall include other Offeror attachments.

3.4 OFFEROR'S TERMS AND CONDITIONS

Offerors shall not submit Offeror's terms and conditions, standard contracts or other agreements. General references to such terms or attempts at complete substitution of such terms may be declared non-responsive and result in the rejection of Offeror's proposal.

3.5**SUBMISSION OF REQUESTED INFORMATION AND DOCUMENTS**

If additional information is required by the State regarding any aspect of Offeror's proposal, it shall be provided within two (2) business days after requested.

4 PROPOSAL EVALUATION

4.1 INTRODUCTION

The evaluation of proposals received in response to this RFP will be conducted comprehensively, fairly and impartially. Structural and quantitative scoring techniques will be utilized to maximize the objectivity of the evaluation.

4.2 EVALUATION PROCESS

The selection will, in part, be on the basis of proposals that contain five (5) year lease costs that meet the funds allotted.

The evaluation committee comprised of designated reviewers selected by the Procurement Officer shall review and evaluate proposals. The evaluation committee is comprised of individuals with experience in, knowledge of, and/or program responsibility for programs affected by the RFP.

The evaluation will be conducted in three phases as follows:

- Phase 1 – Evaluation of Proposal Requirements
- Phase 2 – Evaluation of Proposal
- Phase 3 – Recommendation for Award

4.3 EVALUATION CATEGORIES AND THRESHOLDS

| <u>Evaluation Categories</u> | <u>Possible Points</u> |
|--|------------------------|
| Administrative Requirements | 5 |
| Proposal Sections | |
| Offer Form OF-1 | 0 |
| Executive Summary | 0 |
| Firm's Experience and Capability | 20 |
| Project Organization, Staffing, and Experience | 45 |
| Technical Solution | 250 |
| Cost | 80 |
| TOTAL POSSIBLE POINTS | 400 |

4.4 EVALUATION CRITERIA

4.4.1 Phase 1 – Evaluation of Proposal Requirements

Review Appendix C **Sample Proposal Table of Contents**, to verify that the necessary items have been submitted and all proposal sections are clearly labeled as required.

If deficiencies are found, they will be noted for clarification during Proposal Discussions. Refer to RFP Section 1.2 PROCUREMENT TIMETABLE.

4.4.2 Phase 2 – Evaluation of Proposal

Assigned 400 points.

1. Offer Form OF-1: No points are assigned to this section. The requirement is for Offeror to provide information required to complete legal and procurement forms.
2. Executive Summary: No points are assigned to the Executive Summary. The intent is to give the Offeror an opportunity to orient evaluators as to the Technical Solution (equipment, software, and/or services) being

offered. However, a poor summary could negatively impact the evaluation of the Offeror's proposal.

3. Firm's Experience and Capability

Assigned 20 points.

This section is weighted as a whole; no points are individually assigned. The State will evaluate the Offeror's experiences and capabilities against the specified general specifications and technical requirements of this RFP in the following categories:

- a. Demonstrated skills, abilities, and knowledge of Contractor and subcontractor (if any) relating to the delivery of the goods and/or services specified by this RFP.
- b. Verifiable experience with projects or contracts for the most recent five (5) years that is pertinent and similar to the proposed goods and/or services specified by this RFP.
- c. Sufficient quality assurance and completeness of the plans for the proposed goods and/or services.
- d. Financial stability and a track record of success.
- e. Qualifications of the Project Manager named by Offeror.
- f. Do State employees have access to Offeror's staff during and outside of normal State business hours, toll free phone and fax numbers to contact key personnel?
- g. Do State employees have access to the manufacturer's hardware and software publisher's software support centers?

4. Project Organization, Staffing, and Experience

Assigned 45 points.

The evaluation for RFP Sections 4.4.2 Phase 2 – Evaluation of Proposal, paragraphs 4.1 and 4.2 are assigned 20 points, and weighted and scored together; no points will be individually assigned. Points for RFP Section 4.4.2 Phase 2 – Evaluation of Proposal, paragraph 4.3, Experience, will be assigned the points specified for that paragraph. The State will evaluate Offeror's overall staffing approach to the project that shall include the following.

4.1 Staffing

This section is weighted with paragraph 4.2 below as whole and scored together.

The following are evaluation factors for Staffing:

- a. Is the proposed staffing level adequate to meet the requirements of this RFP?
- b. Are the qualifications of the Offeror's staff adequate to provide the services required and do they meet the required minimum qualifications of knowledge, skills and abilities (including experience)?
- c. Offeror's experience in providing the goods and/or services.

4.2 Project organization

This section is weighted with paragraph 4.1 above as whole and scored together.

The following are evaluation factors for Project Organization:

- a. Does the Offeror's approach and rationale for the structure, functions, and staffing for the overall project appear to be adequate?
- b. Does the Offeror state any unique qualifications that will contribute to the success of this project or provide an advantage to the State?

4.3 Experience

Assigned 25 points.

Staff proposed will be evaluated using RFP Appendix F **Proposal Cost Worksheet Evaluation**. The years of experience declared on RFP Appendix B **Proposal Cost Worksheet**, Part 2 Experience, for the "Lead" and totaled by the Offeror on RFP Appendix F will be used to calculate the points for each item. The following formula will be used:

$$\frac{[\text{Offeror's declared years of experience for this line item} * nn]}{[\text{Highest declared years of experience for this line item}]} = \text{Calculated Points}$$

nn is the maximum points for the line item of the RFP Appendix F **Proposal Cost Worksheet Evaluation**.

Note that any decimal points for this section will be rounded to two decimal points. The rounding algorithm used will be that of the calculator used by the EC.

5. Technical Solution

Assigned 250 points.

- a. Evaluation of Offeror's Technical Solution and Technical Information will be evaluated as a whole (50 points).
 1. Does the Offeror's explanation of the technical aspects and merits of its proposal meet the needs of this RFP?
 2. Does the Offeror state any unique technical knowledge, skills, abilities, or qualifications that will contribute to this project or provide an advantage to the State?
 3. Does the Offeror's Proposal include a Hard Disk Retention Option, RFP Section 2.10.13, as part of the maintenance?
 4. Does the Offeror's Proposal include an enhanced remote diagnostic capability, referenced in RFP Section 2.10.6 Diagnostic Tools and Test Equipment and 2.5.2 GENERAL INSTALLATION, Hardware Installation, i?
 5. Does the Offeror's Proposal include customer premise training for computer operators and system administrators?
 6. Does the Offeror's Proposal include the documentation required by RFP Section 2.16 DOCUMENTATION?
 7. Does the Offeror's Proposal clearly identify all software and hardware along with a description of how they function together?

8. Do the Offeror's Technical Information responses meet the requirements of this RFP?
 9. Has the Offeror responded to all of the items listed in Appendix H **Itemized List for Offeror's Point Response**?
- b. Maintenance and Support (25 points)
1. Are the Offeror's hardware maintenance policies and practices suitable and meet the needs of the State?
 2. How many service personnel does the Offeror maintain?
 3. Is the Offeror authorized to service the equipment proposed?
 4. Are the periods of maintenance coverage acceptable?
 5. Can Offeror meet the response time requirements?
 6. Is the service center capable of providing hardware maintenance described in the RFP?
 7. Does the Offeror possess the appropriate experience to perform the hardware maintenance described in the RFP?
 8. Does the Offeror maintain an adequate inventory of spare parts?
 9. Does maintenance cover all equipment, hardware, and software proposed?
 10. Are problem escalation procedures detailed and acceptable?
- c. Equipment (175 points)
1. What is the quality of the products offered?
 2. What features differentiate it from others? (user friendly, intuitive design tools, ease of management, functionality, etc.)
 3. Does the Offeror describe how the proposed hardware and software are operationally compatible with existing hardware and software?
 4. Does the Offeror describe how the proposed the TSM Replacement System hardware and software provides for the optional replacement of the 3494 Tape Library?
 5. Does the Offeror describe how and what services are included in the proposal to migrate existing servers and storage systems to the TSM Replacement System identified in RFP Section 2.19 TSM SERVER CONFIGURATION AND TECHNICAL REQUIRMENTS?
 6. Does the Offeror describe how and what services are included in the proposal to migrate existing TSM partitions identified in RFP Section 2.19 TSM SERVER CONFIGURATION AND TECHNICAL REQUIRMENTS, including VIO servers, to the proposed hardware and software?
 7. Does the Offeror describe the proposed hardware system as requiring minimal modification to the existing hardware/software systems?
 8. Has the equipment been successfully installed and operated in comparable environments? In Honolulu?
 9. Is the equipment new and of the quality required?
 10. Does the Offeror have a product development strategy that will protect the State's investment?

11. Does the Offeror document their commitment to industry standards?
12. Does the Offeror's proposal involve extensive use of automated tools to reduce the implementation effort by Offeror's staff and State personnel?

6. Cost

Assigned 80 points.

Proposals shall be evaluated using the Total Evaluation Proposal Cost. Refer to RFP Section 3.3 PROPOSAL FORMAT, under Proposal Section 6, Costs, a, Proposal Cost Worksheet. This cost shall be based on the Annual cost of the Lease.

In converting cost to points, the lowest cost proposal will automatically receive the maximum number of points allocated to cost. The points for cost for other proposals will be determined as follows:

$$\frac{[\text{Lowest Total Evaluation Proposal Cost} \times \text{maximum points}]}{[\text{Offeror's Total Evaluation Proposal Cost}]} = \text{Points}$$

Note that any decimal points for this section will be rounded to two decimal points. The rounding algorithm used will be that of the calculator used by the EC.

4.4.3 Phase 3 – Recommendation for Award

Award, if made, will be to the Offeror whose proposal is determined through this evaluation process to be the most advantageous to the State. Notice of this award will be in accordance with RFP Section 1.18 NOTICE OF AWARD AND EXECUTION OF CONTRACT.

APPENDIX

LIST OF APPENDICES

- A. Offer Form**
- B. Proposal Cost Worksheet**
- C. Sample Proposal Table of Contents**
- D. Sample Contract Form**
- E. Standard Contract General Conditions**
- F. Proposal Cost Worksheet Evaluation**
- G. Glossary of Terms and Acronyms**
- H. Itemized List for Offeror's Point Response**
- I. Federal Requirements**
- J. Current Configurations**
- K. Part I Inclusions**
- L. State's Lease Terms and Conditions**
- M. SPO General Provisions**

APPENDIX A – Offer Form

FOR RFP NO. 13-005

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
INFORMATION AND COMMUNICATION SERVICES DIVISION**

Contract Administrator
Information and Communications Services Division
State of Hawai'i
Honolulu, Hawai'i 96813

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in RFP No. 13-005, and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawai'i Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

The undersigned represents: **(Check one only)**

- A **Hawai'i business** incorporated or organized under the laws of the State of Hawai'i; **OR**
- A **Compliant Non-Hawai'i business** not incorporated or organized under the laws of the State of Hawai'i, but registered at the State of Hawai'i Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawai'i.

State of incorporation or organization: _____

Offeror is:

- Sole Proprietor Partnership Corporation Joint Venture
- Other _____

Federal I.D. No.: _____

Hawai'i General Excise Tax License I.D. No.: _____

Payment address (other than street address below): _____

City, State, Zip Code: _____

Business address (street address): _____

City, State, Zip Code: _____

Respectfully submitted:

Date: _____

Telephone No.: _____

Fax No.: _____

E-mail Address: _____

(x) _____

Authorized (Original) Signature

Name and Title (Please Type or Print)

*

Exact Legal Name of Company (Offeror)

*If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:

APPENDIX B – Proposal Cost Worksheet

Proposal Cost Worksheet For RFP 13-005 5 Year Lease

The Proposal Cost Worksheet consists of three parts. The first part provides the State with an overview of the costs associated with the Offeror's proposal. The second part provides the State with information necessary to evaluate the Offeror's proposal. The third part provides the State with information on the knowledge, skills and abilities of the Offeror staff. All parts provide the State with a consistent format from which to evaluate proposals submitted.

Part 1.

Lease Costs

First Year's Monthly Lease Cost – Number of Months _____

Monthly Lease Cost for the TSM Replacement System _____

Annual Cost of the Lease (Monthly Lease Cost X 12) _____

Monthly Lease Cost Components

a. Monthly lease cost component for software _____

b. Monthly lease cost component for hardware,
hardware maintenance and services _____

Optional Items

a. Monthly lease cost for Tape Library to replace the
3494 unit _____

Items for Proposal Evaluation

a. Lease Cost With Optional Lease cost for Tape Library _____

b. Monthly Lease Cost for the TSM Replacement System _____

c. Total Evaluation Proposal Cost Only _____

Proposal Cost Worksheet – page 3

Part 2. Experiences (Knowledge, Skills and Abilities)

| | Attestations of Staff Experiences (Knowledge, Skills and Abilities) | Attachment Yes/No |
|----|--|----------------------|
| 1 | Hardware: For each staff assigned, identify each hardware, the model number, the number of pieces, the number of years (in decimal, e.g. one half year as .5), scope (departmental, island wide, county wide, statewide or national). | |
| 2 | AIX: For each staff assigned, identify each AIX version/release; the version/release number, number of instances; the number of years (in decimal, e.g., one half year as .5); and scope (departmental, island wide, county wide, statewide or national). | |
| 3 | NIM Server: For each staff assigned, identify for each NIM server, the AIX version/release, the number of servers, and the number of years (in decimal, e.g., one half year as .5). | |
| 4 | VIO Server: For each staff assigned, identify for each VIO Server, the version/release, the number of servers, and the number of years (in decimal, e.g., one half year as .5). Place a “yes” in the box to the right to signify that the table is attached. | |
| 5 | SDDPCM: For each staff assigned, identify for each SDDPCM the version/release, the number of LPARS associated, the number of VIO servers associated, and the number of years (in decimal, e.g., one half year as .5) | |
| 6 | HMC: For each staff assigned, identify for each HMC software version/release, the number of servers, the number of LPARS, the dates (from and to) delineating experience(s) and the number of years (in decimal, e.g., one half year as .5). | |
| 7 | Virtual SCSI environment: For each staff assigned, provide the number of years Offeror has experience with the virtual SCSI environment and the dates (from and to) delineating experience(s). | |
| 8 | Virtual Ethernet environment: For each staff assigned, provide the number of years Offeror has experience with the virtual Ethernet environment and the dates (from and to) delineating experience(s). | |
| 9 | Network Environment: For each staff assigned, provide the number of years Offeror has experience with integrating and networking AIX servers with a Ethernet network with VPN and virtual firewalls and the dates (from and to) delineating experience(s). | |
| 10 | Firmware: For each staff assigned, identify for each machine (manufacturer, model, and type) Offeror has experience, the type of involvement (installation, identifying what is needed), the dates (from and to) delineating experience(s). | |

APPENDIX C – Sample Proposal Table of Contents

1. Offer Form
2. Executive Summary
3. Firm’s Experience and Capability
 - a. Necessary Skills and Experience
 - b. References
 - c. Support Hours
4. Project Organization and Staffing
 - a. Staffing
 - b. Subcontractor
 - c. Project Organization
5. Technical Solution
 - a. Understanding of Requirements
 - b. Maintenance and Support to be Provided
 - c. Equipment
 - d. Assumptions
 - e. Potential Problems and Constraints
 - f. Diagrams
 - g. Project Plans and Schedule
 - h. Point Response
6. Cost
 - a. Proposal Cost Worksheet
 - b. Supporting Documentation or Information
7. Lease Proposal
8. Technical Information
9. Litigation
10. Exceptions
11. Confidential Information
12. Attachments
 - Attachment A – Technical Information Required
 - Attachment B – Offeror Attachments

APPENDIX D – Sample Contract



STATE OF HAWAII
CONTRACT FOR GOODS OR SERVICES
BASED UPON
COMPETITIVE SEALED PROPOSALS

This Contract, executed on the respective dates indicated below, is effective as of _____, _____, between _____,
(Insert name of state department, agency, board or commission)
State of Hawaii ("STATE"), by its _____,
(Insert title of person signing for State)
(hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")), whose address is _____ and _____
("CONTRACTOR"), a _____,
(Insert corporation, partnership, joint venture, sole proprietorship, or other legal form of the Contractor)
under the laws of the State of _____, whose business address and federal and state taxpayer identification numbers are as follows: _____

RECITALS

A. The STATE desires to retain and engage the CONTRACTOR to provide the goods or services, or both, described in this Contract and its attachments, and the CONTRACTOR is agreeable to providing said goods or services or both.

B. The STATE has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.

C. The solicitation for proposals and the selection of the CONTRACTOR were made in accordance with section 103D-303, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules, Title 3, Department of Accounting and General Services, Subtitle 11 ("HAR"), Chapter 122, Subchapter 6, and applicable procedures established by the appropriate Chief Procurement Officer ("CPO").

D. The CONTRACTOR has been identified as the responsible and responsive offeror whose proposal is the most advantageous for the STATE, taking into consideration price and the evaluation factors set forth in the request.

E. Pursuant to _____,
(Legal authority to enter into this Contract)
the STATE is authorized to enter into this Contract.

F. Money is available to fund this Contract pursuant to:
(1) _____
(Identify state sources)
or (2) _____
(Identify federal sources)
or both, in the following amounts: State \$ _____
Federal \$ _____

NOW, THEREFORE, in consideration of the promises contained in this Contract, the STATE and the CONTRACTOR agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by the STATE, provide all the goods or services, or both, set forth in the request for competitive sealed proposals number _____ ("RFP") and the CONTRACTOR'S accepted proposal ("Proposal"), both of which, even if not physically attached to this Contract, are made a part of this Contract.

2. Compensation. The CONTRACTOR shall be compensated for goods supplied

or services performed, or both, under this Contract in a total amount not to exceed _____ DOLLARS (\$ _____), including approved costs incurred and taxes, at the time and in the manner set forth in the RFP and CONTRACTOR'S Proposal.

3. Time of Performance. The services or goods required of the CONTRACTOR under this Contract shall be performed and completed in accordance with the Time of Performance set forth in Attachment-S3, which is made a part of this Contract.

4. Bonds. The CONTRACTOR is required to provide or is not required to provide: a performance bond, a payment bond, a performance and payment bond in the amount of _____ DOLLARS (\$ _____).

5. Standards of Conduct Declaration. The Standards of Conduct Declaration of the CONTRACTOR is attached to and made a part of this Contract.

6. Other Terms and Conditions. The General Conditions and any Special Conditions are attached to and made a part of this Contract. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) this Contract, including all attachments and addenda; (2) the RFP, including all attachments and addenda; and (3) the Proposal.

7. Liquidated Damages. Liquidated damages shall be assessed in the amount of _____ DOLLARS (\$ _____) per day, in accordance with the terms of paragraph 9 of the General Conditions.

8. Notices. Any written notice required to be given by a party to this Contract shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice to the STATE shall be sent to the HOPA'S address indicated in the Contract. Notice to the CONTRACTOR shall be sent to the CONTRACTOR'S address indicated in the Contract. A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the STATE in writing of any change of address.

IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the dates below, to be effective as of the date first above written.

STATE

(Signature)

(Print Name)

(Print Title)

(Date)

CONTRACTOR

(Name of Contractor)

(Signature)

(Print Name)

(Print Title)

(Date)

CORPORATE SEAL
(If available)

APPROVED AS TO FORM:

Deputy Attorney General

* Evidence of authority of the CONTRACTOR'S representative to sign this Contract for the CONTRACTOR must be attached.



STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF _____)
) SS.
_____ COUNTY OF _____)

On this _____ day of _____, _____ before me appeared _____ and _____, to me known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are _____ and _____ of _____, the CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said instrument as the free act and deed of the CONTRACTOR.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of _____

My commission expires: _____

Doc. Date: _____ # Pages: _____

Notary Name: _____ Circuit _____

Doc. Description: _____

Notary Signature Date

NOTARY CERTIFICATION

(Notary Stamp or Seal)



STATE OF HAWAII
CONTRACTOR'S
STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of _____, CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR is* is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

*Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By _____
(Signature)

Print Name _____

Print Title _____

Name of Contractor _____

Date _____



STATE OF HAWAII
TIME OF PERFORMANCE



STATE OF HAWAII

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development (“DHRD”).*

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

(Signature)

(Date)

(Print Name)

(Print Title)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
(2) There is no employee-employer relationship; and
(3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to §76-16, HRS.

(Signature)

(Date)

(Print Name)

(Print Title, if designee of the Director of DHRD)



STATE OF HAWAII
SPECIAL CONDITIONS

APPENDIX E – Standard Contract General Conditions

GENERAL CONDITIONS

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GENERAL CONDITIONS

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

- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
 - h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
 - i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.
3. Personnel Requirements.
- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
 - b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.
4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.
6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.
- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
 - (1) The Assignee assumes all of the CONTRACTOR'S obligations;
 - (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
 - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
 - b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

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

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

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

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

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

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

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

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

13. Termination for Default.

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

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

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

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
 - d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
 - e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
 - f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.
14. Termination for Convenience.
- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
 - b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

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

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

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

- d. Compensation.

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

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

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

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

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

- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
 - (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
 - (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

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

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

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

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
 - b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
 - c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.
17. Payment Procedures; Final Payment; Tax Clearance.
- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
 - b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
 - c. Prompt payment.
 - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
 - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
 - d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.
18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.
19. Modifications of Contract.
- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
 - b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
 - (A) Changes in the work within the scope of the Contract; and
 - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
 - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
 - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
 - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
 - g. CPO 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 or ten per cent (10%) of the initial contract price, whichever increase is higher, must receive the prior approval of the CPO.
 - 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.

APPENDIX F – Proposal Cost Worksheet Evaluation

| Item No. | Experiences (Knowledge, Skills, and Abilities) | Max Points | Experience for Lead | Total Staff Experience |
|----------|--|------------|---------------------|------------------------|
| 1 | Hardware: Provide the number and model of equipment Offeror has experience with. | 2 | | |
| 2 | AIX: Provide the number and version/release of software Offeror has experience with. | 4 | | |
| 3 | NIM Server: Provide the number and version/release of software Offeror has experience with. | 2 | | |
| 4 | VIO Server: Provide the number and version/release of software Offeror has experience with. | 4 | | |
| 5 | SDDPCM: Provide the number and version/release of software Offeror has experience with. | 4 | | |
| 6 | HMC: Provide the number and version/release of software Offeror has experience with. | 2 | | |
| 7 | Virtual SCSI environment: Provide the number of years Offeror has experience with the virtual SCSI environment. | 2 | | |
| 8 | Virtual Ethernet environment: Provide the number of years Offeror has experience with the virtual Ethernet environment. | 2 | | |
| 9 | Network Environment: Provide the number of years Offeror has experience with integrating and networking AIX servers in an Ethernet network with VPN and virtual firewalls. | 2 | | |
| 10 | Firmware: Provide the number and model of equipment Offeror has experience with. | 1 | | |
| | | 25 | | |

APPENDIX G – Glossary of Terms and Acronyms

STANDARD TERMS AND ACRONYMS

| | |
|-----------|---|
| BAFO | Best and Final Offer |
| CA | Contract Administrator |
| CD | Compact Disk |
| CGA | Contracting Government Agency |
| CJI | Criminal Justice Information |
| CSA | CJIS Systems Agencies |
| CSO | CJIS Systems Officer |
| DAtG | Department of the Attorney General, State of Hawai'i |
| DAGS | Department of Accounting and General Services, State of Hawai'i |
| DHS | Department of Human Services, State of Hawai'i |
| Judiciary | Judiciary of the State of Hawai'i |
| EC | Evaluation Committee |
| FAQs | Frequently Asked Questions |
| GC | General Conditions, form AG-008 dated: 4/15/2009 |
| GET | General Excise Tax |
| HAR | Hawai'i Administrative Rules |
| HCE | Hawai'i Compliance Express |
| HRS | Hawai'i Revised Statutes |
| HST | Hawai'i Standard Time |
| ICSD | Information and Communication Services Division |
| IRS | Internal Revenue Service |
| IT | Information Technology |
| NCJA | Noncriminal Justice Agency |
| NGN | Next Generation Network; State of Hawai'i's high-speed backbone providing connectivity to numerous State of Hawai'i Departments and other government agencies |
| PO | Purchase Order |

| | |
|----------|---|
| PPMO | Planning and Project Management Office, ICSD, DAGS |
| RFP | Request For Proposals |
| SOH | State of Hawai'i |
| SSB | Systems Services Branch, ICSD, DAGS, SOH |
| SPO | State Procurement Office, DAGS, SOH |
| State | All agencies participating in this agreement |
| STATE PM | The designated IT lead manager or designee of the State |
| USPS | United States Postal Service |

TERMS AND ACRONYMS SPECIFIC TO THIS RFP

| | |
|---------|--|
| CCITT | Center for the Commercialization of Innovative Transportation Technology |
| DNS | Domain Name Server |
| HMC | Hardware Management Console |
| IEEE | Institute of Electrical and Electronics Engineers |
| IBM | International Business Machines |
| IFL | Integrated Facility for Linux |
| IO | Input/Output |
| IP | Internet Protocol |
| Linux | A Unix Operating System Variant |
| LPAR | Logical Partition |
| Maksysb | AIX command to make system backup |
| NIM | Network Installation Manager |
| TSM | Tivoli Storage Manager, software published by IBM |

APPENDIX H – Itemized List For Offerors Point Response

Offerors are required to provide additional details as specified below.

- 1 Section 1 (Paragraphs 1.1 through 1.24)
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of its acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.2 OFFEROR'S QUALIFICATION
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.6 Work Parameters
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.7 Project Manager
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.8 Quality of Equipment
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.9 Delivery Requirement
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.10 Training
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.12 Acceptance Test
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.13 Training
The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.
- 2.15 Safeguard Data
The Offeror shall state their acceptance of the requirements detailed in this

RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.

2.16 Documentation

The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.

2.17 Response Time

The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.

2.18 Federal Requirements

The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.

2.20 Work Order Estimate

The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance. If the Offeror takes exception to this requirement, it should be stated as "Exception taken" and include the exception in the Proposal Section VIII.

2.13 Training

The Offeror shall state their acceptance of the requirements detailed in this RFP section or provide information on the conditions of their acceptance or exception to this requirement, in the Proposal Section VIII.

APPENDIX I – Federal Requirements

IRS Required Contract Language for Technology Services

FBI Security Requirements

IRS REQUIRED CONTRACT LANGUAGE FOR TECHNOLOGY SERVICES

I. PERFORMANCE:

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

- (1) All work will be done under the supervision of the contractor or the contractor's employees.
- (2) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems receiving, processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
- (7) No work involving Federal tax information furnished under this contract will be subcontracted without prior written approval of the IRS.
- (8) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.
- (9) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS:

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.
- (3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections

7431, 7213, and 7213A (see Exhibit 6, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information* and Exhibit 5, *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION:

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

FBI REQUIREMENTS

5.12.1 Personnel Security Policy and Procedures

5.12.1.1 Minimum Screening Requirements for Individuals Requiring Access to CJI:

1. To verify identification, a state of residency and national fingerprint-based record checks shall be conducted within 30 days of assignment for all personnel who have direct access to CJI and those who have direct responsibility to configure and maintain computer systems and networks with direct access to CJI. When appropriate, the screening shall be consistent with: (i) 5 CFR 731.106; (ii) Office of Personnel Management policy, regulations, and guidance; and (iii) agency policy, regulations, and guidance. (See Appendix J for applicable guidance regarding noncriminal justice agencies performing adjudication of civil fingerprint submissions.) Federal entities bypassing state repositories in compliance with federal law may not be required to conduct a state fingerprint-based record check.
2. All requests for access shall be made as specified by the CSO. The CSO, or their designee, is authorized to approve access to CJI. All CSO designees shall be from an authorized criminal justice agency.
3. If a felony conviction of any kind exists, the hiring authority in the Interface Agency shall deny access to CJI. However, the hiring authority may ask for a review by the CSO in extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.
4. If a record of any other kind exists, access to CJI shall not be granted until the CSO or his/her designee reviews the matter to determine if access is appropriate.
5. If the person appears to be a fugitive or has an arrest history without conviction, the CSO or his/her designee shall review the matter to determine if access to CJI is appropriate.
6. If the person is employed by a NCJA, the CSO or his/her designee, and, if applicable, the appropriate board maintaining management control, shall review the matter to determine if CJI access is appropriate. This same procedure applies if this person is found to be a fugitive or has an arrest history without conviction.
7. If the person already has access to CJI and is subsequently arrested and or convicted, continued access to CJI shall be determined by the CSO. This does not implicitly grant hiring/firing authority with the CSA, only the authority to grant access to CJI.
8. If the CSO or his/her designee determines that access to CJI by the person would not be in the public interest, access shall be denied and the person's appointing authority shall be notified in writing of the access denial.
9. Support personnel, contractors, and custodial workers with access to physically secure locations or controlled areas (during CJI processing) shall be subject to a state and national fingerprint-based record check unless these individuals are escorted by authorized personnel at all times.

It is recommended individual background re-investigations be conducted every five years unless Rap Back is implemented.

5.12.1.2 Personnel Screening for Contractors and Vendors

In addition to meeting the requirements in paragraph 5.12.1.1, contractors and vendors shall meet the following requirements:

1. Prior to granting access to CJI, the CGA on whose behalf the Contractor is retained shall verify identification via a state of residency and national fingerprint-based record check.
2. If a record of any kind is found, the CGA shall be formally notified and system access shall be delayed pending review of the criminal history record information. The CGA shall in turn notify the Contractor-appointed Security Officer.
3. When identification of the applicant with a criminal history has been established by fingerprint comparison, the CGA or the CJA (if the CGA does not have the authority to view CHRI) shall review the matter.
4. A Contractor employee found to have a criminal record consisting of felony conviction(s) shall be disqualified.
5. Applicants shall also be disqualified on the basis of confirmations that arrest warrants are outstanding for such applicants.
6. The CGA shall maintain a list of personnel who have been authorized access to CJI and shall, upon request, provide a current copy of the access list to the CSO.

Applicants with a record of misdemeanor offense(s) may be granted access if the CSO determines the nature or severity of the misdemeanor offense(s) do not warrant disqualification. The CGA may request the CSO to review a denial of access determination.

APPENDIX J – Current Configurations

| Type model Serial/order Feature | Qty | Description |
|---------------------------------|-----|--------------------------------|
| 9117-570 0000155EF | | |
| 9117-570 | | Installed ESERVER |
| 0265 | 1 | AIX PARTITION SPECIFY |
| 1846 | 1 | OPERATOR PANEL |
| 1847 | 1 | PROC.CAB,TWO-DRAWER SYSTEM |
| 1857 | 1 | SP FLEX CAB,TWO-DRAW.SYSTEM |
| 2640 | 1 | IDE SLIMLINE DVD-ROM DRIVE |
| 3275 | 6 | 146.8GB10,000RPM DISK DRIVE AS |
| 3648 | 4 | 300GB 15K RPM SAS DD AIX LNX |
| 3692 | 1 | SAS CBL (YO) ADP TO SAS, 3M |
| 4452 | 4 | 2 GB (4X512MB) DIMMS, 208-PIN |
| 4651 | 1 | RACK INDICATOR, RACK #1 |
| 5005 | 1 | SOFTWARE PREINSTALL |
| 5706 | 4 | 2-PORT BASETX ETHT.PCI-X ADP |
| 5716 | 6 | 2 GIGAB.FIBRE CHANN.PCI-X ADP |
| 5886 | 1 | EXP 12S |
| 6458 | 4 | PWR CAB-DRAWER TO IBM PDU |
| 7164 | 2 | IBM/OEM RACK-MOUNT DRW R KIT |
| 7300 | 1 | SYSTEM DRAWER ENCLOS.W/BEZEL |
| 7768 | 5 | PROCESSOR POWER REGULATOR |
| 7834 | 4 | 2WAY1.5GHZ PWR5 PROC.CARD |
| 7865 | 2 | PROC. ENCLOSURE AND BACKPLANE |
| 7866 | 2 | I/O BACKPLANE, 6 PCI-X SLOTS |
| 7867 | 2 | SYSTEM MIDPLANE |
| 7868 | 2 | ULTRA320 SCSI 6-PACK BACKPLANE |
| 7869 | 1 | MEDIA ENCLOSURE AND BACKPLANE |
| 7870 | 2 | POWER DISTRIBUTION BACKPLANE |
| 7875 | 1 | PROCESSOR POWER REGULATOR |
| 7878 | 2 | SERIAL PORT RISER CARD |
| 7879 | 1 | SYSTEM DRAWER ENCLOSURE |
| 7881 | 1 | SERVICE PROCESSOR |
| 7888 | 4 | AC POWER SUPPLY, 1400 W |
| 7929 | 6 | 1PROC.ENTITL.FOR PRC.FC7834 |
| 8456 | 2 | 0-PRICED PROC.ENTITL.-#7834 |
| 9300 | 1 | LANGUAGE GROUP SPCF-US ENG |
| 5692-A5L 0000CMY5W | | |
| 5692-A5L | | Installed PSERIES SPO |
| 0967 | 1 | AIX V5.3 STANDART EDITION |
| 0968 | 1 | AIX 5L V5.3 EXPANSION PACK |
| 0970 | 1 | AIX 5L UPDATE CD |
| 0975 | 1 | CMM |
| 1004 | 1 | MEDIA PROCESS CHARGE CD ROM |
| 1403 | 1 | OPT PREIN 64B KERN AIX 5L V5.3 |
| 2924 | 1 | ENGLISH - US U/L SBCS (ENU) |
| 3410 | 1 | CD-ROM ISO 9660 STANDARD |
| 5005 | 1 | PRELOAD (AUS FEATURE 5005) |
| 5924 | 1 | LNG PRELOAD ONLY 5924 ENGLISH |
| 5692-A6P 0000CWWHW | | |

| | | |
|-------------------------|---|---------------------------------------|
| 5692-A6P | | Installed SYSTEM PROGRAM ORDER |
| 0967 | 1 | AIX V6.1 STANDART EDITION |
| 1100 | 1 | MEDIA CHARGE |
| 1431 | 1 | UPGRADE FEATURE IDENTIFIER |
| 3435 | 1 | DVD-ROM |
| 3470 | 1 | SHIP MEDIA ONLY |
| 5765-G03 0000B127K | | |
| 5765-G03 | | Installed AIX 5L FOR POWER V5.3 |
| 0005 | 2 | AIX 5L,PWR V5.3,1 CPU,F5 |
| 5765-G03 0000B3VCQ | | |
| 5765-G03 | | Installed AIX 5L FOR POWER V5.3 |
| 0005 | 6 | AIX 5L,PWR V5.3,1 CPU,F5 |
| 5765-G62 0000H5BL2 | | |
| 5765-G62 | | Installed AIX V6.1 |
| 0117 | 8 | PER PROC MED |
| 5771-SWM 0000NV117 | | |
| 5771-SWM | | Expired SWMA AIX 5L for POWER Version |
| 5.2 1Y | | |
| 0496 | 2 | SWMA AIX 5L for POWER Version 5.2 1Y |
| 1PROC F5 SWMA 1Y REG/RN | | |
| 0498 | 2 | SWMA AIX 5L for POWER Version 5.2 1Y |
| 24X7 1 PRC F5 SWMA 1Y R | | |
| 5771-SWM 0000QR220 | | |
| 5771-SWM | | Expired SWMA AIX 5L for POWER Version |
| 5.2 1Y | | |
| 0496 | 6 | SWMA AIX 5L for POWER Version 5.2 1Y |
| 1PROC F5 SWMA 1Y REG/RN | | |
| 0498 | 6 | SWMA AIX 5L for POWER Version 5.2 1Y |
| 24X7 1 PRC F5 SWMA 1Y R | | |
| 6942-73H 405657001 | | |
| 6942-73H | | Expired ESWMAE AIX |
| 5318 | 1 | ESWMAE AIX FULL SHIFT |
| 6933 | 8 | ESWMAE AIX NBR PROCESSORS |
| 6941 | 1 | ESWMAE AIX SUPPORT |
| 6942 | 1 | ESWMAE AIX SUBSCRIPTION |
| 6945 | 1 | ESWMAE AIX F5 |
| 7311-D20 00001C8DB | | |
| 7311-D20 | | Installed EXPANSION DRAWER |
| 3148 | 2 | REMOTE I/O CABLE, 10M |
| 3275 | 2 | 146.8GB 10K RPM U3 SCSI DDA |
| 3578 | 4 | 300GB SCSI DD 10K RPM |
| 4257 | 2 | PCI ADAP TO DASD BACKPLANE CAB |
| 4650 | 1 | NO FACTORY INTEGRATION IND |
| 5706 | 1 | 2-PORT BASE-TX ETHT PCI-X ADPT |
| 5716 | 5 | 2GB FIBRE CHAN.PCI-X ADAPTER |
| 5736 | 1 | PCI-X DDR 2.0 DUAL CHAN.U320 |
| 6008 | 2 | POWER CONTROL CABLE(SPCN)-6M |
| 6268 | 2 | PWR SUP 435W AC HS BASE&RED |
| 6417 | 1 | RIO-2 PORTS 2 I/O PLANAR CARD |
| 6429 | 1 | U320 SCSI BACKPL.FOR HS DISKS |

| | | |
|--------------------|---|--------------------------------|
| 9172 | 1 | POWER SPECIFY, AC |
| 9300 | 1 | LANG GRP SPEC.-US ENGLISH |
| 9911 | 1 | PWR CORD SPEC.- ALL |
| 7311-D20 00001C8EB | | |
| 7311-D20 | | Installed EXPANSION DRAWER |
| 3148 | 1 | REMOTE I/O CABLE, 10M |
| 3275 | 2 | 146.8GB 10K RPM U3 SCSI DDA |
| 3578 | 4 | 300GB SCSI DD 10K RPM |
| 4257 | 2 | PCI ADAP TO DASD BACKPLANE CAB |
| 4650 | 1 | NO FACTORY INTEGRATION IND |
| 5706 | 1 | 2-PORT BASE-TX ETHT PCI-X ADPT |
| 5716 | 5 | 2GB FIBRE CHAN.PCI-X ADAPTER |
| 5736 | 1 | PCI-X DDR 2.0 DUAL CHAN.U320 |
| 6008 | 1 | POWER CONTROL CABLE(SPCN)-6M |
| 6268 | 2 | PWR SUP 435W AC HS BASE&RED |
| 6417 | 1 | RIO-2 PORTS 2 I/O PLANAR CARD |
| 6429 | 1 | U320 SCSI BACKPL.FOR HS DISKS |
| 9172 | 1 | POWER SPECIFY, AC |
| 9300 | 1 | LANG GRP SPEC.-US ENGLISH |
| 9911 | 1 | PWR CORD SPEC.- ALL |

3494-L12 000013679

| | | |
|----------|---|------------------------------|
| 3494-L12 | | Installed CONTROL UNIT |
| 2710 | 1 | REMOTE SUPPORT FACILITY |
| 5046 | 1 | PCI LIBRARY MANAGER - FIELD |
| 5210 | 1 | INPUT/OUTPUT STATION |
| 5214 | 1 | 2ND DSK DRV FOR LIB MGR |
| 5217 | 1 | RS-232 CABLE 50 FEET |
| 5220 | 1 | ETHERNET LAN ADAPTOR |
| 5227 | 1 | 32 PORT ATTACHMENT |
| 5228 | 2 | TAPE CONTROL UNIT EXPANSION |
| 5229 | 1 | TAPE CONTROL UNIT ATTACHMENT |
| 8002 | 4 | 1-3590 CLEANING CARTRIDGE |
| 8510 | 1 | 210-3590 DATA CARTRIDGES |
| 9002 | 1 | STORAGE UNIT ATTACH |
| 9003 | 2 | DRIVE UNIT ATTACH |
| 9106 | 1 | RS/6000, P SERIES ATTACHMENT |
| 9200 | 1 | OPEN SYSTEM DEVICE DRIVERS |
| 9631 | 2 | FACTORY INSTALL B1A |
| 9780 | 1 | EXTENDED MEDIA SUPPORT |

3494-D22 000087560

| | | |
|----------|---|------------------------------------|
| 3494-D22 | | Installed TAPE DRIVE EXPANS. FRAME |
| 4675 | 8 | FIELD INSTALL E05 DRIVE |
| 4800 | 3 | INSTALL CRADLE PAIR |
| 8802 | 1 | 3592 CLEANING CARTRIDGE |
| 8820 | 1 | 20-3592 DATA CARTRIDGES |
| 9106 | 1 | RS/6000, P SERIES ATTACHMENT |
| 9673 | 2 | FACTORY INSTALL J1A DRIVE |

3592-J1A 000005854

| | | |
|--------------------|---|--|
| 3592-J1A | | Installed ENTERPRISE TAPE DRIVE |
| 6025 | 2 | 25 M LC/LC FIBRE CABLE |
| 9600 | 1 | P SERIES AIX ATTACHMENT |
| 9673 | 1 | PLANT INSTALL 3592 IN 3494 |
| 3592-J1A 000005882 | | |
| 3592-J1A | | Installed ENTERPRISE TAPE DRIVE |
| 6025 | 2 | 25 M LC/LC FIBRE CABLE |
| 9600 | 1 | P SERIES AIX ATTACHMENT |
| 9673 | 1 | PLANT INSTALL 3592 IN 3494 |
| 3592-E05 | 8 | Tape drives. Note exact configuration is |
| not | | available to the State. Offerors may |
| request an | | on-site visit to inspect. |
| 3494-D12 000034873 | | |
| 3494-D12 | | Installed DRIVE UNIT |
| 4630 | 4 | FIELD INSTALL DRIVE |
| 9540 | 1 | NO DATA CARTRIDGES |
| 9663 | 2 | FACTORY INSTALL E1A |
| 9780 | 1 | EXTENDED MEDIA SUPPORT |
| 3590-E1A 0000F6195 | | |
| 3590-E1A | | Installed MAGSTAR TAPE |
| SUBSYSTEM | | |
| 5112 | 1 | 12 METER SCSI CABLE |
| 9600 | 1 | ATTACH TO RS/6000, P SERIES |
| 9663 | 1 | PLANT INSTALL DRIVE |
| 3590-E1A 0000F6221 | | |
| 3590-E1A | | Installed MAGSTAR TAPE SUBSYSTEM |
| 5112 | 1 | 12 METER SCSI CABLE |
| 9600 | 1 | ATTACH TO RS/6000, P SERIES |
| 9663 | 1 | PLANT INSTALL DRIVE |
| 5692-A5L 0000CKMTJ | | |
| 5692-A5L | | Installed P SERIES SPO |
| 0972 | 1 | PERFORMANCE TOOLBOX V3.1 |
| 0985 | 1 | PSSP FOR AIX (BASE) |
| 1004 | 1 | MEDIA PROCESS CHARGE CD ROM |
| 2924 | 1 | ENGLISH - US U/L SBCS (ENU) |
| 3410 | 1 | CD-ROM ISO 9660 STANDARD |
| 3445 | 1 | EXPEDITE FEE CHARGED TO BRANCH |
| 9001 | 1 | BASE LICENSE ASSET REGISTRATIO |
| 5692-AIX 0000CBM8Q | | |
| 5692-AIX | | Installed IBM AIX SPO V4 |
| 0711 | 1 | 5765-654 PERF TBX NTKW AIX4.1 |
| 0838 | 1 | AIX 4.3 |
| 0857 | 1 | AIX 5765-C34 |
| 0860 | 1 | AIX 4.3 |
| 0863 | 1 | INFOEXPLORER FOR AIX 5765C34 |
| 0868 | 1 | UPG PERFORMANCE AIDE AIX 4.3 |

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|--------------------|----|------------------------------------|
| 1004 | 1 | BASIC MRM SPO CD ROM |
| 2924 | 2 | AIX 4.3 SOFTCOPY PUBLICATIONS |
| 3410 | 1 | CD-ROM ISO 9660 STANDARD |
| 3445 | 1 | EXPEDITE FEE CHARGED TO BRANCH |
| 9001 | 1 | BASE LICENSE ASSET REGISTRATIO |
| 5697-DPO 0000M7674 | | |
| 5697-DPO | | Installed TIVOLI |
| STORAGEMANAGEMENT | | |
| 0003 | 1 | DATA PROTECTION ORACLE UNIX |
| 5809 | 1 | CD-ROMS TIVOLI DATA FOR ORACLE |
| 9001 | 1 | ASSET REGISTRATION |
| 5697-NVW 0000L5846 | | |
| 5697-NVW | | Installed TIVOLI NETVIEW |
| 0011 | 1 | SERVER 1-1000 NODES Q250 |
| 3445 | 1 | LOCAL IBM OFFICE EXPEDITE |
| 5809 | 1 | CD-ROM TME10 |
| 9001 | 1 | ASSET REGISTRATION |
| 5697-SPT 0000M7675 | | |
| 5697-SPT | | Installed TIVOLI MAINT & SUPPORT |
| 1269 | 1 | DPO UNIX STANDARD SPT ALC |
| 9001 | 1 | ASSET REGISTRATION |
| 5765-654 0000BPF2J | | |
| 5765-654 | | Installed PERF TBX NETWK FOR AIX V |
| 2.2 | | |
| 3445 | 1 | LOCAL IBM OFFICE EXPEDITE |
| 4001 | 1 | PERF TBX NTWK FOR AIX V4 |
| 4003 | 1 | PERF AIDE USER PACKS - QTY 1 |
| 4013 | 6 | PERFORMANCE AIDE SP |
| 9001 | 1 | ASSET REGISTRATION |
| 5765-C34 0000BPF2K | | |
| 5765-C34 | | Installed AIX VERSION 4 |
| 3445 | 1 | LOCAL IBM OFFICE EXPEDITE |
| 4061 | 1 | BOTC AIX 4.3 |
| 4062 | 1 | BOTC INFOEXPLORER-AIX 4.3 |
| 4066 | 50 | NTWK SYS D5,E5,F5,G5,P5 Q1-250 |
| 9001 | 1 | ASSET REGISTRATION |
| 5765-C64 0000BPF2L | | |
| 5765-C64 | | Installed IBM C FOR AIX V4.4 |
| 0001 | 1 | IBM C FOR AIX V4.4 |
| 0002 | 4 | 1 REGISTERED USER |
| 3445 | 1 | LOCAL IBM OFFICE EXPEDITE |
| 5996 | 1 | MEDIUM FEATURE |
| 9001 | 1 | ASSET REGISTRATION |
| 5765-D51 0000BPF2M | | |
| 5765-D51 | | Installed PSSP FOR AIX V3 |
| 3445 | 1 | EXPEDITE FEE CHARGED TO BRANCH |
| 4001 | 14 | PSSP FOR THE SP 1 SYSTEMS |
| 5802 | 1 | SP RES CTR - ALL LANGUAGES |
| 5803 | 1 | PSSP 3.4 |
| 9001 | 1 | BASE LICENSE ASSET REGISTRATIO |

| | | |
|--------------------|---|-----------------------------------|
| 5765-D61 0000BPF2N | | |
| 5765-D61 | | Installed LOADLEVELER 2.1 FOR AIX |
| 1460 | 6 | RS/6000 SP FEATURE (P5 PROCES) |
| 3445 | 1 | LOCAL IBM OFFICE EXPEDITE |
| 6594 | 1 | CD-ROM |
| 9001 | 1 | ASSET REGISTRATION |
| 7014-S00 0000C7D6D | | |
| 7014-S00 | | Installed RS/6000 RACK SYSTEM |
| 6171 | 1 | PWR UNIT-SIDEMNT SINGLE PHSE |
| 9171 | 1 | POWER DIST UNIT SPEC-BASE/SIDE |
| 9300 | 1 | LANGUAGE GROUP SPEC-US ENGLISH |

520 ESERVER P5 520
Machine Type 9111
Model 520
Serial number 000C9DF
Features:

- 0265 AIX PARTITION SPECIFY
- 4 each 3274 73.4GB10,000RPM DISK DRIVE WD0507
- 2 each 3648 300GB 15K RPM SAS DISK DRI
- 2 each 4447 2048MB(4X512MB)DIMMS
- 4657 RACK INDICATOR, RACK #7
- 5005 SOFTWARE PREINSTALL
- 5229 2WAY1.65GHZ PW5 PROC.CARD
- 5701 10/100/1000 BASET X ETH.PCI
- 5712 PCI-X DUAL CHANN.U320 SCSI
- 5751 4.7 GB IDE SLIM.DVD-RAM DR WD0509
- 5886 EXP 12S EXPANSION DRAWER WD0112
- 5912 PCI X DDR DUAL X4 SAS ADAP
- 6258 36/72GB 4MM INT.TAPE DRIVE
- 6458 PWR CAB-DRAWER TO IBM PDU
- 6574 ULTRA320 SCSI 4-PACK
- 7160 IBM RACK-MOUNT DRAWER RAIL
- 7606 ONE PROC.ENT.FOR PROC FC#5
- 7802 ETHERN.CAB,15M,HMC TO SYS.
- 7877 MEDIA BACKPLANE
- 7918 IBM RACK-MOUNT DRW.BEZ.AND
- 2 each 7940 ADVANCED POWER
- 8474 0-PRICED VAL.PAK PRC.ENT
- 9300 LANGUAGE GROUP SPCF-US ENG

APPENDIX L – State’s Lease Terms and Conditions

1. Lease of Equipment

Lessor agrees to lease to Lessee, and Lessee agrees to hire from Lessor, the equipment more fully described in the Approved Equipment Schedule attached here to ("Equipment"), and executed by the parties concurrently herewith and which may be, from time to time, hereafter executed by Lessee and accepted by Lessor.

2. Term of Lease

The term of this Agreement, as to all Equipment designated on the Approved Equipment Schedule, shall commence on the Acceptance Date for the equipment, and shall continue for eighty-four (84) months from the Acceptance Date. This Agreement may be terminated by either party giving the other written notice three (3) months prior to the termination date. Lessee's notice of termination shall be mailed to the Lessor's address listed on the Offer Form submitted as part of the Offeror's proposal. Any notice of termination given by either party under this paragraph may not be revoked, without the written consent of the other party. Lessor's notice of termination shall be mailed or delivered to Lessee's Procurement Officer at:

Information and Communication Services Division
Department of Accounting and General Services
1151 Punchbowl Street, Room B10
Honolulu, HI 96813

3. Rental and Payment

The monthly payment due from the Lessee to Lessor for the Equipment is set forth in the Approved Equipment Schedule. Rental shall begin on the Acceptance Date and shall be due and payable by the Lessee on the receipt of an invoice issued by the Lessor. If the Acceptance Date is not the first day of the calendar month, the first month's rent shall be prorated from the Acceptance Date.

4. Delivery and Installation

Lessor shall arrange for delivery of the Equipment to the installation site designated by the Lessee as specified and required by the RFP specifications. Lessee shall undertake, at its own expense, to prepare and make available the installation site for each unit of Equipment unless such preparation is a requirement of the Lessor to perform which includes, but is not limited to electrical work needed to "plug-in" Equipment to an electrical power source.

After delivery, Lessor shall install or cause to be installed, the Equipment, subject to the requirements of this RFP. Upon installation, Lessor shall notify Lessee that the Equipment is installed and ready for use, the installation shall be deemed to be completed when after the Equipment and Software successfully complete Acceptance testing and the Lessee accepts the equipment as specified by the requirements of the RFP.

5. Shipment

The rental payments shown on the Approved equipment Schedule attached hereto and all shipments made hereunder are F.O.B. at the plant of each

Equipment manufacturer identified in the Approved Equipment Schedule. All cost associated with shipment including but not limited to drayage and cost associated with shipment specified and required by this RFP shall be paid by the Lessor.

6. Title and Ownership

All Equipment leased hereunder is and shall remain the property of Lessor or its assigns and Lessee's interest therein is only that of Lessee. Lessee agrees that it will not pledge, loan, mortgage, or attempt in any manner to dispose of the Equipment or to suffer any liens, encumbrances, or legal process to be incurred or levied on the Equipment. Lessor may affix tags, decals or plates to the Equipment indicating Lessor's ownership and Lessee shall not permit their removal or concealment.

Lessor or its agents shall have free access to the Equipment upon request to leave during reasonable times during Lessee's business hours for the purpose of inspection and for any other purpose of inspection and for any other purpose contemplated in the contract associated with this RFP. Lessor shall comply with all of Lessor's security requirements.

7. Location of Equipment

Lessee shall at times keep the Equipment in its sole possession and control. The Equipment shall not be moved from the State's Computer Center without the prior written consent of Lessor which shall not be unreasonably withheld.

8. Maintenance and Repairs

The Lessor shall include for the term of this lease, maintenance necessary to keep the equipment in good working order and condition and make all necessary adjustments, repairs, and replacements. Upon termination of this lease, Lessor shall, at its own expense, take possession of the Equipment and remove it from Lessee's premises.

The Lessee shall keep the Equipment in a facility with the stated capacity specified in the RFP associated with this lease.

9. Default and Repossession

In the event that Lessee shall default in making any payment due or in performing any other obligation required to be performed by Lessee and if such default remains uncured for a period of thirty (30) days after written notice from Lessor, then Lessor shall have among its rights, the right to terminate this Contract and repossess the Equipment. In the event of termination, Lessor shall have the right to enter Lessee's premise upon written notice to Lessee during the State's normal business hours for the purpose of such repossession and Lessee hereby consents to such entry.

10. Risk of Loss

After the Equipment has been accepted by Lessee, Lessee shall take good care of the Equipment and shall be responsible for any loss or damage to the Equipment. During the term of this lease, Lessee shall, at its own expense, keep in effect an all risk policy covering the Equipment for not less than its original cost to Lessor, unless the State's Risk Management Agency states this can be done.

Lessor shall secure insurance for the Equipment during shipment to Lessee's premises and until the Equipment has been accepted by Lessee.

11. Warranty

Lessor warrants that the Equipment delivered hereunder shall be free from defects in material or workmanship for a period of ninety days (90) after the date of Acceptance. Lessor shall repair, or shall cause to be repaired, all Equipment subject to warranty.

Lessor's sole responsibility under the warranty shall be, at Lessor's option, to either repair or replace any component which fails during the warranty period due to defect in workmanship and/or material.

The above warranty is contingent upon the proper use of the Equipment and does not cover equipment which has been modified without Lessor's approval, or which has been subjected to unusual physical or electrical stress, or on which the original identification marks have been removed.

THE ABOVE IS A LIMITED WARRANTY AND IT IS THE ONLY WARRANTY MADE BY THE LESSOR. LESSOR MAKES AND LESSEE RECEIVES NO WARRANTY EXPRESS OR IMPLIED AND THERE IS EXPRESSLY EXCLUDED ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LESSOR SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATION UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE STATED EXPRESS WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF LESSOR FOR DAMAGES ARISING OUT OF OR IN CONJUNCTION WITH THE DELIVERY, USE OR PERFORMANCE OF THE EQUIPMENT.

12. Quiet Possession

Lessor agrees that Lessee shall quietly possess the Equipment subject to and in accordance with the provisions hereof so long as Lessee is not in default hereunder.

13. Infringement Indemnity

The Lessor agrees to the provisions of the General Conditions of the State of Hawaii, or GC as identified in the RFP Section 1.1, Terms and Acronyms Used Herein, including but not limited to GC Paragraph 7, Indemnification and Defense; 8, Cost of Litigation, 26, Ownership Rights and Copyright; and 33, Patented Articles.

14. Taxes

Lessee shall, in addition to the other amounts payable under this Agreement, pay all sales and other taxes, federal, state, or otherwise, however designated which are levied or imposed by reason of the transaction contemplated by this Agreement. Without limiting the foregoing, Lessee shall promptly pay to Lessor an amount equal to any such items actually paid, or required to be collected or paid by Lessor.

15. Termination

Lessor shall have the right to terminate this Agreement:

- (a) Upon ninety (90) days' written notice in the event that Lessee, its officers or employees violates any provision of this Agreement including, but not limited to, payment;
- (b) In the event Lessee terminates or suspends its business;
- (c) In the event Lessee becomes insolvent, makes an assignment for the benefit of creditors, suffers or permits the appointment of a receiver, trustee in bankruptcy, or similar official for any substantial part of its business or assets;
- (d) In the event Lessee shall avail itself of or become subject to any bankruptcy proceeding under the Federal Bankruptcy Code or any statute or any state relating to insolvency or the protection of the rights of creditors.

16. General

16.1 Modification

This Lease may not be modified or altered except by a written instrument duly executed by both parties.

16.2 Governing Law

This Lease and performance hereunder shall be governed by and construed in accordance with the laws of the State of Hawai'i. Any and all proceedings relating to the subject matter hereof shall be maintained in the State courts of competent jurisdiction in Honolulu, Hawai'i.

16.3 Enforceability

If any provision of this Lease shall be held to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

16.4 Assignment

The Lessee may not assign without the prior written consent of the Lessor, which shall not be unreasonably withheld, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part. The transfer of the equipment to any other department or agency of the State, to be used as described in the RFP, will not constitute an assignment requiring Lessor's consent.

16.5 No Waiver

The waiver or failure of either party to exercise in any respect any right provided herein shall not be deemed a waiver of any further right hereunder.

16.6 General Conditions

The Lessor agrees that GC as included by the RFP is made part of the lease.

APPENDIX M – SPO General Provisions

**GENERAL PROVISIONS
FOR
GOODS AND SERVICES**

**HAWAII REVISED STATUTES (HRS)
CHAPTER 103D**

Attached are the General Provisions, dated April 2013 which are made a part of all offers in response to the solicitation for goods and services. These provisions are in addition to the special provisions provided in the individual solicitations.

Offerors are cautioned to read and understand all the terms and conditions contained in the General Provisions as these provisions will also be made part of the contract for goods and services.

**GENERAL PROVISIONS
FOR
GOODS AND SERVICES**

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1. DEFINITIONS OF TERMS

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

a. BID

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

b. BID PROPOSAL GUARANTY OR SECURITY

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

c. CONTRACT

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

d. CONTRACT BOND

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

e. CONTRACTOR

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

f. DAYS

Days mean calendar days unless otherwise specified.

g. GENERAL CONDITIONS

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

h. GENERAL PROVISIONS

General Provisions are standard terms and conditions.

i. HAR

Hawaii Administrative Rules

j. HEAD OF THE PURCHASING AGENCY

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

k. HRS

Hawaii Revised Statutes

l. IFB

Invitation for Bids

m. OFFER

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

n. OFFEROR

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

o. PROCUREMENT OFFICER

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

p. PROPOSAL

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

q. PURCHASING AGENCY

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

r. RFQ

Request for Quotes

s. RFP

Request for Proposals

t. SOLICITATION

Solicitation means an invitation for bids ("IFB"), used in the competitive sealed bidding process, a request for quotes ("RFQ") used in the small purchases process, or a request for proposals ("RFP"), used in the competitive sealed

proposal process for the purpose of obtaining quotes, bids or proposals to perform a STATE contract.

u. SPECIAL PROVISIONS

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

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

v. SPECIFICATIONS

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

w. STATE

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

x. SURETY

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

y. WORK

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

2. COMPETENCY OF OFFEROR

Prospective offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any offeror who refuses to answer such inquiries will be considered non-responsive.

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

3. OFFER INCORPORATES SOLICITATION

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

4. PREPARATION OF OFFER

An offeror may submit only one offer in response to a solicitation. If an offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an offeror may submit only one offer for each line item (if any) of a solicitation. If an offeror submits more than one offer per line item, then all offers for that line item shall be rejected.

Competing subsidiary or jointly-owned companies may submit bids or proposals and these may be accepted for evaluation and award if such companies submit with their bids or proposals a certificate of non-collusion, sworn to before a notary, which acknowledges that the offer is without collusion.

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

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

5. LATE OFFERS, LATE WITHDRAWALS, AND LATE MODIFICATIONS

Any notice of withdrawal, notice of modification of an offer with the actual modification, or any offer received at the place designated for receipt and opening of an offer after the time and date set for receipt and opening of offers is late. A late offer, late modification, or late withdrawal shall not be considered late if received before contract award and would have been timely but for the action or inaction of personnel within the procurement activity. A late offer or late modification that will not be considered for award shall be returned to the bidder unopened as soon as practicable and accompanied by a letter from the procurement activity stating the reason for its return. A late withdrawal request shall be responded to with a statement of the reason for non-acceptance of the withdrawal.

6. DISQUALIFICATION OF OFFERORS

An offeror shall be disqualified and his offer automatically rejected for any one of the following reasons: proof of collusion, in which case, all offers involved in the collusive action will be rejected and any participant to such collusion will be barred from future solicitations until reinstated; or offeror's delivery of the offer after the deadline specified in the public notice calling for offers, or as amended, except as allowed in Section 3-122-29 (1), HAR.

An offeror may be disqualified and his offer rejected for any one or more of the following

reasons: offeror's lack of responsibility and cooperation as shown by past work or services; offeror's being in arrears on existing contracts with the STATE or having defaulted on previous contracts; offeror's lack of proper equipment and/or sufficient experience to perform the work contemplated; offeror does not possess proper license to cover the type of work contemplated, if required; or offeror's failure to pay, or satisfactorily settle, all bills overdue for labor and material on former STATE contracts at the time of issuance of solicitation.

7. IRREGULAR OFFERS

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

8. STANDARDS OF CONDUCT

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

- a. A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, an employee, or a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$10,000 unless:
 - (1) The contract is awarded by competitive sealed bidding pursuant to section 103D-302;
 - (2) The contract is awarded by competitive sealed proposal pursuant to section 103D-303; or
 - (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.
- b. A state agency shall not enter into a contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned.

9. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

Unless otherwise specified in the solicitation, a legislative body has appropriated the funds for this contract.

Therefore, if awarded a contract in response to this solicitation, offeror agrees to comply with Section 11-205.5, HRS, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body.

10. ACCEPTANCE OF OFFER

- a. Acceptance of offer, if any, will be made within sixty calendar days after the opening of offers, and the prices quoted by the offeror shall remain firm for the sixty-day period. Unless otherwise provided, each individual item or group of items will be awarded to the responsive and responsible offeror whose offer complies with all the solicitation requirements. In determining the responsive and responsible offeror, offers will be evaluated not only on the amounts thereof, but on all factors relating to the satisfactory performance of the contract. Products or servicing capabilities must be of a quality and nature that will meet the needs and purposes of the intended use and must conform to all requirements prescribed in the specifications. The offeror must have the ability to perform as called for in the contract terms. The STATE shall be the sole judge of product or vendor capability. The successful vendor will be notified by letter that the offer has been accepted and that the vendor is being awarded the contract.
- b. If the offer is rejected or if the vendor to whom the contract was awarded fails to enter into the contract and furnish satisfactory security, if applicable, the purchasing agency may, at their discretion, award the contract to the next lowest or remaining responsible offeror or may publish another call for offers; provided in the case of only one remaining responsible offeror, the head of a purchasing agency may negotiate with such bidder to reduce the scope of work, if available funds are exceeded, and to award the contract at a price which reflects the reduction in the scope of work.
- c. The head of a purchasing agency further reserves the right to cancel the contract award at any time prior to execution of said contract by all parties, without any liability to the awardee and to any other offeror.

11. EXECUTION OF CONTRACT

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

- a. In cases where the contract award equals or exceeds the dollar level specified in Section 103D-305, HRS, the STATE shall forward a formal contract to the successful offeror for execution. The contract shall be signed by the successful vendor and returned, together with a satisfactory contract bond if required, and other supporting documents, within ten days after receipt by the vendor or within such further time as the procurement officer may allow.
- b. No such contract shall be considered binding upon the STATE until the contract has been fully and properly executed by all the parties thereto and the State Comptroller has, in accordance with Section 103D-309, HRS, endorsed thereon a certificate that there is an appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; with the exception of a multi-term contract, whereby, the State Comptroller shall only be required to certify that there is an appropriation or balance of an appropriation over and above all outstanding contracts, that is sufficient to cover the amount required to be paid under the contract during the fiscal year or remaining portion of the fiscal year of each term of the multi-year contract.

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

12. CONTRACT BOND

- a. The requirement for contract performance and payment bonds, if any, shall be stated in the Special Provisions of the solicitation.
- b. When required by the Special Provisions, a performance bond and a payment bond shall be delivered by the CONTRACTOR to the STATE at the same time the executed contract is delivered. Each amount of the performance and payment bonds shall not exceed fifty per cent of the amount of the contract price; provided, for contracts where contract price cannot be determined at the time of award, the amounts of the bonds shall be as stated in the solicitation. '
- c. The acceptable performance and payment bonds are the same as the acceptable bid or proposal security deposit specified in Section 7. If a surety bond is submitted for either the performance or payment bond, in addition to the form prescribed, a power of attorney for the surety's attorney-in-fact executing the bond shall be provided.

13. FAILURE TO EXECUTE CONTRACT

If the offeror to whom a contract is awarded shall fail or neglect to enter into the contract, and to furnish satisfactory security as required by Section 30 within ten days after such award or within such further time as the procurement officer may allow, the purchasing agency shall pay the amount of offeror's proposal guaranty, as required under Section 7, into the State Treasury as a realization of the STATE. The procurement officer may thereupon award the contract to the next lowest responsible offeror or may call for new offers, whichever method he may deem is in the best interest of the STATE.

14. RETURN OF OFFER GUARANTIES

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

15. PAYMENT

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

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

16. DELIVERY EXTENSIONS

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

17. PERSONAL LIABILITY OF PUBLIC OFFICIALS

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