

FILE

**STATE OF HAWAII
OFFICE OF ELECTIONS**

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

SCOTT T. NAGO
INTERIM CHIEF ELECTION
OFFICER

February 8, 2010

The Honorable Colleen Hanabusa, President
and the Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

For your information and consideration, I am transmitting two (2) copies of the Report to the Legislature in accordance with Sections 52 through 56 of Act 162, Session Laws of Hawaii 2009.

In accordance with HRS § 93-16, I am also informing you that the report may be viewed electronically at www.hawaii.gov/elections.

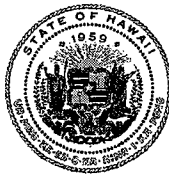
Sincerely,

A handwritten signature in black ink, appearing to read "Scott T. Nago", with a stylized flourish at the end.

Scott T. Nago
Interim Chief Election Officer

STN:AHS:cr
OE-018-10

Enclosure



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SCOTT T. NAGO
INTERIM CHIEF ELECTION
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February 8, 2010

The Honorable Calvin K.Y. Say, Speaker
and the Members of the House of Representatives
Twenty-Fifth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear Speaker Say and Members of the House of Representatives:

For your information and consideration, I am transmitting two (2) copies of the Report to the Legislature in accordance with Sections 52 through 56 of Act 162, Session Laws of Hawaii 2009.

In accordance with HRS § 93-16, I am also informing you that the report may be viewed electronically at www.hawaii.gov/elections.

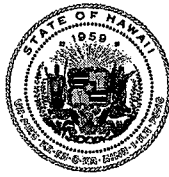
Sincerely,

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Scott T. Nago
Interim Chief Election Officer

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Enclosure



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SCOTT T. NAGO
INTERIM CHIEF ELECTION
OFFICER

February 8, 2010

Ken H. Takayama, Director
Legislative Reference Bureau
State Capitol, Room 446
Honolulu, Hawaii 96813

Dear Director Takayama:

For your information and consideration, I am transmitting two (2) copies of the Report to the Legislature in accordance with Sections 52 through 56 of Act 162, Session Laws of Hawaii 2009. Also enclosed are the letters of transmittal to the Senate President and the Speaker of the House.

Finally, in accordance with HRS § 93-16, I am also informing you that the report may be viewed electronically at www.hawaii.gov/elections.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott T. Nago", with a long horizontal stroke extending to the right.

Scott T. Nago
Interim Chief Election Officer

STN:AHS:cr
OE-020-10

Enclosures

Report to the Twenty-Fifth State Legislature
2010 Regular Session

Relating to Office of Election Budget Provisions

As Required by
Act 162, Session Laws of Hawaii 2009

Act 162, Session Laws of Hawaii (SLH) 2009, directs the Office of Elections to address provisions in Sections 52 through 56, through the issuance of reports to the Legislature. In the interest of economy, all required reports are addressed in this single report.

Section 52 – Budget Expenditures

Pursuant to Hawaii Revised Statutes (HRS) § 11-1184, the law provides that certain expenses and responsibilities are shared by the state and counties in regards to combined state and county elections. Among these are the expenses related to the voting and vote counting system.

Due to significant increases in technology costs associated with compliance with the Help America Vote Act of 2002 (HAVA), the State of Hawaii for several years has utilized HAVA grant funds to supplement the funds traditionally appropriated to it by the Legislature, which has remained relatively the same since 1998. These grant funds have been largely diminished and the majority of the remaining funds have been earmarked for other HAVA requirements such as a statewide voter registration system.

As a result of this, the Legislature authorized \$2,800,000 for the State's portion of the voting system contract for the 2010 election. The budget provision provides that the Office of Elections will utilize at \$500,000 in HAVA funds toward the cost of the voting system. Additionally, the budget provision required a quarterly report beginning with the first quarter of FY 2009-2010 that would include but not be limited to the following:

- (1) A detailed list of expenditures that were procured with the \$2,800,000 in general funds;
- (2) A detailed list of encumbrances or budgeted expenditures for the remainder of FY 2009-2010;
- (3) The amount expected to lapse, if any;

The Office of Elections, due to litigation in the County of Maui, was ordered to halt its procurement of a voting system, until such time as administrative rules regarding the matters raised in the litigation were promulgated. The rules were eventually promulgated on January 9, 2010. As such, the Office of Elections has

renewed its procurement. Until a contract is awarded the office has no expenditures. As for a detailed list of encumbrances or budgeted expenditures for the remainder of FY 2009-2010, there are no encumbrances. A listing of the budgeted expenditures up to this point is provided below:

Expense	Amount
Personal Services	439,443.21
Janitorial Services	5,519.35
Supplies – Janitorial	336.01
Gasoline	2,049.91
Supplies - Data Processing	6,275.66
Meals - OCCC Work Group	34.16
Supplies – Other	523.26
Dues and Subscriptions	1,045.00
Freight/Delivery	356.27
Postage	2,330.69
Telephone	4,971.99
Printing	295.67
Mileage/Parking Reimbursements	490.85
Travel	3,324.55
Subsistence Allowance/Taxi	59.70
Electricity	17,652.21
Water/Sewer	972.91
Refuse Disposal	1,605.57
Postage Machine Rental	874.67
Copier Machine Rentals	9,726.32
Air Conditioning Maintenance	1,256.55
Alarm System Maintenance	737.36
Pest Control Service	661.50
Grounds Maintenance	1,437.44
Motor Vehicle Maintenance/Insurance	728.60
Special Duty Police	381.00
County Election Reimbursements	37,978.80
Voter Registration System Access	189.96
Online Legal Services Access	2,304.65
Miscellaneous Expenses	2,765.39
Interest	504.77
Total	546,833.98

Section 53 – Civil Service Conversion

In regards to the civil service conversion provision there is a lot of history behind it, which the Office of Elections wishes to address as civil service conversion is a major goal of the Office of Elections in order to ensure continuity of service in the specialized field of elections.

In 2000, the Legislature passed Act 253 which ordered the Department of Human Resources Development (DHRD) to review all of the exempt positions and to make recommendations as to which ones should remain exempt and which should be converted. For those that are recommended to be converted, DHRD is supposed to submit legislation to convert the positions. At which time, DHRD is supposed to utilize a process to convert the position. This process involves DHRD working with the unions through the collective bargaining process to determine the nuts and bolts of recruitment, appointment, and compensation of the individuals who are to get those positions. Essentially those negotiations involve a balancing of the interests of the current incumbent of the position with the overall goal of civil service to give all applicants an equal opportunity for the position. DHRD was required to submit reports on annual basis regarding the status of its review of the positions and the progress in converting the positions. Act 253, SLH 200.

In 2004, DHRD submitted its report to the legislature in which it reviewed 2,174 positions exempted from the civil service. It applied a variety of criteria and recommended that 250 exempt positions be abolished and replaced with civil service positions. Of these positions, 15 were recommended to be converted from DAGS. These positions were with the Office of Elections. The report noted that it would then be up to the legislature to propose appropriate legislation for the conversion of the 250 positions.

In 2007, the Legislature in the budget bill acted on the recommendation in the 2004 DHRD Report to the Legislature to convert positions within the Office of Elections. The bill was signed into law on June 27, 2007 by Governor Linda Lingle. The bill provided, in relevant part, as follows:

SECTION 115. Provided that for the fourteen positions being converted from temporary to permanent in office of elections (AGS 879), no officer or employee of the State shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee shall be transferred or appointed to a civil service position without the necessity of examination; provided further that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws; provided further that an officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service

position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; and provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

Act 213, SLH 2007.

The 2008 supplemental budget bill reflected a general request for an additional \$113,791 in operating funds. On January 11, 2008, Interim Chief Election Officer Rex Quidilla submitted testimony to the Senate Ways and Means Committee stating in part "[a]lthough the Department of Human Resources and Development will ultimately decide the salary rating and compensation for each civil service position, we estimate a shortfall of \$113,791. If additional funds are not provided, the civil service positions cannot be filled." Ultimately, the legislature passed a provision to convert the Office of Elections' permanent positions as part of the 2008 budget bill. HB 2500 and it was signed into law as Act 158 on June 10, 2008. Act 158, SLH 2008.

Chief Election Officer Kevin B. Cronin was subsequently appointed to head the Office of Elections. He interpreted the legislative history as indicating a desire to increase the salaries of all employees whose position were intended to be converted to civil service to the comparable pay of their civil service counterparts. As the FY 2008-09 funds were general funds, with no specific restrictions on its use, he exercised his discretion to increase the salaries of those employees whose positions were in the process of being converted to civil service.

In terms of the subsequent fiscal years, however, the Twenty-Fifth Legislature in Section 53 of the budget bill provided as follows:

SECTION 53. Provided that of the general fund appropriation for office of elections (AGS 879), the sum of \$113,791 or so much thereof may be necessary for fiscal year 2009-2010 and the sum of \$113,791 or so much thereof as may be necessary for fiscal year 2010-2011 shall be used for 14.5 civil service positions converted from exempt under Act 213, Session Laws of Hawai'i 2007; provided further that only the amount needed to fund the difference between the exempt position salaries and the actual salary requirements of the civil service positions shall be expended; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to the general fund; provided further that the department shall prepare a report detailing:

- (1) The positions converted to civil service;
- (2) The status of each of the 14.5 positions not yet converted to

civil service and reason for the delay of conversion; and

(3) The actual additional amount needed to convert each of the 14.5 exempt positions to civil service for the most recently completed fiscal year;

and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2010 and 2011 regular sessions.

Act 162, SLH 2009.

The budget provision, unlike the prior supplemental budget bill, essentially requires that the positions intended for civil service conversion be converted first, before the \$113,791 toward the salaries for those positions should be used.

The Office of Elections responds as follows to the items required in Section 53. Specifically, no positions have been converted as of this time. There are two issues related to the conversion.

The first issue is that the section head and election specialist positions within Office of Elections are difficult for the Department of Accounting and General Services (DAGS) Personnel section and DHRD to fit into existing civil service position classifications. This means that position descriptions from scratch need to be developed and we have been told this may take years. In the interim, however, it appears DHRD has a temporary category called general professional which the employees can be assigned to. The other positions such as warehouse workers or computer specialist more easily can be assigned to an existing civil service position classification without much difficulty.

The second issue, and the most critical, is that the Governor has determined that Act 213, § 115, SLH 2007, is defective. Executive Memorandum 07-01 (Governor's Budget Execution Policies for Fiscal Year 2008) (June 27, 2007). It appears that this matter cannot be resolved internally and DAGS-Personnel has expressed it cannot move forward on conversion of the positions with DHRD, as the Department of Budget and Finance is saying the authorizing language is defective. As a result of this, the Office of Elections, on September 3, 2009 submitted a request for an opinion from the Attorney General regarding Act 213, § 115, and recommendations to implement the intent of the legislation. However, we expect that the opinion may be consistent with the Governor's previous Executive Memorandum 07-01.

In terms of how much actual additional funding is needed to convert the positions, this will only be known upon DHRD assigning position classifications and corresponding compensation levels to each position.

Section 54 – Expenditure of Federal Funds

This section required the preparation of a report regarding the expenditures of federal funds and historical voter participation. The report was submitted to the Legislature on December 28, 2009 by former Chief Election Officer Kevin B. Cronin.

Section 55 – Status of Preparation for 2010 Elections

Quarterly report, October 1, 2009 through December 31, 2009, regarding the status of preparation for the 2010 elections.

(1) An updated list of vacant positions, noting current recruitment status.

Vacant positions includes the following: ballot operations section head, election support services section head, election support services election specialist, voter services election specialist, and election services system analyst. The Office of Elections received approval during this quarter from the administration to solicit personal services contracts with Help America Vote Act funds. The procurement process for these positions was initiated in the latter part of December. Positions are expected to be filled in the beginning of the next quarter.

(2) A detail of travel and overtime expenditures of the quarter, including justification or reason for expenditure.

There was no travel or overtime expenditures during this quarter subject to state funds.

(3) A detailed listing of milestones, accomplishments, and activities of the chief election officer and each section occurring during the quarter.

Chief Election Officer. The Chief Election Officer resigned his position effective the close of business on December 31, 2009.

Ballot Operations Section Head. This position is vacant. The counting center operations section head has filled in this position to provide any needed support. It primarily responded to potential candidate and political party questions and requests.

Computer Services Section Head. This section continued its maintenance of elections office administration software.

Counting Center Operations Section Head. This section prepared revisions to the upcoming RFP for a voting system. It also supported the ballot operations section.

Election Support Services Section Head. This section continued to receive, process, and report all financial transactions and activities of the Office of Elections to

the Department of Accounting and General Services to which the elections office is attached for accounting purposes.

Precinct Operations Section Head. This section continued to work out logistical matters related to precinct consolidation.

Voter Services Section Head. This section continued to develop voter education materials.

(4) *Updated planning timeline for the 2010 elections, including justification of any changes from the previously reported timeline.*

The previously submitted timeline for the 2010 elections remains unchanged. The new Interim Chief Election Officer will report any changes in the next quarterly report.

Section 56 – Closing of Polling Places

On July 15, 2009, the Office of Elections complied with Section 56 by submitting a report regarding the analysis associated with the closing of polling places, prior to its issuance of its RFP for a voting system on August 26, 2009. Since that time, the Office of Elections has updated the closure list, which is provided below:

County of Hawaii	
Polling Places Not to Open	Consolidate Into
01-02 Kohala Middle School	01-01 Kohala High & Elem Sch
01-03 Neptune Gardens	01-04 Honokaa High Sch
01-06 Ookala Post Office Bldg	01-07 Laupahoehoe Sch
01-09 Hakalau Jodo Mission	01-11 Kulaimano Community Ctr
01-10 Honomu Gym	01-11 Kulaimano Community Ctr
02-08 Chiefess Kapiolani School	02-03 Hilo High Sch
02-04 St. Joseph High Sch	02-05 Edith Kanakaole Stadium
02-07 UH-Hilo Campus Ctr	02-05 Edith Kanakaole Stadium
03-01 Waiakea Uka Gym	03-08 AJA Memorial Hall
04-07 Kalani Honua	04-05 Pahoa Community Ctr
04-08 Ainaloa Longhouse	04-06 Church on a Sure Foundation
05-10 Honaunau Elem School	05-12 Konawaena Elem Sch
06-01 Keauhou Fire Station	06-03 Kona Vistas Rec. Ctr
06-06 Kealakehe Elem School	06-05 Old Kona Airport Pavillion
06-07 Kailua View Est. Rec. Ctr	06-05 Old Kona Airport Pavillion
07-04 Spencer Park Pavillion	07-03 Waikoloa Elem Sch
07-05 Waimea Elem/Inter School	07-06 Waimea Civic Center
07-08 Puuanahulu Comm. Ctr	07-02 Kona Palisades Comm. Ctr

County of Maui	
Polling Places Not to Open	Consolidate Into
09-06 Kahului Hongwanji	09-05 Kahului Elem Sch
12-07 Ulupalakua Ranch Warehouse	12-05 Kula Community Center
13-04 Kaulanapueo Church	13-03 Haiku Community Center

County of Kauai	
Polling Places Not to Open	Consolidate Into

City and County of Honolulu	
Polling Places Not to Open	Consolidate Into
17-02 Koko Head District Park	17-01 Kaiser High Sch
17-04 Koko Head District Park	17-07 Kamiloiki Elem Sch
17-06 Kamiloiki Community Park	17-07 Kamiloiki Elem Sch
18-02 JAIMS	18-03 Holy Trinity
18-06 Aina Haina Community Park	18-05 Aina Haina Elem Sch
19-02 Star of the Sea Sch	19-01 Kalani High Sch
19-05 Kilauea Rec Ctr	19-03 Wilson Elem Sch
19-06 Liholiho Elem Sch	19-04 Waialae Elem Sch
20-02 Palolo Elem Sch	20-01 Anuenue Elem Sch
20-03 Maunalani Playground	20-04 Liliuokalani Elem Sch
21-01 Sacred Hearts Academy	21-06 Kaimuki High Sch
22-01 Hokulani Elem Sch	22-02 Kuhio Elem Sch
22-03 Kaimuki High Sch	22-01 Kuhio Elem Sch
22-04 Church of the Crossroads	Consolidate and Relocate to Lunalilo Elem Sch
22-05 Spalding Clubhouse	
22-06 Lunalilo Elem Sch	22-07 Washington Middle Sch
23-01 Waikiki Baptist Church	23-02 Waikiki Community Ctr
24-01 St Pius X Church	24-06 Manoa Elem Sch
24-05 Manoa Valley Dist Park	24-02 Noelani Elem Sch
25-01 Roosevelt High Sch	25-02 Christ United Methodist Church
25-07 Stevenson Middle Sch	25-06 Lincoln Elem Sch
26-01 Pauoa Elem Sch	26-06 Kawanānākoa Middle Sch
26-02 Papakolea Playground	26-03 Stevenson Middle Sch
26-04 Punchbowl Homes HHA	26-05 Royal Elem Sch

City and County of Honolulu	
Polling Places Not to Open	Consolidate Into
27-01 International Baptist Church	27-03 Maemae Elem Sch
27-02 Puunui Playground	27-03 Maemae Elem Sch
27-04 Hoopono Rehab Ctr	27-06 Lanakila Elem Sch
27-05 Kauluwela Elem Sch	27-06 Lanakila Elem Sch
27-08 Kapalama Elem Sch	27-06 Lanakila Elem Sch
28-06 Kalanihuia HHA	28-04 Kaiulani Elem Sch
29-02 Kalihi Waena Elem Sch	29-01 Fern Elem Sch
29-04 Puuhale Elem Sch	29-03 Farrington High Sch
29-05 Kalakaua Middle Sch	29-03 Farrington High Sch
30-01 Kalihi Elem Sch	30-03 Kapalama Elem Sch
30-04 Kalihi Uka Community Park	30-02 Kalihi Uka Elem Sch
31-03 Aliamanu Elem Sch	31-02 Moanalua High Sch
31-04 Salt Lake Dist Park	31-05 Salt Lake Elem Sch
32-02 Kalihi Kai Elem Sch	32-03 Aliamanu Middle Sch
32-06 Makalapa Community Ctr	32-04 Makalapa Elem Sch
32-08 Alvah A Scott Elem Sch	32-07 Aiea Elem Sch
33-01 Red Hill Elem Sch	33-02 Halawa District Park
33-03 Webling Elem Sch	33-02 Halawa District Park
33-06 Waimalu Elem Sch	33-05 Pearlridge Elem Sch
34-01 Waiau District Park	34-03 Waimalu Elem Sch
34-02 Waiau Elem Sch	34-03 Waimalu Elem Sch
34-05 Manana Community Park	34-04 Highlands Inter Sch
35-03 Waipahu Civic Ctr	35-02 Waipahu High Sch
35-05 Waipahu Field	35-06 August Ahrens Elem Sch
36-01 Momilani Elem Sch	36-02 Pearl City Highlands Elem Sch
36-03 Pearl City Elem Sch	36-05 Manana Elem Sch
36-07 Palisades Baptist Church	36-06 Palisades Elem Sch
38-05 Kipapa Elem Sch	38-04 Mililani High Sch
39-02 Wahiawa Elem Sch	39-03 Leilehua High Sch
39-06 Kaala Elem Sch	39-04 Wahiawa Middle Sch
40-06 Makakilo Community Pk	40-05 Mauka Lani Elem Sch
41-02 Waikele Community Park	41-01 Waikele Elem Sch
41-06 Hoaeae Community Pk	41-05 Kaleiopuu Elem Sch
42-03 Kahi Mohala	42-04 Ewa Elem Sch
43-01 Asing Park	43-02 Holomua Elem Sch
43-04 Kaimiloa Elem Sch	43-03 Campbell High Sch
44-02 Nanakuli Elem Sch	44-03 Nanaikapono Elem Sch
45-01 Waianae Elem Sch	45-02 Waianae Inter Sch
45-03 Kamaile Elem Sch	45-04 Makaha Elem Sch

City and County of Honolulu	
Polling Places Not to Open	Consolidate Into
46-01 Laie Elem Sch	46-06 Kahuku High/Inter Sch
46-04 Haleiwa Elem Sch	46-03 Waialua Elem Sch
47-03 KEY Project	47-02 Kahaluu Elem Sch
47-05 Windward Community College	47-06 Ahuimanu Elem Sch
48-05 Windward Community College	48-01 Heeia Elem Sch
49-02 Kaelepulu Elem Sch	49-01 Enchanted Lake Elem Sch
49-04 Kailua High Sch	49-03 Maunawili Elem Sch
49-06 Parker United Methodist	49-05 Puohala Elem Sch
50-01 St Anthony Church	50-05 Kainalu Elem Sch
50-02 Kailua Field	50-04 Kailua Elem Sch
50-07 Aikahi Elem Sch	50-06 Kalaheo High Sch
51-06 St. John Vianney	51-05 Keolu Elem Sch
51-07 Kailua Field	51-04 Kaelepulu Elem Sch

Section 56 also provides that in regards to the procurement for a voting system, any documents that are open to the public under Chapter 103D, HRS, will be provided to the Legislature within five working days of its disclosure. Previously, the RFP, Addendums A-C, and the Waiver of the Cost Price Analysis have been provided to the legislature. With the procurement having been on hold due to litigation on Maui regarding the need for administrative rules. No other public documents have been produced. However, with the recent promulgation of administration of rules, the Office of Election has been allowed to proceed with its procurements. As such, on February 1, 2010, Addendum D to the RFP was issued. The addendum answered various questions from vendors, made changes to specifications, and included a new timeline for completion of the RFP. Addendum D is attached to this report.

STATE OF HAWAII
OFFICE OF ELECTIONS
HONOLULU, HAWAII

February 1, 2010

ADDENDUM D

TO

REQUEST FOR PROPOSALS

NO. RFP-10-001-SW

FOR
SEALED OFFERS
FOR
A VOTING EQUIPMENT SYSTEM

I. RESPONSES TO QUESTIONS

The following are questions asked in response to the solicitation either by correspondence or at the pre-proposal conference held on September 11, 2009.

Question 1: Is color a requirement on paper ballots?

Answer 1: No.

Question 2: Can a proposal be all DRE?

Answer 2: No. All polling places must have at least one optical scan recorder and one DRE.

Question 3: Can a vendor offer a certified system for 2010 and propose a new system for 2012 and beyond, if the new system has not been certified?

Proposals must include a certified voting system chosen by the State that can be used for the whole term of the contract. While a vendor may have a system in development, which it hopes will be certified, the State cannot assume that the system will in fact be certified, and as such it cannot be scored as part of the proposal.

Question 4: Do ballots require serial numbers?

Answer 4: Yes.

Question 5: How are tax obligations of vendors determined by the State of Hawaii?

Answer 5: All questions concerning taxes should be directed to the Department of Taxation or the vendor's tax professional for information or advice.

Question 6: Can vendors demonstrate next generation equipment?

Answer 6: Yes, but vendors are only allowed so much time and the scores will be based on the actual certified equipment that complies with the RFP.

Question 7: Why 1,900,000 ballots?

Answer 7: That is how many the state has historically used.

Question 8: Is the liquidated damage of \$500 per ballot or per ballot type?

Answer 8: Per each actual ballot subject to the caps established in the RFP.

Question 9: What if the Office of Elections approved the wording on the ballot?

Answer 9: If a wording error, such as spelling, on the ballot was proofed by the Office of Elections and approved of, then there will be no assessment of liquidated damages for the wording error.

Question 10: If the federal voting system standards of VVSG changes prior to an election will the contractor be permitted time to comply with the new requirements or must the equipment conform to the new rules for the immediate election?

Answer 10: To clarify, vendors are only required to comply with the 2002 federal voting system standards, or any subsequent iteration of the federal voting system standards, referred to as the Voluntary Voting System Guidelines. As such, any reference to meeting or exceeding the voluntary voting system guidelines does not refer to the most current VVSG. Instead it means that the vendor must meet or exceed any of the following (1) 2002 federal voting system standards, (2) 2005 voluntary voting system guidelines, or (3) any subsequent iteration of the federal voting system standards. As such, a vendor would be compliant in 2012 (i.e. the second election cycle of the contract) if the vendor were utilizing 2002 federal voting system standards, despite the existence of 2005 VVSG, or other subsequently created iterations.

Question 11: Will the State issue a contract modification to pay for equipment changes and certification to conform to the new federal voting system standards or VVSG?

Answer 11: Given the answer above, the State would not issue a contract modification to pay for an equipment changes and certification to conform to new voting system standards or VVSG, as the upgrading is not required under the contract. Only if the State wanted such an upgrade might it consider negotiating a contract modification for that purpose.

Question 12: Would a non-DRE, HAVA certified voting device meet the RFP HAVA requirements?

Answer 12: No. The RFP is hereby clarified and amended to reflect that only a HAVA certified DRE will meet the requirement of a voting system equipped for individuals with disabilities at each polling place.

Question 13: Must offeror's proposed equipment be compatible for use with any equipment to be used by the Office of Elections in the 2010 elections? If so, specify the equipment.

Answer 13: We do not understand this question.

Question 14: What is the impact of the Maui Circuit Court injunction regarding the use of voting systems that involve the transmission of voting results by telephone, until administrative rules are promulgated?

Answer 14: Addendums B & C were issued stopping the procurement in response to the Court's order. The prior administrative rules were subsequently repealed and concurrently new rules were promulgated that complied with the Court's order. These new rules became effective on January 9, 2010. As such, the Court's order has been complied with and the present procurement is resuming. The RFP is clarified and amended to reflect that the vendor's goods and services are required to comply with Chapters 3-171 through 3-176, Hawaii Administrative Rules, in addition to any other state or federal law. The administrative rules are available on the Office of Elections' website at www.hawaii.gov/elections.

II. CHANGES TO THE RFP

The answers to the questions above are incorporated into the RFP and hereby amend the RFP. The following additional changes are made to the RFP.

1. Questions relating to this solicitation should be sent in writing to the Office of Elections by facsimile at (808) 453-6006, email at elections@hawaii.gov, or by mail to the following address: Office of Elections, Attention: RFP-10-001-SW, 802 Lehua Avenue, Pearl City, Hawaii 96782. All correspondence should include the following in the subject line: "RFP-10-001-SW."

2. The RFP is clarified to reflect that Office of Elections seeks to lease a voting system as opposed to purchasing a voting system.

3. The RFP is amended to reflect that the cap per election cycle is no longer \$6,100,000 per election cycle, but instead the following: \$6,100,000 for 2010, \$5,600,000 for 2012, and \$5,600,000 for 2014. As such Sections 1.060, 3.050, and 4.030 are amended to reflect the new caps for each election cycle.

4. Section 1.060 Significant Dates is replaced with the following text:

1.060 SIGNIFICANT DATES

The significant dates set out below present the State's current best estimate of the anticipated schedule of events. If a component of this schedule, such as the opening date, is delayed, the rest of the schedule will likely be amended with appropriate notice.

The dates below as estimates are not binding on the State. Nevertheless, by submitting its proposal, each Offeror: (a) agrees to complete its performance in compliance with the dates set forth below unless the State expressly agrees to modify any or all dates; and (b) represents and warrants to the State that such Offeror has the ability to comply with the requirements of this solicitation.

<u>Event</u>	<u>Date</u>
Advertisement	8/26/09
Deadline for Questions for Pre-proposal Conference	9/4/09
Pre-proposal Conference	9/11/09
Deadline for Written Questions	2/12/10
Addendum for Responses to Inquiries Received	2/18/10
Proposals Due and Opened	2/26/10 at 12:00 p.m.
Proposal Evaluation	3/1/10 – 3/3/10
Demonstration and/or Discussions	3/9/10 – 3/11/10
Best and Final Offers due, if any	3/17/10
Award of Contract	3/23/10
Issue Notice to Proceed	3/23/10

5. Section 2.010 Election Environment is amended replacing paragraph D Precincts with the following:

D. Precincts

In 2008, there were 339 precincts statewide, distributed by county as follows:

County of Hawaii	67
City and County of Honolulu.....	212
County of Maui	43
County of Kauai.....	17

See Appendix I for Year 2008 Polling Place list.

Note that District/Precinct 13-12 Kalaupapa Settlement did not have a polling place as all voting was done by absentee mail. HRS § 15-4(b). As such, there were 339 precincts but only 338 polling places in 2008.

In 2009, the Office of Elections reviewed the possibility of consolidating precincts and polling places. A total of 96 polling places/precincts is currently planned to be consolidated into other polling places/precincts. As such, there will be 243 precincts and 242 polling places.

6. Section 4.030 Format and Content is amended by replacing Part 3. Pricing with the following text:

Part 3. Pricing. (This section shall be used in the evaluation of *Section Five* of this RFP.)

Pricing for the New System's for three (3) election cycles (2010, 2012, and 2014). Offeror shall complete Offer Form page OF-2 for this purpose. Refer to Section Seven, Attachment 2, of this RFP, "Appendices and Attachments," for the form.

The Offeror's price, inclusive of any taxes, for the New System shall not exceed the following amounts, for each election cycle:

2010	\$6,100,000
2012	\$5,600,000
2014	\$5,600,000

The Offeror is reminded that any contract is ultimately subject to the availability of funds, and as such if sufficient funds are not available to fully fund the contract beyond the first election cycle, the contract may be cancelled. This provision, however, will not affect either the State's rights or the Contractor's rights under any termination clause of the contract.

The Offeror shall provide a listing of the cost per unit, inclusive of taxes, for each hardware component, software component, ballot, and ancillary good or service associated with the New System. The Offeror is put on notice that this listing may be used as a basis for determining an increase in contract price if additional items are needed, or a reduction in the contract price if a

decrease in said items is determined by the Office of Elections in a particular election year.

Offerors are put on notice and informed the State is considering operational efficiencies in terms of the amount of the ballots it requires. As such, the actual contractual price for each election cycle may be less than the proposal price for the New System, if less ballots are required.

Offerors are put on notice and informed the State is always considering other operational efficiencies. As such, the actual contractual price for each election cycle may be less than the proposal price for the New System, if less hardware components, software components, ballots, or ancillary goods or services are required.

Finally, to the extent, the Offeror's proposal includes commercial, off-the-shelf (COTS) software, hardware, computer products, goods, or services that are ready-made and available for sale, lease, or license to the general public or government, the Office of Elections reserves the right to obtain said goods or services from another provider as opposed to the Offeror. To the extent this occurs, the contract price will be reduced by the unit cost listed in the Offeror's proposal for the similar goods and services. The Offeror agrees to utilize said COTS goods and services provided by the Office of Elections.

As this RFP seeks a firm fixed price proposal, subject only to price increases or decreases stated in the RFP, such as for the increase or decrease in hardware components, software components, ancillary services, or ballot printing requirements, the Offeror's price for the new system should not include provisions regarding tying the price to the consumer price index or similar measures. Such references would be inconsistent with a firm fixed price proposal and create difficulties in comparing prices.

Expansion/Reduction

Because the New System shall be capable of additional growth or reduction to meet any increase or decrease in voter rolls or polling places anticipated by OOE during the term of the Contract, this growth or reduction shall be only possible through the acquisition of or reduction of hardware components, software components, ancillary services, or ballots; all election administration and voting data reporting software shall be capable of supporting this growth or reduction without modification.

Cost or Pricing Data

The present RFP does not require the provision of cost or pricing data, beyond any data specifically requested. To the extent, this RFP is interpreted as soliciting proposals for a contract that would normally require the provision

of such data or the issuing of a cost or price analysis, any such requirement has been waived pursuant to HAR § 3-122-124(c).

7. The Offer Form (OF-2) is replaced with the following text:

**OFFER FORM
OF-2**

The following offer is hereby submitted for the Services of a Voting System to collect, tabulate and report votes for all Primary, General, and Special Elections for the State of Hawaii, Department of Accounting and General Services, Office of Elections:

	<u>Total Amount</u>
Election Year 2010	\$ _____
Election Year 2012	_____
Election Year 2014	_____
*GRAND TOTAL:	\$ _____

Offeror: _____
COMPANY NAME

Authorized Signature _____