

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

LEGAL AD DATE: July 5, 2016

REQUEST FOR PROPOSALS  
No. RFP-16-009

SEALED PROPOSALS  
TO  
PROVIDE INSTALLATION, CUSTOMIZATION, AND OPTIMIZATION  
SERVICES FOR ADABAS, NATURAL, CICS TRANSACTION SERVER, AND zOS  
FOR THE STATE OF HAWAII

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

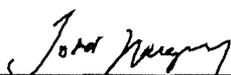
ON

August 31, 2016

IN THE OFFICE OF ENTERPRISE TECHNOLOGY SERVICES (ETS), KALANIMOKU  
BUILDING, 1151 PUNCHBOWL STREET, ROOM B-10, HONOLULU, HAWAII 96813.

TECHNICAL QUESTIONS RELATING TO THIS REQUEST FOR PROPOSALS SHALL  
BE DIRECTED TO MR. MICHAEL M. DOMAI, TELEPHONE (808) 586-1959,  
FACSIMILE (808) 586-2337, OR E-MAIL AT [MICHAEL.M.DOMAI@HAWAII.GOV](mailto:MICHAEL.M.DOMAI@HAWAII.GOV).

PROCUREMENT QUESTIONS RELATING TO THIS REQUEST FOR PROPOSALS  
SHALL BE DIRECTED TO MS. CHRISTIE L. FERREIRA, TELEPHONE (808) 586-  
1920, EXTENSION 307, FACSIMILE (808) 586-1922, OR E-MAIL:  
[CHRISTIE.L.FERREIRA@HAWAII.GOV](mailto:CHRISTIE.L.FERREIRA@HAWAII.GOV).

  
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Todd Nacapuy, Chief Information Officer

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## SECTION 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' Office of Enterprise Technology Services.

#### 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	July 5, 2016
RFP orientation session	N/A
Site visit	N/A
Deadline for Written Inquiries, 2:00 p.m. (HST)	July 20, 2016
State's Response to Offerors' Written Inquiries	July 27, 2016
Proposal Submittal Deadline, 2:00 p.m. (HST)	August 31, 2016
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	<a href="http://spo.hawaii.gov/references/har/">http://spo.hawaii.gov/references/har/</a>
Protest Forms/Procedures	<a href="http://spo.hawaii.gov/for-vendors/vendor-guide/protests-for-goods-services-construction/">http://spo.hawaii.gov/for-vendors/vendor-guide/protests-for-goods-services-construction/</a>

### 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
Tax Clearance Forms (Department of Taxation Website)	<a href="http://hawaii.gov/tax/">http://hawaii.gov/tax/</a> click "Forms"
Wages and Labor Law Compliance, Section 103-55, HRS	<a href="http://capitol.hawaii.gov/">http://capitol.hawaii.gov/</a> click "Bill Status and Documents" and "Browse the HRS Sections"
Department of Commerce and Consumer Affairs, Business Registration	<a href="http://hawaii.gov/dcca">http://hawaii.gov/dcca</a> click "Business Registration"
Campaign Spending Commission	<a href="http://hawaii.gov/campaign">http://hawaii.gov/campaign</a>
Hawai'i Compliance Express	<a href="http://vendors.ehawaii.gov/hce">http://vendors.ehawaii.gov/hce</a>

## 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 ETS 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  
Office of Enterprise Technology Services  
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:	Todd Nacapuy
Title:	Chief Information Officer
Business Address:	State of Hawai'i, Department of Accounting and General Services, Office of Enterprise Technology Services 1151 Punchbowl Street, B10, Honolulu, HI 96813

Procurement Officer:	
Name:	Christie L. Ferreira
Title:	Administrative Services Officer
Business Address:	State of Hawai'i, Department of Accounting and General Services, Office of Enterprise Technology Services 1151 Punchbowl Street, Room B-10, Honolulu, HI 96813

RFP Contact Person:	
Name:	Michael M. Domai
Title:	Acting Systems Services Branch Chief
Phone:	(808) 586-1959
Business Address:	State of Hawai'i, Department of Accounting and General Services, Office of Enterprise Technology Services 1151 Punchbowl Street, Room B-20, Honolulu, HI 96813
Fax:	(808) 586-1922
Email:	Michael.m.domai@hawaii.gov

Contract Administrator:	
Name:	Michael M. Domai
Title:	Acting Systems Services Branch Chief
Business Address:	State of Hawai'i, Department of Accounting and General Services, Office of Enterprise Technology Services 1151 Punchbowl Street, Room B-20, Honolulu, HI 96813
Phone:	(808) 586-1959
Fax:	(808) 586-1922
Email:	Michael.m.domai@hawaii.gov

Project Manager:	
Name:	Michael M. Domai
Title:	Acting Systems Services Branch Chief
Business Address:	State of Hawai'i, Department of Accounting and General Services, Office of Enterprise Technology Services 1151 Punchbowl Street, Room B-20, Honolulu, HI 96813
Phone:	(808) 586-1959
Fax:	(808) 586-1922
Email:	Michael.m.domai@hawaii.gov

#### 1.7 **ORIENTATION/SITE VISIT**

The State is agreeable to providing 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. Offerors are advised that it may take some time to obtain the certificates and are therefore encouraged to apply for them early so as to be ready to timely submit the certificates if awarded the contract. The State may rescind award if the required certificates are not timely submitted.

1. **Tax Clearance** Pursuant to HRS Section 103D-328, as a prerequisite to entering into contracts of \$25,000 or more, Offerors shall be required to submit a tax clearance certificate issued by the Hawai'i State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS).
2. **Wages and Labor Law Compliance.** By submitting a proposal, Offeror certifies that the Offeror is in compliance with HRS section 103-55, Wages, hours, and working conditions of employees of contractors performing services. (Refer to this Section's Paragraph 1.3, WEBSITE REFERENCES.)
3. **Compliance with all Applicable State Business and Employment Laws.** All Offerors shall comply with all laws governing entities doing business in the State. Prior to contracting, owners of all forms of business doing business in the State except sole proprietors, charitable organizations, unincorporated associations, and foreign insurance companies must be registered and in good standing with the Department of Commerce and Consumer Affairs (DCCA), Business Registration Division.
4. **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 itself 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 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 ETS, 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 nor 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 may use the Hawaii 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 Hawaii 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 accepted for both contracting purposes and final payment.

Vendors not utilizing HCE to demonstrate compliance shall provide the paper certificates as instructed below. All certificates must be valid on the date it is received. All applications for applicable clearances are the responsibility of the Offeror.

**HRS Chapter 237 tax clearance requirement for award.** Instructions are as follows:

Pursuant to §103D-328, HRS, lowest responsive Offeror shall be required to submit a tax clearance certificate issued by the Hawai'i State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received.

The tax clearance certificate shall be obtained on the State of Hawai'i, DOTAX *TAX CLEARANCE APPLICATION* Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawai'i or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information):  
[http://www.hawaii.gov/tax/a1\\_1alphalist.htm](http://www.hawaii.gov/tax/a1_1alphalist.htm)

DOTAX Forms by Fax/Mail:      (808) 587-7572      1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX:      (808) 587-1488  
IRS:      (808) 539-1573

The application for the clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to the ETS.

However, the tax clearance certificate shall be submitted to the address as required.

**HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.**

Instructions are as follows:

Pursuant to §103D-310(c), HRS, the lowest responsive Offeror shall be required to submit a certificate of compliance issued by the Hawai'i State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months

from the date of issue and must be valid on the date it is received. A photocopy of the certificate is acceptable.

The certificate of compliance shall be obtained on the State of Hawai'i, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR*, Form LIR#27 which is available at <http://hawaii.gov/labor/formsall.shtml> or at the neighbor island DLIR District Offices. The DLIR will return the completed form to the Offeror.

The application for the certificate is the responsibility of the Offeror, and must be submitted directly to the DLIR.

**Compliance with Section 103D-310(c), HRS, for an entity doing business in the State.** The lowest responsive Offeror shall be required to submit a *CERTIFICATE OF GOOD STANDING* (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received. A photocopy of the certificate is acceptable.

To obtain the Certificate, the Offeror must first be registered with the BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

On-line business registration and the Certificate are available at [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com). To register or to obtain the Certificate by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

**Timely Submission of all Certificates.** If a valid certificate is not submitted on a timely basis as determined by the Procurement Officer for award of a contract, an offer otherwise responsive and responsible may not receive the award.

1.9.6 **Campaign Contributions by State and County Contractors.** Offerors are hereby notified of the applicability of HRS section 11-355, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. For more information, FAQs are available at the Campaign Spending Commission webpage. (Refer to this Section's Paragraph 1.3, WEBSITE REFERENCES.)

1.9.7 **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.

1.9.8 **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 Timeline. 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.

1.9.9 **Disposition of Proposals.** All proposals and other materials submitted by Offerors become property of the State.

1.9.10 **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 Web Sites) is required for final payment.

1.9.11 **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 DISCUSSIONS WITH OFFERORS

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.

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

## 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 open 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 ETS 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 **only** the section(s) of the proposal that are amended or 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 COSTS 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. 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:	\$1
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**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.

**1.23 STATE'S COMMITMENT**

In return for the prices submitted, DAGS ETS will purchase all of its requirements for items listed herein from the successful Offeror. However, there is no guarantee that the State will have any requirements during the term or any extension of the requirements contract resulting from this RFP as specified in RFP Section 2.3, Purchase of Services.

**1.24 FEDERAL REQUIREMENTS**

The following federal requirements apply to this RFP. The documents are included in RFP Appendix I. All Offerors are required to accept and comply with the requirements stated.

- 1) IRS Contract Language For Technology Services

## **SECTION 2**

### **BACKGROUND INFORMATION, GENERAL SPECIFICATIONS, AND TECHNICAL REQUIREMENTS**

#### **2.1 BACKGROUND AND PURPOSE**

The ETS operates and supports two mainframe computers. One is an IBM zBC12 2828-H06 Model E02 and the other is an IBM zBC12 2828-H06 Model J01. Both mainframes support applications that utilize ADABAS Natural software from Software AG and zOS and CICS Transaction Server software from IBM.

The purpose of this RFP is to establish a requirements contract for hourly services on an as needed basis for ADABAS, NATURAL, CICS Transaction Server, zOS and related software to include but not be limited to the installation, customization, administration, problem resolution, support, and optimization of these software and the applications that utilize them.

From time to time, the Contractor may be asked to provide similar services for other third party software related to zOS, HIS, CICS Transaction Server, ADABAS, and Natural. This will include but is not limited to Replicator, Securitree, and N2O. In addition to that, emergency assistance with hardware related issues like but not limited to recovery from disk errors, network/firewall problems, defect resolution as well as integrating new technologies into the State's production environment may be requested.

The State is seeking a single Contractor to provide services for Adabas, Natural, CICS Transaction Server and zOS because the State's use of the software requires that they work in concert to deliver data to departmental users. Modifications or faults in one have in the past affected the other software.

#### **2.2 OFFEROR'S QUALIFICATIONS**

The Offeror shall have demonstrated the following that may include but is not limited to experience, knowledge, skills, and abilities with the installation, customization, administration, problem resolution, support, and optimization of zOS, CICS Transaction Server, ADABAS, NATURAL, HIS, Replicator, N2O and Securitree software in a similar hardware and operational environment.

The Offeror shall also have demonstrated experience and knowledge of the development of application programs and systems based on the software listed previously in this section.

The Offeror shall have the necessary knowledge, skills and abilities to provide similar services for the third party products for zOS, HIS, CICS Transaction Server, ADABAS, and Natural. This includes but is not limited to Replicator, Securitree, and N2O.

The Offeror shall provide the necessary qualified personnel capable of providing services to guarantee accurate and timely completion of work in compliance with this RFP.

## 2.3 **PURCHASE OF SERVICES**

The requirements contract resulting from this RFP will be for a period of three years from date of contract execution and may be extended for an additional two (2) one (1) year periods provided the extension is mutually agreed upon and that prices do not increase. Purchases will be on as needed basis by the State. Funds for the current fiscal year are limited and no guarantee of funding for the balance of the initial term or any extension is implied or assumed.

Services include but are not limited to emergency assistance with recovering from disk or other related hardware errors, assistance with software defect resolution, or assistance with integrating new technologies into the State's production environment.

The hourly rates proposed should be one rate without regard to the hour of the day assistance is required. Work may be scheduled outside of normal business hours or when emergency services are required.

The State reserves the right to purchase services in advance based on the WOE process defined below and at its option either have any remaining amounts or hours held on credit or have those amounts refunded. If amounts are held on credit the credit must be liquidated before the end of the term of the contract resulting from this RFP. The State shall be responsible for tracking of the credit and the contractor shall obtain approval in writing or email before any work based on the credited hours commences.

## 2.4 **RESPONSE GUIDELINES**

This RFP describes the minimum, knowledge, skills, abilities, requirements and specifications for hourly services for ADABAS, NATURAL, CICS Transaction Server, HIS, and zOS software support. This will include but is not limited to Replicator, Securitree, and N2O.

The following characteristics are offered as guidelines to assist Offeror.

### 2.4.1 **Accurate Accounting of Hours Billed**

The Contractor must ensure that the hours billed are correct and prior written or email authorization to perform work has been given by authorized State personnel.

### 2.4.2 **Regular Reports on Hours Billed**

The Contractor must provide written weekly reports on work performed and hours billed while working on a WOE. A final report must be submitted at the conclusion of every WOE.

### 2.4.3 **Central Authorization to Work**

Each purchase order authorizing work shall be managed through a single authorization point, ETS.

### 2.4.4 **On Premise Space**

The Contractor will be provided reasonable space on ETS's premises. This space will be at the discretion of the STATE's PM.

#### 2.4.5 **No Guarantee of Hours**

The State makes no guarantee of hours required within the time of performance for this RFP and resultant contract.

### 2.5 **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.

#### 2.5.1 **ADABAS**

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 ADABAS. This should also include related Software AG products like ADABAS Online Services (AOS) and Predict.

The ETS has operated IBM 2828 E02 and 2828 J01 mainframes and attached DS8870 storage systems since 2013. The Offeror must have five (5) years of experience with the installation, implementation, customization, maintenance including patching, problem resolution, and optimization of ADABAS with a disk storage system similar to a DS8870 disk storage system.

The Offeror must also be able to provide guidance and recommendations on configuring ADABAS, ADABAS Online Services (AOS), and Predict based on the requirements identified by the State.

#### 2.5.2 **Natural**

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 Natural on mainframes similar to IBM 2828 E02 and 2828 J01 mainframes. This should also include related Software Ag products like Natural Optimizer and Natural Security.

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

#### 2.5.3 **CICS Transaction 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 CICS Transaction Server.

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

#### 2.5.4 **zOS**

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 zOS.

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

zOS is the current mainframe operating system used on the mainframes installed at ETS.

#### **2.5.5 SMA**

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 SMA.

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

SMA is an installation tool published by Software Ag to install ADABAS, Natural and its other software products, and is currently used on the mainframes installed at ETS.

#### **2.5.6 SMP**

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 SMP.

SMP is an installation tool published by IBM to install its software products and is currently used on the mainframes installed at ETS.

#### **2.5.7 HIS**

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 HIS.

HIS is an set of software products published by IBM to provide access to data on the mainframe and is currently used on the mainframes installed at ETS. The primary software used from the HIS suite is HOD.

#### **2.5.8 Replicator**

The Offeror must have a minimum of three (3) years of hands-on experience with the installation, implementation, customization, maintenance (including patching), problem resolution, and optimization of Replicator. This should also include related software published by Software AG like EntireX.

Replicator is a tool that permits the replication of ADABAS databases. It is published by Software Ag and is currently used on the mainframes installed at ETS. EntireX is a tool that permits replication of ADABAS data to external open system databases.

#### **2.5.9 N2O**

The Offeror must have a minimum of three (3) years of hands-on experience with the installation, implementation, customization, maintenance (including patching), problem resolution, and optimization of N2O. This should also include related software like T-Relational and Securitree published by Treehouse Software Incorporated.

N2O is a tool published by Treehouse Software Incorporated provides software version control for Natural programs and is currently used on the mainframes installed at ETS.

#### **2.5.10 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 Logical Partitions capabilities of the current 2828-H06 and 2828-J01 mainframes.
- The Offeror must possess knowledge and skills necessary to configure, manage and resolve problems involving a Virtual Internet Protocol Address (VIPA) facility with shared Open System Adapter (OSA) cards.
- The Offeror must possess knowledge and skills necessary to configure, manage and resolve problems with integrating and networking the 2828-H06 and 2828-J01.
- The Offeror must possess knowledge and skills necessary to optimize the performance of ADABAS data models and NATURAL programs
- The Offeror must be proficient in and knowledgeable about new or existing third party software already installed or planned to be installed for the software listed in this RFP Section.

The version of the software referenced above shall include the current supported version of software and at least two prior releases. If a specific software version is identified, experience with that additional version is required.

#### **2.6 WORK ORDER PROCESS**

The requirements contract established by this RFP requires communication between the Contractor and the STATE's PM. The Work Order Estimate consists of two phases.

The first phase shall be the generation of a Work Order Estimate from the written, email or telephone request for the estimate by the STATE's PM or designated alternate. This phase also includes the generation by the Contractor in response to the State's request a completed WOE containing the information and items specified in RFP Section 2.6.2, Work Order Estimate. ETS will use the Work Order Estimate as input to the Purchase Order process.

The second phase shall be the actual work required to provide the requested services to ETS. The work will be conducted according to the specifications of this RFP Section including but not limited to acceptance testing in RFP Section 2.10, Acceptance Test and the submission of required documentation in RFP Section 2.12, Documentation.

Contractor shall be responsible to obtain an approved Work Order Estimate and Purchase Order from ETS prior to the commencement of work. The purpose of the Work Order Estimate is to ensure the proper coordination of all activities.

### **2.6.1 Work Order Estimate Process and Purchase Orders**

The State will request work associated with this RFP on an as needed basis. A Work Order Estimate will be created and a purchase order issued for specific work and/or for a preset number of hours.

### **2.6.2 Work Order Estimate Content**

Work Order Estimate should include but is not limited to the following items as part of the estimate as appropriate or as directed by ETS:

1. A statement of what needs to be done along with the staff assigned, specific tasks involved, and an estimate of the number of hours needed for completion.
2. Provide for the performance of an Acceptance Test to attest completion.
3. Provide for documenting on machine readable media all procedures and information relating to the work performed or requested by the State.
4. Provide for all software maintenance requirements, as appropriate, associated with the request as applicable.
5. Provide for assisting ETS with operator training as applicable.

## **2.7 OBJECTIVES**

The objectives include but are not limited to:

- a. Optimize ADABAS, NATURAL, CICS Transaction Server, HIS, and zOS including any associated third party products for all logical partitions operated on the ETS mainframes. This will include but is not limited to Replicator, Securitree, and N2O.
- b. Isolate performance problems with applications and tune ADABAS, NATURAL, CICS Transaction Server, HIS, and zOS parameters for optimum performance. This will include but is not limited to Replicator, Securitree, and N2O.
- c. Analyze existing programs and data models to correct inconsistencies and problems.
- d. Assist ETS with the implementation, including but not limited to installation, problem resolution, customization and configuration of new zOS, ADABAS, NATURAL, CICS Transaction Server, and HIS functions and features. This will include but is not limited to Replicator, Securitree, and N2O.
- e. Optionally, assist ETS with the implementation of its disaster recovery plan, when developed, with respect to the software identified in this RFP.

The listed objectives represent a potential list and the extent to which they will be addressed is limited by available funding. The State will identify work through the Work Order Estimate process identified in RFP Section 2.6, Work Order Process.

## **2.8 FEDERAL REQUIREMENTS**

The State operates several mainframe LPARs that contain federal information for which specific language must be included. As a result Contractors must comply with the applicable requirements specified in RFP Appendix I, Federal Requirements, for all applicable requirements.

## **2.9 PROJECT MANAGER**

Offeror shall designate an on-island (Oahu) Project Manager (PM) responsible for questions and Work Order Estimates. The PM shall have technical and operational decision-making authority.

The PM shall perform the following:

- a. Provide verbal and written progress reports in project coordination meetings.
- b. Submit written notification and explanation of any schedule changes, installation delays, and problem resolution foreseen by the Contractor to the STATE PM responsible for the Work Order Estimate.
- c. Prepare and deliver all requirements of the Work Order Estimates requested.
- d. Be responsible for ensuring all products, labor, and other related elements necessary to facilitate the Work Order Estimate work are identified and made available in order to meet any schedules.
- e. Be responsible for monitoring all Work Order Estimates, bringing all changes, modifications, or discrepancies to the attention of the STATE PM.
- f. Schedule all work with the STATE PM.

#### 2.10 **ACCEPTANCE TEST**

The Contractor shall notify the STATE PM of the completion of work and of all tests performed to verify the quality of its work. The STATE PM will coordinate with ETS to schedule their Acceptance Test for up to thirty (30) days during which no changes or modifications by the Contractor are made. If errors are identified a new thirty (30) day acceptance period may be initiated at the option of the State. This test shall begin within ten (10) days after Contractor's notification or as agreed upon by the STATE PM. The days are quoted in calendar days.

Upon successful completion of the Acceptance Test, the State shall notify the Contractor in writing and authorize payments. Any work required to correct defects discovered in the Acceptance Test will be at the cost of the Contractor.

#### 2.11 **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 Appendix E, Standard Contract General Conditions) as Federal Tax Information or Personal Identity Information may be involved.

#### 2.12 **DOCUMENTATION**

The Contractor will create written procedures, as required, documenting the tasks needed as part of the Work Order Estimate. Procedures shall be written to an audience of apprentice operators or system administrators. This documentation shall be provided on machine-readable media acceptable to the State. On request the Contractor shall provide a printed copy of the procedures.

## 2.13 **EMERGENCY ASSISTANCE**

Assistance provided on an as needed basis includes, but is not limited to, situations where operations have been interrupted and there is a critical need to restore services. The amount of assistance and the time of occurrence will vary as these situations are not predictable.

### 2.13.1 **Response Time**

Normal WOE calls for assistance do not require a specific response time window but requests for emergency assistance require that Contractor respond to a call for assistance within two (2) hours and if necessary be on site within 4 hours. The State shall be responsible or will decide the following:

- The determination of an emergency
- The requirement for assistance on site

The State and Contractor, depending on the specific technical circumstance or coordination requirement, may negotiate a time of response when on site assistance is required.

### 2.13.2 **Work Order Estimate**

The WOE should be completed jointly with the Contractor when the State initiates an emergency call for assistance and subsequently provided to the department's authorized personnel for processing of the required forms for payment.

The WOE should be approved by the Systems Service Branch Chief who will in turn obtain the approval of the Division Administrator.

## 2.14 **INITIAL ASSESSMENT**

The Offeror is required to perform an assessment of the hardware and software configuration of the State to become familiar with the State's environment. The costs associated with this assessment should be included as part of the One-time Costs on the Offeror's Proposal Cost Worksheet.

## SECTION 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.

General instructions for completing proposals:

- 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 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 ETS shall not provide any reimbursement for the cost of developing, presenting, submitting, or evaluating any proposal in response to this RFP.
- Sections (I, II, III, etc.) should be tabbed using indexed tabs according to the format specified in Appendix C, Sample Proposal Table of Contents.
- The following items should be retained or be consistent throughout the Offeror's proposal: the numerical outline for the proposal and the titles/subtitles
- The Offeror's name and RFP number should be placed on the top right hand corner of each page.
- Offerors are directed to not include the instructions for each section.
- Page numbering of the proposal should be consecutive, beginning with page 1 and continuing through for each section. Appendix C, contains the required Table of Contents.
- 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 Section 4, Proposal Evaluation, when completing the offer.

### 3.3 PROPOSAL FORMAT

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.

Proposals must be in the format and order specified in Appendix C. 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.

#### 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

Hawaii Compliance Express or the certificates required by RFP Section 1.9.4, Certificates, 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 and objectives of the RFP as identified in the technical specifications.

This section should also contain information 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, and a brief description of work previously performed.

The Offeror shall also include the name and contact information of the person the State should contact regarding the Offeror's proposal.

#### 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

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 ETS as described in RFP Section 2.1.
- 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, and unique or specialized skills, abilities, knowledge, and experience relating to the proposed services.

b. References

The Offeror shall provide a listing of experience with projects similar to the requirements of this RFP. These projects shall have ended within the past five 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
- 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

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

#### 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 no staff will be assigned that does not meet the minimum requirements of RFP Section 2.5, Knowledge and Skill Requirements. 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. This should at minimum match the

information provided of Proposal Section 6.a.iii, Cost, Part 3, Experiences.

No staff member shall be listed that does not meet the minimum requirements of RFP Section 2.5, Knowledge and Skills Requirements.

The Offeror must label the resume of the staff that will be assigned the lead or primary staff position as "Lead". The information shall correspond to the staff's entry on the spreadsheet that will be attached to Proposal Section 6.a.iii, Cost, Part 3, Experiences.

b. Subcontractors

In this section, if subcontractors are used, a statement from each subcontractor shall be included, signed by an individual authorized to legally bind the subcontractor:

- The subcontractor's name, mailing address, business address (if different), telephone number, fax number, 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 his/her obligations and liability under the contract with the State.

c. Organization Chart

In this section, 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 names, functions, title, and years of experience of all individuals who will be assigned to the project.

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.

b. Technical Write-up

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

The Offeror shall clearly describe in detail the Offeror's solution and identify every step required to provide the services required by this RFP. As applicable, if any task is found to be missing, the Offeror shall nevertheless complete the task at no cost to the State.

This subsection should also describe how the Contractor will work and communicate with State personnel.

c. Assumptions

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

d. 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.

e. Proposal Execution Details

Each bullet in this subsection shall begin as a separate paragraph and be labeled as specified below. The Offeror shall provide in the subsections identified below, a narrative description.

- Offeror shall label this subsection WOE and include how the Offeror will implement and work with the State's WOE.
- Offeror shall label this subsection Project Manager and include how the Offeror's Project Manager will implement and work with the State. The Offeror will also identify the Project Manager.
- Offeror shall label this subsection Acceptance Test and include how the Offeror will implement and work with the State on Acceptance Tests.

f. Diagrams

In this subsection the Offeror shall place a statement that diagrams relevant to the requested service are available on request. The diagrams are to be provided as required by RFP Section 3.5, Submission of Requested Information and Documents.

g. Project Plan and Schedule

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

h. Point Response

In this section the Offeror shall include a response to the specified items in Appendix H, Itemized List for Offerors 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 a cost proposal utilizing the pricing structure designed by the State purchasing agency as detailed below. This section shall also include a narrative. The narrative should be a separate page, the first page in this section, and provide an explanation, description, or clarification of the costs. The cost 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 Proposal Cost Worksheet found in Appendix B. The Proposal Cost Worksheet has 3 parts and references to the three parts henceforth will be by Part 1, Part 2, or Part 3. Page 1 of the Proposal Cost Worksheet containing, Part 1 and Part 2, must be completed and be the second page of the Cost section of the proposal. Part 3 "as is" must be included and be the third page of the Cost section of the proposal. The information required as specified for Part 3 must follow starting as the fourth page of the Cost section of the proposal.

i. Part 1. Hourly Rates

1. Analyst Hourly Rate – The Offeror shall provide the hourly rate for an Analyst or Project Manager
2. Programming Hourly rate – the Offeror shall provide the hourly rate for programming
3. One Time Costs – The Offeror shall include any one-time costs associated with gaining an understanding and familiarity of the hardware and software used by the State as an additional spreadsheet.
4. Total Evaluation Proposal Cost - This cost shall be based on the sum of 1) 1 hour of Analyst Hourly Rate, PLUS, 2) 1 hour of Programmer Hourly Rate, PLUS, 3) One Time Costs.

For hourly rates and one-time costs, the State may request further pricing structure breakdowns for clarification during proposal review. The timeframe for responses is specified in RFP Section 3.5, Submission of Requested Information and Documents. Offeror may also provide a comprehensive description of how it will insure the most favorable pricing to the State for new products and substitutions over the term of the contract, as applicable.

- ii. Part 2. Attestations. The Offeror shall provide yes or no answers to the 5 questions. Answers will be used in the evaluation of the Offeror's proposal as part of the RFP Section 4.4.2, Evaluation Criteria, Phase 2 – Evaluation of Proposal, 3 Firm's Experience and Capability.
- iii. Part 3. Experiences.
  - o Generally, for all items listed in the Proposal Cost Worksheet Part 3, Experiences, the Offeror will provide summary information for each staff member assigned and his or her role as "Lead" or "Additional Staff".
  - o Each item listed in Part 3 of the Cost Proposal Worksheet is to start on a separate page and labeled for each experience item. For example, all ADABAS staff should be listed starting on a separate page, all Natural staff should be listed on the top of the next page and similarly for all experience items listed.
  - o Summary information shall include for each of the required item(s) listed in Part 3 of the Cost Proposal Worksheet, 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 3 for the information required.
  - o If Offeror is submitting more than two staff, then each staff should be numbered starting with the "Lead" as number 1. All subsequent staff will be "Additional Staff".
  - o The staff member's resume (included as part of Proposal Section 4.a, Project Organization and Staffing, Staffing) must clearly corroborate meeting the minimum experience requirements and list education and certifications, if applicable.

## 7. LITIGATION

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

## 8. EXCEPTIONS

Offeror shall list any exceptions taken to the terms, conditions, specifications, or other requirements contained in this RFP including the General Conditions. 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.

## 9. 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.

**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 any 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.

## SECTION 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 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 and Staffing	20
Technical Solution	220
Cost	60
TOTAL POSSIBLE POINTS	325

#### 4.4 EVALUATION CRITERIA

##### 4.4.1 Phase 1 – Evaluation of Administrative Requirements

EC will review Appendix C Sample Proposal Table of Contents to verify Offeror's Proposal for conformance to it, necessary items have been submitted in the proposal and all proposal sections are clearly labeled.

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 (325 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.

3. Firm's Experience and Capability (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 relating to the delivery of the goods and/or services specified by this RFP
- b. A listing of verifiable experience with projects or contracts for the most recent five years that is pertinent and similar to the proposed goods and/or services specified by this RFP
- c. Sufficiency of quality assurance and evaluation plans for the proposed goods and/or services, including methodology
- d. Answers to Offeror's Proposal Cost Worksheet, Part 2, Attestations
- e. Responses to Appendix H, Point Response

4. Project Organization and Staffing (20 points)

Sections 4.1 and 4.2 are weighted as a whole; no points will be individually assigned. The State will evaluate Offeror's overall staffing approach to the project that shall include the following.

4.1 Staffing

The following are evaluation factors for Staffing:

- Is the proposed staffing level adequate to meet the requirements of this RFP.
- 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).
- Offeror's experience in providing the goods and/or services.

4.2 Project organization

Does the Offeror's approach and rationale for the structure, functions, and staffing for the overall project appear to be adequate.

Does the Offeror state any unique qualifications that will contribute to the success of systems of the state departments reliant on the ADABAS, Natural, CICS Transaction Server, and zOS services provided through this RFP or is advantageous to the State.

5. Technical Solution (220 points)

- Technical Evaluation of Offerors Proposal (35 points) will be evaluated as a whole.
  - Does the Offeror's explanation of the technical aspects and merits of its proposal meet the needs of this RFP.

- Does the Offeror possess any unique technical knowledge, skills, abilities, or qualifications that will contribute to the success of systems of the state departments reliant on the ADABAS, Natural, CICS Transaction Server, and zOS services provided through this RFP or is advantageous to the State.
- Staff proposed will be evaluated using Appendix F, Proposal Evaluation Worksheet (185 points). The sum of the years of experience declared on Appendix B, Proposal Cost Worksheet, Part 3 Experience for the “Lead” and all “Additional Staff” will be used to calculate the Calculated Points on Appendix F. 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 Appendix F, Proposal Evaluation Worksheet.

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.

6. Cost (60 points)

Proposals shall be evaluated using the Total Evaluation Proposal Cost. Refer to RFP Section 3.3, Proposal Format, under Proposal Section 6, Costs. This cost shall be based on the sum of:

- 1) 1 hour of Analyst Hourly Rate, PLUS
- 2) 1 hour of Programmer Hourly Rate, PLUS
- 3) The One Time Costs

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:

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

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**

- 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**

**APPENDIX A  
OFFER FORM  
FOR RFP NO. 16-009  
TO PROVIDE INSTALLATION, CUSTOMIZATION, AND OPTIMIZATION  
SERVICES FOR ADABAS, NATURAL, CICS TRANSACTION SERVER, AND zOS  
FOR THE STATE OF HAWAI'I  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
OFFICE OF ENTERPRISE TECHNOLOGY SERVICES**

Contract Administrator  
Office of Enterprise Technology Services  
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. 16-009, 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: \_\_\_\_\_

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**  
**TO PROVIDE INSTALLATION, CUSTOMIZATION, AND OPTIMIZATION**  
**SERVICES FOR ADABAS, NATURAL, CICS TRANSACTION SERVER, AND zOS**

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. Hourly Rates.

The general format consists of the hourly rates below and one-time costs to Provide Customization, Enhancement and Optimization Services for the State's Financial Datamart including all applicable taxes.

Analyst Hourly Rate \_\_\_\_\_

Programming Hourly Rate \_\_\_\_\_

One Time costs \_\_\_\_\_

Total Evaluation Proposal Cost \_\_\_\_\_

Part 2. Attestations

	Attestations	Yes/No
1	Understanding and acceptance of the WOE as specified in RFP Section 2	
2	Acceptance of the Emergency Assistance requirements as specified in RFP Section 2	
3	Compliance with ETS's physical access policies	
4	Acceptance of the Project Manager Role as specified in RFP Section 2	
5	Compliance with the State's Acceptance Test Requirement as specified in RFP Section 2	

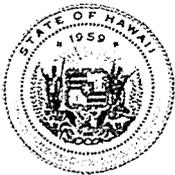
Part 3. Experiences (Knowledge, Skills and Abilities)

	Attestations of Staff Experiences (Knowledge, Skills and Abilities)	Check if attachment follows
1	ADABAS on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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).	
2	Natural on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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	CICS Transaction Server on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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).	
4	zOS on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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).	
5	SMA on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each version/release; the version/release number, and number of instances; the number of years (in decimal, e.g., one half year as .5)	
6	SMP on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each version/release; the version/release number, and number of instances; the number of years (in decimal, e.g., one half year as .5)	
7	HIS on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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).	
8	Replicator on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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).	
9	N2O on an IBM 2828-E02 and 2828-J01: For each staff assigned, identify each 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).	

**APPENDIX C**  
**Sample Proposal Table of Contents**

1. Proposal Offer Form
2. Executive Summary
3. Experience and Capability
  - Necessary Skills and Experience
4. Project Organization and Staffing
  - A. Staffing
  - B. Subcontractor Statement
  - C. Organization Chart
5. Technical Solution
  - A. Understanding of Requirements
  - B. Technical Write-Up
    - 1. Technical Overview
    - 2. Assumptions
    - 3. Potential Problems and Constraints
    - 4. Technical Solution
    - 5. Diagrams
    - 6. Project Plan and Schedule
6. Cost
  - a. Proposal Cost Worksheet
  - b. Proposal Cost Narrative
7. Litigation
8. Exceptions
9. Confidential Information
10. Attachment A – Product Information

**APPENDIX D**  
**Sample Contract Form**



**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)

**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.

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Print Name)*

Notary Public, State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

Doc. Date: \_\_\_\_\_ # Pages: \_\_\_\_\_

Notary Name: \_\_\_\_\_ Circuit \_\_\_\_\_

Doc. Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Notary Signature \_\_\_\_\_ Date \_\_\_\_\_

NOTARY CERTIFICATION



**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 \_\_\_\_\_



Attachment – S3

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)

**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. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
  - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
  - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
  - (2) Method of delivery; or
  - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By

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

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

21. Price Adjustment.

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

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

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

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

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

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
  - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
  - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

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

"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

    - (1) Social security number;
    - (2) Driver's license number or Hawaii identification card number; or

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

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

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

b. Confidentiality of Material.

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

c. Security Awareness Training and Confidentiality Agreements.

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

- d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

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

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

**APPENDIX F\*\*\***

**PROPOSAL COST WORKSHEET EVALUATION**

<b>Item No.</b>	<b>Experiences (Knowledge, Skills, and Abilities)</b>	<b>Max Points</b>	<b>Declared experience</b>	<b>Calculated Points</b>
1	ADABAS on an IBM 2828-E02 and 2828-J01: Provide the number and version/release of software Offeror has experience with.	30		
2	Natural on an IBM 2828-E02 and 2828-J01: Provide the number and version/release of software Offeror has experience with.	30		
3	CICS Transaction Server on an IBM 2828-E02 and 2828-J01: Provide the number and version/release of software Offeror has experience with.	30		
4	zOS on an IBM 2828-E02 and 2828-J01: Provide the number of years Offeror has experience with.	30		
5	SMA on an IBM 2828-E02 and 2828-J01: Provide the number of years Offeror has experience with.	10		
6	SMP on an IBM 2828-E02 and 2828-J01: Provide the number of years Offeror has experience with.	10		
7	HIS on an IBM 2828-E02 and 2828-J01: Provide the number of years Offeror has experience with.	15		
8	Replicator on an IBM 2828-E02 and 2828-J01: Provide the number of years Offeror has experience with.	15		
9	N20 on an IBM 2828-E02 and 2828-J01: Provide the number of years Offeror has experience with.	15		
		185		

## APPENDIX G

### GLOSSARY OF TERMS AND ACRONYMS

#### STANDARD TERMS AND ACRONYMS

BAFO	Best and Final Offer
CA	Contract Administrator
CD	Compact Disk
DAGS	Department of Accounting and General Services
DLIR	Department of Labor and Industrial Relations, State of Hawaii
DCCA	Department of Commerce and Consumer Affairs, State of Hawaii
DOTAX	Department of Taxation, State of Hawaii
EC	Evaluation Committee
FAQs	Frequently Asked Questions
GC	General Conditions, form AG-008 dated: 4/15/2009
GET	General Excise Tax
HAR	Hawaii Administrative Rules
HCE	Hawaii Compliance Express
HRS	Hawaii Revised Statutes
HST	Hawaii Standard Time
ETS	Office of Enterprise Technology Services
IRS	Internal Revenue Service
IT	Information Technology
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, ETS, DAGS
RFP	Request for Proposals
SOH	State of Hawaii
SSB	Systems Services Branch, ETS, 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**

ADABAS	A database management software published by Software AG USA
CICS Transaction Server	An online transaction processing software published by IBM
DNS	Domain Name Server
FDM	Financial Data Mart
HIS	Host Integration Solution published by IBM
IBM	International Business Machines
IFL	Integrated Facility for Linux
IO	Input/Output
IP	Internet Protocol
Linux	A Unix Operating System Variant
LPAR	Logical Partition
N2O	A NATURAL program version management software published by Treehouse
NATURAL	A fourth-generation language used to create programs that utilize ADABAS published by Software AG USA
Replicator	A data replication software utility for ADABAS published by Software AG
SCSI	Small Computer System Interface
Securitree	Security software utility for ADABAS published by Treehouse
SMA	System Maintenance Aid published by Software AG
SMP	System Modification Program published by IBM
TSM	Tivoli Storage Manager published by IBM
WOE	Work Order Estimate
zOS	The current mainframe operating system 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 its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.
- 2.2 OFFEROR'S QUALIFICATION  

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.
- 2.3 PURCHASE OF SERVICES  

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.
- 2.4.1 Accurate Accounting of Hours Billed  

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.
- 2.4.2 Regular Reports on Hours Billed  

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.
- 2.4.3 Central Authorization to Work  

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.
- 2.4.4 On Premise Space  

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.4.5 No Guarantee of Hours

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.6 WORK ORDER PROCESS

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.6.1 Work Order Estimate Process and Purchase Orders

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.6.2 Work Order Estimate Content

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.8 Federal Requirements

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.9 Project Manager

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.10 Acceptance Test

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.11 Safeguard Data

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.12 Documentation

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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 Emergency Assistance

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.13.1 Response Time

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.13.2 Work Order Estimate

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

2.14 Initial Assessment

The Offeror shall state its acceptance of the requirements detailed in this RFP section or provide information on the conditions of its 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.

**APPENDIX I**  
**FEDERAL REQUIREMENTS**

**IRS Required Contract Language for Technology Services**

## 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.