



RELEASE DATE: May 9, 2024

**The State of Hawaii  
Department of Defense**

**Request for Proposals  
Solicitation #CA-202407-RFP**

**Regional Catastrophic Preparedness Grant  
Program  
(*Staffing & Operational Support*)**

**OFFERS ARE DUE AT 2:00 PM HAWAII STANDARD TIME (HST) ON  
June 10, 2024**

(or such later date as may be established by the State of Hawaii by an Addendum to this RFP)

BY SUBMISSION TO THE DEPARTMENT OF DEFENSE, HAWAII EMERGENCY  
MANAGEMENT AGENCY

**DIRECT ALL QUESTIONS REGARDING THIS RFP, QUESTIONS OR ISSUES RELATING TO  
THE ACCESSIBILITY OF THIS RFP (INCLUDING THE ATTACHMENTS AND EXHIBITS AND  
ANY OTHER DOCUMENT RELATED TO THIS RFP) AND REQUESTS FOR ACCOMMODATIONS  
FOR PERSONS WITH DISABILITIES IN CONNECTION WITH THIS RFP, TO:**

JESPER H. ANDERSEN

TELEPHONE (808) 369-3483 OR EMAIL ADDRESS [jesper.h.andersen@hawaii.gov](mailto:jesper.h.andersen@hawaii.gov).

Procurement Officer

CA-202407-RFP

# Table of Contents

RFP Administrative Information

Offer Checklist

## Section 1 General Information

- 1.1 Purpose
- 1.2 Background
- 1.3 Schedule and Significant Dates
- 1.4 Contract Type
- 1.5 Period of Performance
- 1.6 Point of Contact
- 1.7 Definitions

## Section 2 Solicitation Information

- 2.1 Governing Laws and Regulations
- 2.2 Electronic Procurement
- 2.3 RFP Agenda
- 2.4 Pre-Proposal Conference
- 2.5 Questions Regarding RFP Contents
- 2.6 Electronic Submission of Questions
- 2.7 Proposal Due Date
- 2.8 Cancellation of Procurement and Proposal Rejection
- 2.9 Firm Offers
- 2.10 Right to Accept All or Portion of Proposal
- 2.11 Ownership or Disposal of Proposals and other Materials Submitted
- 2.12 Additional Information

## Section 3 Requirements

- 3.1 Mandatory Minimum Administrative Proposal Requirements
- 3.2 Minimum Requirements and Qualifications
- 3.3 Contractor Responsibility for Subcontractors
- 3.4 Removal of Subcontractors
- 3.5 Right to Retain Subcontractors
- 3.6 Additional Contractor Requirements
- 3.7 Payment
- 3.8 Payment to Hawaii Information Consortium, LLC dba NIC Hawaii

Section 4	Instructions to Offerors – Proposal Submission
	4.1 Proposal Objectives
	4.2 Proposal Structure and Labeling
	4.3 Proposal Submission Instructions
	4.4 Electronic Submission of Proposals
	4.5 Required Format and Content
	4.6 Each Offeror to Bear its Own Costs
Section 5	Evaluation and Award
	5.1 Evaluation of Proposals
	5.2 Right to Waive Minor Irregularities
	5.3 Initial Review and Award without Discussions
	5.4 Discussion with Priority Listed Offerors
	5.5 Best and Final Offers
	5.6 Award of the Contract
	5.7 Responsibility of the Offeror
	5.8 Evaluation Criteria
	5.9 Scoring Process
	5.10 Notice of Award
	5.11 Debriefing
Section 6	Evaluation Criteria
	6.1 Management Approach
	6.2 Technical Approach
	6.3 Price
Section 7	Contract Management
	7.1 Contract Administrator
	7.2 Contractor/State Meetings
	7.3 Dispute Process and Escalation
	7.4 Quality Control
	7.5 Post Award Deliverables
Section 8	Special Provisions
	8.1 Scope
	8.2 Acceptance and Testing
	8.3 Intellectual Property Rights
	8.4 Termination for Convenience or Unavailability of Funds
	8.5 Certification of Offeror Concerning Wages, Hours and Working

## Condition of Employees Supplying Services

- 8.6 Responsibility of Offerors
- 8.7 Proposal Preparation
- 8.8 Confidentiality
- 8.9 Redaction by the State
- 8.10 Protest Procedures
- 8.11 Notice to Proceed
- 8.12 Contract Execution
- 8.13 Liability Insurance
- 8.14 Contract Invalidation
- 8.15 Mistakes in Proposals
- 8.16 Modification Prior to Submittal Deadline or Withdrawal of Offers
- 8.17 Contract Changes – Unanticipated Amendments
- 8.18 Re-execution of Work

Attachment A Statement of Work

Attachment B Offer 1 (Letter of Acknowledgement, OF-1)

Attachment C Offer 2 (Pricing Form, OF-2)

Exhibit 1 General Conditions (AG-008 103D)

## RFP Administrative Information

RFP Title:	Regional Catastrophic Preparedness Grant Program (RCPGP) <i>(Staffing and Operational Support)</i>
RFP Project Description: (See Section 1.1 Purpose)	The State of Hawaii in conjunction is seeking Contractor(s) to provide operational and technical assistance, in the execution of the RCPG for the Hawaii Emergency Management Agency (HI-EMA) RCPG Logistics Staff.
RFP Point of Contact: (See Section 1.6 State Contract Administrator)	Buyer Name – Francis A. P. Kau/Radford Real Agency Name – Hawaii Emergency Management Agency Agency Address – 4204 Diamond Head Road Buyer email – Radford.real@hawaii.gov Buyer Phone – (808) 447-8338
Submit proposals electronically via Hawaii Electronic Procurement System (HiePRO): (See Section 2.6 Electronic Submission of Proposals) [Adjust accordingly to your eProcurement System if not using HiePRO]	Electronic Submission hiepro.ehawaii.gov
Pre-Proposal Conference:  Pre-Proposal Conference Location: (See Section 2.4 Pre-Proposal Conference)	[Insert Date]; [Insert Time] [A.M. /P.M.] Hawaii Standard Time (HST)  [Insert conference location]
Deadline to Receive Questions: (See Sections 1.3 Schedule and Significant Dates and 2.6 Electronic Submission of Questions)	[Insert Date]; [Insert Time] [A.M. /P.M.] Hawaii Standard Time (HST)
Question & Answers: (Sections 1.3 Schedule and Significant Dates and 2.6 Electronic Submission of Questions)	All questions, including those about Terms and Conditions, must be submitted through emailed to Questions must be submitted by the question deadline date.
RFP Closing Date: (See Section 1.3 Schedule and Significant Dates)	[Insert Date]
RFP Closing Time: (See Section 1.3 Schedule and Significant Dates)	[Insert Time] [A.M. /P.M.] Hawaii Standard Time (HST)
Initial Term of Contract and Renewals: (See Section 1.5 Period of Performance)	February 28, 2025, expiration Upon mutual agreement, the contract may be extended or amended.
<p><b>TAKE NOTE THE MANDATORY .75% (.0075) TRANSACTION FEE TO HAWAII INFORMATION CONSORTIUM, LLC DBA NIC HAWAII IS BASED ON SALES FOR AWARDS MADE IN HIEPRO. (DETAILED IN SECTION 2.2 ELECTRONIC PROCUREMENT AND SECTION 3.8 PAYMENT TO HAWAII INFORMATION CONSORTIUM, LLC DBA NIC HAWAII.)</b></p>	

## Offer Checklist

Offeror must address ALL sections and attachments and provide the information and documentation as required in the table below.

No.	Description	Reference in RFP	Completed
1	Offer Checklist – submittal of checklist with all items checked “completed.”	Offer Checklist	<input type="checkbox"/>
2	Offer Form OF-1 and OF-2 - Completed and signed  NOTE: Ensure the company name submitted in HlePRO matches the company name on OF-1. [Adjust accordingly to your eProcurement System if not using HlePRO]	Attachment B Offer Form OF-1; Attachment C Offer Form OF-2 Section 8.7 Proposal Preparation	<input type="checkbox"/>
3	Table of Contents	Section 4.5 Required Format and Content	<input type="checkbox"/>
4	Executive Summary, not to exceed [three (s)] 3) page(s)	Section 4.5 Required Format and Content	<input type="checkbox"/>
5	Management Approach, not to exceed [three (s)] (3) page(s)	Section 6.1 Evaluation Criteria 1	<input type="checkbox"/>
6	Technical Approach, not to exceed [Three (s)] (3) page(s)	Section 6.2 Evaluation Criteria 2	<input type="checkbox"/>
7	Price	Section 6.3 Evaluation Criteria 3; Offer Form OF-2	<input type="checkbox"/>
8	Confidential, Protected or Proprietary Information Section	Section 4.5.6	<input type="checkbox"/>

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Authorized Offeror Signature

**REQUEST FOR PROPOSALS**  
**Regional Catastrophic Preparedness Grant Program**  
***(Staffing & Operational Support)***

**Solicitation # RFP-CA-202407**

## **Section 1: General Information**

### **1.1 Purpose**

On 16 September 2021, the Hawai'i Emergency Management Agency (HI-EMA) was awarded the FY 2021 Regional Catastrophic Preparedness Grant (RCPG) by the Department of Homeland Security (DHS). The purpose of this project is to build and enhance Hawai'i's local and regional logistics response capacity, thus reducing its reliance on Federal assistance. To do this, HI-EMA's goals are to assemble a Logistics and Supply Chain Management Working Group with key partners around the State and to develop and finalize a written plan. Through these collaborative efforts, we can foster an environment of self-sustainability, reduce the need for external assistance, and increase a sense of shared responsibility at the individual, community, business, and government levels. Additionally, this project is designed to have significant and lasting impact on the physical and social fabric of our island communities. By building resilient distribution infrastructures, it shall ensure equitable and adequate access and partnerships to provide life-sustaining commodities that shall mitigate the disproportionate occurrence of morbidity, mortality, and poverty experienced by our socially vulnerable populations.

### **1.2 Background**

Accessible only by land or sea, Hawai'i's geographic isolation, limited landmass, aging infrastructure, just-in-time logistics practice, and near-total reliance on the importation of life-sustaining commodities has increased its vulnerability during the response and recovery phases of a catastrophic incident. Nearly 90% of all commodities and 100% of all fuel is imported into the State, with 99% of all imports via seaports, and 1% via air, placing a heavy burden on Hawai'i's commercial seaport system. Furthermore, the complexity of the transpacific supply chain results in prolonged transit times of up to three weeks and an on-island commodity storage capacity of five to seven days, effectively guaranteeing catastrophic impacts to Hawai'i's population if the current logistics and supply chain system were to be disrupted in any capacity.

Hawai'i's existing supply chain and commodities distribution system further adds to its inherent vulnerability. The physical location of all seaports and 95% of its airports are in tsunami inundation zones. The Port of Honolulu (PoH) located within Urban Honolulu serves as the State's primary port of importation and distribution, with commodities for neighboring counties subsequently transferred to smaller maritime vessels. In the event of a catastrophic incident, the PoH's capabilities cannot be replicated in any other of the

State's nine commercial ports. These circumstances render the PoH the single point of failure in the State's primary means of importation of all goods and materials, as none of the airports have the capacity to replicate any of the seaport throughputs. Although there are protocols in place to safeguard Hawai'i's ports against a catastrophic incident, there still exists a risk for failure. The State lacks large-scale salvage and dredging equipment needed to clear debris that may block entryways, with estimated 7 to 10 days of travel time from the West Coast before work can even begin.

The looming challenges of the 21st century, such as climate change, increasing occurrence of natural and human-caused hazards, income inequality, and resource scarcity clearly pose resilience issues for countries, cities, and communities all around the world. Yet, they are more pronounced for us in Hawai'ian island chain in the middle of the Pacific Ocean with the nearest source of assistance over 2,000 miles away. In addition, the lack of long-term commodity storage further compounds the complex transpacific supply chain and commodities distribution. Regional logistics & supply chain management contingency plans are a high-level necessity in the event future catastrophic incidents, including pandemic outbreaks, result in the partial or total shut down of our West Coast ports.

### 1.3 Schedule and Significant Dates

The table below contains the State's current estimate of the schedule and significant dates. All times are Hawaii Standard Time (HST). If a component of this schedule, such as "Proposals Due Date and Time" is delayed, the rest of the schedule may likely be shifted by the same number of days. Any change to the RFP Schedule and Significant Dates prior to the proposal due date shall be issued by addendum.

Event	Date
Solicitation Release:	May 9, 2024.
Pre-Proposal Conference:	N/A
Question Submittal Deadline:	May 29, 2024 at 2 P.M.
Answers to Questions:	June 3, 2024.
Proposal Due Date and Time:	June 10, 2024 at 2 P.M.
Evaluations	June 12, 2024 at 2 P.M.
Estimated Date for Discussions, if necessary	June 14, 2024.
Estimated Due Date for BAFO, if necessary	June 18, 2024.
Anticipated Award Date:	June 19, 2024.

### 1.4 Contract Type

This contract is a Firm-Fixed-Price contract.



## 1.5 Period of Performance

This contract shall be for a period of one (1) year(s) beginning on the date specified on the Notice to Proceed. Unless terminated, the contract may be extended without re-solicitation, upon mutual agreement in writing between the State and the Contractor, prior to the expiration date, for not more than five (5) additional 12-month periods, or parts thereof. The contract may be extended if the price remains the same or lower

Note: If the initial term is more than one (1) year, refer to HAR §3-122-149 on Multi-Term Contracts.

## 1.6 Point of Contact

The Department of Defense (DOD), Hawaii Emergency Management Agency (HI-EMA) is the issuing office for this document and all subsequent addenda relating to it. The reference number for the transaction is Solicitation # RFP- CA-202407. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

The person identified below is the single point of contact (POC) **during** this procurement process. Offerors and interested persons shall direct to the POC all questions concerning the procurement process, technical requirements of this RFP, contractual requirements, changes, clarifications, and protests, the award process, and any other questions that may arise related to this solicitation and the resulting contract. The POC designated by the State of Hawaii, DOD is:

Jesper Anderson  
Contracting Assistant I  
Department of Defense  
3949 Diamond Head Road, Room 228, Honolulu, HI 96816-4495  
[jesper.h.anderson@hawaii.gov](mailto:jesper.h.anderson@hawaii.gov)  
Phone: (808) 369-3484

## 1.7 Definitions

The following definitions apply to this solicitation.

**Contract Administrator** means the person designated to manage the various facets of the contract(s) to ensure the Contractor's total performance is in accordance with the contractual commitments and obligations are fulfilled.

**Contractor** means the person having a contract with a governmental body.

**Fixed-price basis** means an established price agreed upon by the Contractor and Purchasing Entity, by agreement or by authority, as the price to be charged for a specified amount of services.

**Goods** mean all property, including but not limited to equipment, equipment leases, materials, supplies, printing, insurance, and processes, including computer systems and software, excluding land or a permanent interest in land, leases of real property, and office rentals.

**Governmental body** means any department, commission, council, board, bureau, authority, committee, institution, legislative body, agency, Government Corporation, or other establishment or office of the executive, legislative, or judicial branch, city or county of any U.S. State, (including the Office of Hawaiian Affairs for the State of Hawaii).

**Hawaii Administrative Rules (HAR)** means the adopted operating procedures for state agencies authorized by the laws of the State of Hawaii.

**Hawaii eProcurement System (HiePRO)** is the State eProcurement system, a system for issuing solicitations, receiving responses, and issuing notices of award.

**Hawaii Revised Statutes (HRS)** means the laws that govern the State of Hawaii.

**Key Performance Indicator (KPI)** means how a quantifiable measure is utilized to assess the success of a Contractor in meeting strategic goals and objectives for performance.

**Offeror** means the company or firm that submits a proposal in response to this Request for Proposal.

**Proposal** means the official written response submitted by an Offeror in response to this Request for Proposals.

**Proposer** has the same meaning as Offeror.

**Request for Proposals or "RFP"** means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.

**Services** means the furnishing of labor, time, or effort by a contractor or Contractor, which involves the delivery or supply of products.

**Statement of Work** defines the services to be delivered by the Contractor. Note: For the purposes of this RFP, statement of work describes the services within a Task Order when requesting quotes from awarded Contractor(s).

**Subcontractor** means a Contractor contracted for work by the Prime Contractor.

## Section 2: Solicitation Information

### 2.1 Governing Laws and Regulations

This procurement is conducted by the Department of Defense (DOD), Hawaii Emergency Management (HI-EMA), in accordance with the State Procurement Code. Information about DOD or HI-EMA and its governing laws are available at <http://spo.hawaii.gov/>.

This procurement shall be governed by the regulations and laws of the State of Hawaii. Venue for any administrative or judicial action relating to this procurement, evaluation, and award shall be in the State of Hawaii.

### 2.2 Electronic Procurement

**2.2.1** The State has established the Hawaii State eProcurement (HlePRO) System to promote an open and transparent system for vendors to compete for state contracts electronically. Offerors interested in responding to this solicitation must be registered on HlePRO. Registration information is available at the State Procurement Office (SPO) website: <https://hiepro.ehawaii.gov/welcome.html>, select HlePRO Vendor Registration and then Vendor Registration Guide.

**2.2.2** The State will use HlePRO to issue the RFP, receive Offers, and issue Addenda to the RFP. Addenda and the other information and materials shall be provided by the State through HlePRO, including additions or changes with respect to the dates in Section 1.3 Schedule and Significant Dates. The State shall not be responsible for any person's or entity's failure to do so for any reason. The State is not responsible for any delay or failure of any Offeror to receive any materials updated through the RFP Process on a timely basis.

**2.2.3** As part of this procurement process, Offerors are informed that awards made for this solicitation, if any, shall be done through the HlePRO and shall, therefore, be subject to a mandatory .75% (.0075) transaction fee, not to exceed \$5,000 for the total contract term.

**2.2.4** HlePRO Special Instructions. Offeror shall review all special instructions located in HlePRO. Offerors are responsible for ensuring that all necessary files are attached to their offer prior to the proposal deadline.

Offerors are advised that they should not wait until the last minute to submit their proposal on HlePRO. Offerors should allow ample time to review their submitted proposal, including attachments, prior to the proposal deadline.

## **2.3 RFP Addenda**

Changes to this RFP including but not limited to contractual terms and procurement requirements shall only be changed via formal written addenda issued by the DOD-HIEMA.

The State accepts no responsibility for a prospective Offeror not receiving solicitation documents and/or revisions to the solicitation. It is the responsibility of the prospective Offeror to monitor the Hawaii State eProcurement System (HlePRO) to obtain RFP addenda or other information relating to the RFP.

## **2.4 Pre-Proposal Conference**

N/A

## **2.5 Questions Regarding RFP Contents**

If a Prospective Offeror believes that any provision of the RFP is unclear, potentially defective, or would prevent from providing a meaningful Offer, the Offeror shall submit questions to the State POC requesting clarification on or before the deadline for doing so in Section 1.3 Schedule and Significant Dates. Each question shall identify the page, section number, paragraph, and line or sentence of such provision(s) of the RFP to which the question applies. The State POC will respond by the date for the same in Section 1.3 Schedule and Significant Dates. The State may issue Addenda in response to written questions received regarding the RFP.

## **2.6 Electronic Submission of Questions**

All questions must be submitted through the Hawaii State eProcurement System (HlePRO). Questions must be submitted by the question deadline date and time shown in Section 1.3 Schedule and Significant Dates. Answers will be given via the Hawaii State eProcurement System (HlePRO) site as noted in Section 1.3 Schedule and Significant Dates.

Offerors are cautioned about including context in questions that may reveal the source of questions. The identity of potential Offerors will not be published with the answers, but the text of questions will be restated, to the extent possible, to exclude information identifying potential Offerors.

## **2.7 Proposal Due Date**

Proposals must be received by the posted closing date and time as described in Section 1.3 Schedule and Significant Dates of this RFP.

## **2.8 Cancellation of Procurement and Proposal Rejection**

The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part, and waive any defects when it is determined to be in the best interest of the State, pursuant to HAR §3-122-96 thru HAR §3-122-97.

## **2.9 Firm Offers**

Responses to this RFP, including proposed costs and/or fees will be considered firm for seven (7) days after the proposal due date.

## **2.10 Right to Accept All or Portion of Proposal**

Unless otherwise specified in the solicitation, the State may accept any item or combination of items as specified in the solicitation or of any proposal unless the Offeror expressly restricts an item or combination of items in its Proposal and conditions its response on receiving all items for which it provided a proposal. If the Offeror so restricts its Proposal, the State may consider the Offeror's restriction and evaluate whether the award on such basis will result in the best value to the State. The State may otherwise determine at its sole discretion that such restriction is non-responsive and renders the Offeror ineligible for further evaluation.

## **2.11 Ownership or Disposition of Proposals and other Materials Submitted**

All costs incurred by the Offeror in preparing or submitting a proposal shall be the Offeror's sole responsibility whether any award results from this RFP. The State shall not reimburse such costs. All proposals become the property of the State of Hawaii.

## **2.12 Additional Information**

The Offeror shall provide additional information regarding aspects of an Offeror's Proposal within seven (7) business days of the State's request unless the State specifies another period. As noted, each Offeror shall submit only one Proposal. If an Offeror submits more than one Proposal, then the State reserves the right to reject and or dismiss the Offeror from the RFP Process.

## **Section 3: Requirements**

### **3.1 Mandatory Minimum Administrative Proposal Requirements**

This section contains the minimum requirements that must be met to be considered for the evaluation phase. All items described in this section are non-negotiable. All Offerors must state willingness and demonstrate the ability to satisfy these requirements in the proposal submitted for consideration. Contractors shall be considered non-responsive if unable to cover the minimum requirements which they may not be considered for award.

### **3.2 Minimum Requirements and Qualifications**

Offeror shall provide all services as described in Attachment A, Statement of Work.

### **3.3 Contractor Responsibility for Subcontractors**

The Subcontractors providing services shall meet the same service requirements and provide the same quality of service required of the Contractor and in a timely manner. No subcontract shall relieve the Contractor of its responsibilities for the Services it provides. The Contractor shall manage the quality and performance, project management and schedules, and timely start and completion of services performed by each of its Subcontractors. The Contractor shall be solely responsible and accountable for the completion of all Services it has subcontracted.

### **3.4 Removal of Subcontractors**

In addition to any rights the State has under Law, the State shall have the right to require the removal of a Subcontractor or any of its personnel providing or supporting services for a good cause. In such a case, the State shall specify the deadline for such removal after consultation with the applicable Contractor. A Subcontractor proposed by the Contractor to replace the removed Subcontractor shall be subject to the approval of the State.

### **3.5 Right to Retain Subcontractors**

The State shall have the right to directly retain any Subcontractor after the expiration, termination, or suspension of the Contract under which it is retained, including any Subcontractor providing services subject to any part of a Contract that is terminated or suspended.

### **3.6 Additional Contractor Requirements**

Each Contractor shall:

Adhere to its Contract with the State;

Provide all labor, materials, and equipment necessary to meet the RFP Requirements;

Communicate contract requirements to its Subcontractors' personnel and direct and coordinate project activities to ensure that the services progress efficiently and are completed on schedule;

Ensure that all its and its Subcontractors' employees can communicate effectively with State employees;

Ensure that it is current with all payments and registration fees and similar financial obligations owed to the State during the term of its Contract with the State;

Fully cooperate and maintain effective communication with the State and cooperate in the resolution of problems, suspected problems, or potential problems;

### **3.7 Payment**

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

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

### **3.8 Payment to Hawaii Information Consortium, LLC dba NIC Hawaii**

HlePRO is administered by Hawaii Information Consortium, LLC dba NIC Hawaii. NIC Hawaii shall invoice the Contractor(s) directly for payment of transaction fees. Payment must be made to NIC Hawaii within thirty (30) days from receipt of invoice. HIC is an intended third-party beneficiary of transaction fees, which are used to fund the operation, maintenance, and future enhancements of the HlePRO system.

## Section 4: Instructions to Offerors – Proposal Submission

### 4.1 Proposal Objectives

One of the objectives of this RFP is to make proposal preparation easy and efficient while giving Offerors ample opportunity to highlight their proposals. The evaluation process must also be manageable and effective.

Proposals shall be prepared straightforwardly and concisely, in a format that is reasonably considered and appropriate for the purpose. Emphasis will be on completeness and clarity and content.

When an Offeror submits a proposal, it shall be considered a complete plan for accomplishing the tasks described in this RFP and any supplemental tasks the Offeror has identified as necessary to successfully complete the obligations outlined in this RFP.

The proposal shall describe in detail the Offeror's ability and availability of services to meet the goals and objectives of this RFP.

### 4.2 Proposal Structure and Labeling

Proposals must be detailed and concise. Each Proposal must be labeled and organized in a manner that is congruent with the requirements and terminology used in this RFP and must include a point-by-point response, structured in form and reference to the RFP, addressing all requirements and the Statement of work elements.

### 4.3 Proposal Submission Instructions

Proposals must be received by [Insert Date]; [Insert Time] [A.M. /P.M.], HST through the Hawaii Electronic Procurement System (HlePRO). Proposals received after the deadline and/or through any sources other than HlePRO will be rejected.

### 4.4 Electronic Submission of Proposals

Proposals shall be submitted and received electronically through HlePRO by the date and time listed in Section 1.3 Schedule and Significant Dates. This electronically submitted offer shall be considered the original. Any offers received outside of the HlePRO, including faxed or e-mailed bids, shall not be accepted, or considered for award. Any offer received after the due date and time shall be rejected. (See Section 2.2 Electronic Procurement for further information.) **The maximum file size that HlePRO can accept is 100MB. Files larger than 100MB must be reduced into two or more files.**



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

#### **4.5 Required Format and Content**

All Proposals must be submitted in the following format. Detailed information on submitting each of these sections is contained in later sections of this RFP. Proposal shall be submitted in size Arial 12 font or equivalent.

1. **Table of Contents.** A Table of Contents must be included with each proposal. All major parts of the proposal shall be identified by referencing page numbers.
2. **Offer Checklist.** Complete and submit all items noted on the Offer Checklist.
3. **Offer Form, OF-1.** Offeror shall complete and sign OF-1 Offer Form. See Special Provisions, 8.7 Proposal Preparation.
  - a. **OF Form, OF-1**
  - b. **OF Form, OF-2 Pricing Form**
4. **Executive Summary.** The executive summary, not to exceed one (1) page, is to briefly describe the Offeror's Proposal. This summary should highlight the major features of the Proposal. The response should demonstrate the Offeror's understanding of and ability to meet the Administrative and Technical Requirements of the RFP. The State should be able to determine the essence of the Proposal by reading the executive summary. This summary will not be evaluated for points, but rather is a high-level explanation of the entire proposal.
5. **Evaluation Criteria Submittals (Refer to Section 5 Evaluation and Award).**

This section shall be sub-divided by the evaluation criteria and include the narrative and any other requirements.

- a. Management Approach – See Section 6.1. Submittal limited to three page(s) [3]
- b. Technical – See Section 6.2. Submittal limited to three page(s) [3]
- c. Price Proposal. See Section 6.3. Offeror shall complete the attached OF-2 Pricing Form in which Offeror shall submit all price line items excluding all applicable taxes inclusively.

6. **Confidential, Protected, or Proprietary Information.** All confidential, protected, or proprietary information must be included in this section of the proposal response. Do not incorporate protected information throughout the Proposal. Rather, provide a reference in the proposal response directing the State to the specific area of this protected Information section. If Offeror believes that any portion of its proposal, offer, specification, protest, or correspondence contains information that should be withheld as confidential, then the Procurement Officer should be so advised in writing and shall be furnished with justification for confidential status. Price is not considered confidential and shall not be withheld.

Information included in the Confidential, Protected or Proprietary Information section of an Offeror's proposal is not automatically accepted as protected. All information identified in the section will be subject to review by the State in accordance with the procedures prescribed by the State's open records statute, freedom of information act, or similar law.

#### **4.6 Each Offeror to Bear its Own Costs**

Each Offeror shall be responsible for all costs incurred by it prior to the Notice of Award, including, without limitation, its costs of preparing and submitting its Offer, responding to notices or requests, making Priority-Listed Offeror presentations, demonstrations, and discussions, and otherwise participating in the RFP Process.

## **Section 5: Evaluation and Award**

### **5.1 Evaluation of Proposals**

The Procurement Officer of the DOD-HI- EMA, or an evaluation committee of at least three (3) qualified State employees selected by the DOD-HI-EMA Procurement Officer, shall evaluate proposals for the contract. The evaluation will be based solely on Section 5.8 Evaluation Criteria and the process described in this section.

### **5.2 Right to Waive Minor Irregularities**

The State in its sole discretion reserves the right to waive minor irregularities in the Proposal, which include but are not limited to corrections of deficiencies or clarification of ambiguities that in the judgment of the State do not require a comprehensive proposal rewrite. The State also reserves the right in its sole discretion to waive certain Minimum requirements provided that all of the otherwise responsive proposals fail to meet the same minimum requirements and the failure to do so does not materially affect the procurement.

### **5.3 Initial Review and Award without Discussions**

In the initial phase of the evaluation process, the State will review all proposals timely received. Unacceptable proposals (non-responsive proposals not conforming to RFP requirements) will be eliminated from further consideration.

The State reserves the right to award on receipt of initial proposals without an opportunity for discussion or proposal revision, so Offerors are encouraged to submit their most favorable proposal at the time established for receipt of proposals. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and/or written revisions of proposals.

### **5.4 Discussion with Priority Listed Offerors**

Prior to holding any discussions, a priority list shall be generated consisting of proposals determined to be acceptable or potentially acceptable.

If numerous acceptable and potentially acceptable proposals are submitted, the evaluation committee may limit the priority list to three (3) highest ranked, responsible Offerors.

The State may invite priority listed Offerors to discuss their proposals to ensure thorough, mutual understanding. The State in its sole discretion shall schedule the time

and location for these discussions, generally within the timeframe indicated in Section 1.3 Schedule and Significant Dates. The State may also conduct discussions with priority listed Offerors to clarify issues regarding the proposals before requesting Best and Final Offers, if necessary.

In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Offerors.

## **5.5 Best and Final Offers**

If deemed appropriate by the State in its sole discretion, the State may request each Offeror to submit its BAFO. The request shall be issued via an Addendum, which will provide guidance and additional instructions. Offeror's BAFOs shall be submitted to the State through HlePRO on or before the deadline called for. If an Offeror fails to do so, its last submitted Offer shall be deemed its BAFO.

The BAFOs will be evaluated by the Evaluation Committee taking into consideration the Evaluation Criteria set forth in Section 5.8 Evaluation Criteria.

## **5.6 Award of Contract**

Award shall be made to the responsible Offeror whose proposal is determined the most advantageous to the State of Hawaii, taking into consideration price and the other evaluation factors set forth in this request for proposals.

## **5.7 Responsibility of Offeror**

Pursuant to HRS §103D-310(c), the selected offeror shall at the time of award be compliant with all laws governing entities doing business in the State of Hawaii. See Special Provisions 8.6 Responsibility of Offerors.

## **5.8 Evaluation Criteria**

The following criteria shall be used in evaluating the Offerors:

**Table 1 - Evaluation Criteria**

Evaluation Category	Evaluation Subcategory	Point Breakdown	Points Possible
Evaluation Criteria 1: Management Approach Submittal	<b>Organization and Approach</b> Plan and facilitate working group meetings, workshops, and TTXs. Has qualified key personnel and training experience.	5	
	<b>Reporting Plan</b>	5	
	<b>Past Performance</b>	5	
<b>Subtotal</b>			<b>15</b>
Evaluation Criteria 2: Technical Approach Submittal	Workplan design/development	5	
	Data Analysis	5	
<b>Subtotal</b>			<b>10</b>
Evaluation Criteria 3: Price		5	
<b>Subtotal</b>			<b>5</b>
<b>Total points used to score this contract</b>			<b>30</b>

**5.9 Scoring Process**

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

Evaluators shall use a rating of 0 to 5 for each evaluation criteria. Rating is defined as follows:

**Evaluation Criteria 1: Management Approach Submittal**

- 0- The Proposal fails to address the Offeror's ability to Plan and facilitate working group meetings, workshops, and TTXs. Proposal does not provide a reporting plan to update Contract Administrator of project progress. The proposal did not provide any references to show Past Performance.
- 1- **Poor.** The criterion is inadequately addressed, Offeror demonstrates only a slight ability to fulfill requirements, or there are serious inherent weaknesses with proposal.
- 2- **Fair.** The Proposal broadly addresses planning and facilitating working group meetings, workshops and TTXs. There are one or more noticeable deficiencies in Meeting Facilitation plan or the Reporting Plan. Offeror did not provide an adequate number of client references to represent past performance.
- 3- **Good.** The Proposal addresses the criterion well; meets the requirement. Demonstrates knowledge and understanding of the subject matter.
- 4- **Very Good.** The Proposal provides a highly comprehensive plan that addresses all criterion very well. No deficiencies noted. All references provided encouraging reviews of Past Performance.
- 5- **Excellent.** The Proposal successfully addresses all relevant aspects of the criterion. The proposal provides added value to the State of Hawaii. Offeror provides additional information and recommendations beneficial to the agency. The response includes a full, clear, and detailed explanation on how they will report, plan, and facilitate working group meetings, workshops and TTXs. Excellent references and stellar reputation.

## Evaluation Criteria 2: Technical Approach

- 0- The Proposal fails to address the Offeror's ability to design/develop Workplans. Proposal does not provide a Data Analysis plan that supports the project goals and provide beneficial information for the agency.
- 1- **Poor.** The criterion is inadequately addressed, Offeror demonstrates only a slight ability to fulfill requirements, or there are serious inherent weaknesses with proposal.
- 2- **Fair.** The Proposal broadly addresses workplan design and development. There are one or more noticeable deficiencies in offeror's design/development plan. Offeror did not provide a clear approach to data analysis.
- 3- **Good.** The Proposal addresses the criterion well; meets the requirement. Demonstrates knowledge and understanding of the subject matter.
- 4- **Very Good.** The Proposal provides a highly comprehensive development/design plan that addresses all criterion very well. No deficiencies noted.
- 5- **Excellent.** The Proposal successfully addresses all relevant aspects of the criterion. The proposal provides added value to the State of Hawaii. Offeror provides additional information and recommendations beneficial to the agency. The response includes a full, clear, and detailed explanation on how they will design/develop workplans. Offeror displays thorough understanding of Data Analysis and provides workplans and strategies based on information

gathered.

### **Evaluation Criteria 3: Price**

0- **Poor.** Overbudget

5- **Excellent.** Within Budget

#### **5.10 Notice of Award**

After a final selection is made, the State will issue a notice of award on its electronic procurement system (HlePRO). Upon award, proposal files are public records are available for review by submitting a Request for Access to Government Record. Information on the Office of Information Practices and forms may be found at <http://oip.hawaii.gov>.

#### **5.11 Debriefing**

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

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

A protest by the requestor following a debriefing shall be filed within five (5) working days, as specified in HAR §103D-303(h). See Special Provisions Section 8.10 Protest Procedures for submitting a protest.

## **Section 6: Evaluation Criteria**

### **Evaluation Criteria 1: Management Approach**

#### **6.1 Management Approach Submittal**

This section contains requirements pertaining to the offeror's management approach relating to this RFP. Offeror shall submit a narrative of a maximum of three (3) pages showing how they met or exceeded requirements of previous work, project examples, etc. Narratives to be submitted in size 12 Arial font or equivalent.

Management Approach can include sub-factors such as:

#### **Organization and Approach**

The State will assess the degree to which the Offeror's proposed organization and approach for managing the program meet the requirements identified in the SOW (e.g., achieve schedule milestones, submit timely and accurate deliverables, and address risk).

This includes, but is not limited to, the following:

- Organizational Experience - demonstrating the following: Organizational capability, resources, and experience, maintenance, and operation. The Offeror shall explain its prior experience providing the types of services requested by this RFP. Describe at least three (3) major projects or contracts you worked on during the past ten (10) years, on the same or similar projects. Explain the statement of work, duration, number of employees assigned to the project, and significant tasks that were completed.
- Program management
- Staffing plan
- Subcontractor management
- Configuration management
- Data management to include cybersecurity considerations
- Quality assurance - Implementation of quality and cost controls, with effective project and financial tracking and reporting
- System implementation and transition(s) management

The State will assess the degree to which the Offeror's proposed performance management approach will meet the requirement to ensure high-quality services that meet the performance requirements for the contract including meaningful program metrics that depict, at a minimum, program cost, schedule, and performance attainment



and describe plans for implementation and monitoring of those metrics.

### Key Personnel

The State will assess the degree to which the Offeror's proposed Key Personnel resumes meet defined labor category requirements with required or equivalent certifications aligned to their proposal and, the degree to which the approach for retaining Key Personnel will support successful and efficient execution of requirements.

### Training

The State will assess the degree to which the Offeror's proposed management and integration of all implementation activities with overall program support and proposed training design, and development, delivery, and support activities meet the SOW requirements.

### Reporting Plan

The State will be provided with timely reports due to the Project Manager on a monthly or bimonthly basis. A schedule of reports on project activities and plans for execution shall be provided

### Past Performance

Offeror shall submit a narrative of a maximum of three (3) pages not including references. Narratives to be submitted in size Arial 12 font or equivalent. Offeror shall provide a full narrative to describe past performance establishing the company submitting the proposal has the qualifications and experience to provide the services specified in this RFP.

Offeror shall complete Offer Form OF-2 Client References, Attachment B with the names and contact information of customer references for at least three (3) clients that received services that are similar to those in the statement of work.

The State reserves the right to conduct reference checks beyond what was provided by references.

The results of the reference checks will be reflected in the evaluation score for this criterion. Full points will not be awarded without confirmation of services from at least three (3) listed clients. Offerors are encouraged to notify references with due notice.

#### 6.1.1 Past Performance Relevancy and Recency Ratings

The State will evaluate the Offeror's demonstrated record of contract performance in supplying services that meet users' needs, including price and schedule. The recency and relevancy of the information, the source of the information, the context of the data, and general trends in the Contractor's performance will be considered. More recent and more relevant performance usually has a greater impact on the confidence assessment

than less recent and less relevant performance. The State will perform an independent determination of the relevancy of the data provided or obtained. A relevancy determination will be made in addition to the reference responses received. The State is not bound by the Offeror's opinion of relevancy. The following relevancy criteria apply and will be assigned to each effort identified in the Offeror's proposal on past performance.

<b>PAST PERFORMANCE RELEVANCY RATING</b>	
<b>Rating</b>	<b>Definition</b>
Very Relevant	Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.
Relevant	Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires
Somewhat Relevant	Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires.
Not Relevant	Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.

Very Relevant – Has provided all services in present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.

Relevant – Has provided some services in present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.

Somewhat Relevant - Has provided few services in present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.

Not Relevant: Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.

For purposes of this evaluation, recency is defined as active or completed efforts performed within the past five (5) years from the closing date of this solicitation. The more recent the effort the higher recency score it will receive, as follows:

<b>PAST PERFORMANCE RECENCY RATING</b>	
<b>Rating</b>	<b>Definition</b>
Very Recent	Completion of a service project within the last one (1) to two year(s) (2)
Recent	Completion of a service project within the last three (3) to four year(s) (4)
Not Recent	Completion of a service project within the last five year(s) (5) to ten years (10)

\* Given the number of mergers and acquisitions in today's American business environment, potential offerors may not have existed under their current name for very long. If the key management personnel, subcontractors, or other resources, have experience on contracts similar to the pending requirement for another contractor; state and local government contracts; private contracts; or was a major subcontractor; then the source selection team can perform the appropriate evaluation and risk assessment. This reduces the chance of needing to "neither reward nor penalize" an offeror with no other relevant past performance information.

If the contractor is truly a new entity and none of the company principals ever performed relevant work for others, the company is considered to have no past performance. In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance." Thus, the evaluator would, at the minimum, rate this offeror as unknown confidence, allowing for a pass rate of 50% (3/6).

## **Evaluation Criteria 2: Technical Approach Submittal**

### **6.2 Technical Approach Submittal**

This section contains requirements pertaining to the offeror's technical approach relating to this RFP. Offeror shall submit a narrative of a maximum of three (3) pages explaining their plan for the project goal and requirements, amount of key personnel allocated, the methodology toward implementing and tracking the success of deliverables including milestones. Narratives to be submitted in size 12 Arial font or equivalent.

Technical Approach can include but is not limited to:

- a) A clear understanding of the statement of work required for the project, with a work plan that will ensure the achievement of task objectives;
- b) A clear understanding of state laws and regulations and a viable plan for implementing these requirements;
- c) A viable transition plan with contingency planning and established milestones;
- d) An integrated plan that expands outreach to targeted audiences;
- e) An overall effective strategy that accomplishes all project goals as outlined in the Statement of Work;
- f) A risk assessment and risk mitigation plan;
- g) A quality control plan;
- h) The approach to tracking and achieving the required deliverables.

## Evaluation Criteria 3: Price

There are two subfactors to Price evaluation:

### 6.3 Total Price Evaluation

The Offeror's price proposal is worth sixteen point seven percent (16.7)% of the total points, which is five (5) total points. Offerors shall enter the total sum price for the one (1) year(s) services as the Unit Price in US Dollars and Cents when submitting their offer in HlePRO.

#### 6.3.1 Price and Rate Guarantee Period

All prices shall be guaranteed for the initial period of twelve (12) of the contract. During the remaining contract period, the Contractor may request an increase in contract price when there is a substantial increase in the cost of materials or freight. Such requests must be made in writing to the Procurement Officer and shall meet the following conditions:

1. Request for a price increase shall be limited to the costs imposed upon the Contractor by the manufacturer or supplier of the materials. (No allowances will be given for Contractor's increased labor or operating expenses.)
2. Request for a price increase due to higher transportation costs shall be limited to the cost imposed upon the Contractor by the freight forwarder.
3. Contractor shall submit at the time of such written request, documentation, or verification the increase is the result of a manufacturer or supplier increase in the cost of materials or transportation.
4. No price increase adjustment shall be allowed during the first twelve (12) months of the contract. The Contractor may submit a price increase adjustment request once every twelve (12) months for item(s) awarded provided proper documentation is submitted to substantiate the increase as detailed in items 1 through 3.

The State shall make the final determination for allowance of price increase requests. In the event of a general price decrease, the State will be entitled to reductions; provided, however, the amount of such decrease shall not exceed the amount of any increase granted herein. Contractor shall notify the State within five (5) business days of such price decrease.

## **Section 7: Contract Management**

Contract management refers to post-award type activities, such as contract implementation, contract administration, measurement of work completion, and payment computation based on deliverables. Moreover, it involves the monitoring of a contract, making important changes and modifications to the contract, and dealing with related problems. Focused attention to contract management considerations facilitates a positive working relationship between the government customer, procurement staff, and the contractor for the successful implementation of the contract award.

### **7.1 Post-Award Communications: Contract Administrator**

The Contract Administrator identified below is the single point of contact (POC) **post-award**. The contractor shall direct to the Contract Administrator all questions concerning the post-award process and any other questions that may arise related to the resulting contract. The Contract Administrator designated by the State of Hawaii, Department of Defense (DOD), Hawaii Emergency Management Agency (HI-EMA) is:

Francis A.P. Kau  
Regional Catastrophic Planner  
Hawaii Emergency Management Agency  
4204 Diamond Head Road, Honolulu, HI 96816  
francis.a.p.kau@hawaii.gov  
Phone: (808) 441-5663

### **7.2 Contractor/State Meetings**

The contractor shall participate in initial meetings with the State to discuss the contract, including but not limited to; an estimated timeline for transition and implementation, status reports of the transition and implementation, the expectation of deliverables, training sessions, and follow-up meetings.

### **7.3 Dispute Process and Escalation**

The following steps address any issues or concerns that may occur during the transition/implementation stage or at any time throughout the contract period:

Disputes shall be resolved in accordance HRS§ 103D-703, and HRS Chapter 3-126, , as the same may be amended from time to time.

### **7.4 Quality Control**

The Contractor shall provide quality services/products and management oversight of

all processes. The Contractor shall use key performance indicators that are acceptable within the specific market industry to manage and monitor quality performance. The Contractor shall provide accurate data/reports and meet deliverables, with emphasis on the overall success and positive impact on the Regional Catastrophic Logistics and Supply Chain Management Plan. The Contractor shall provide management, support, and qualified personnel to accomplish the objectives of this contract.

### 7.5 Post Award Deliverables

The contractor shall provide, upon request of the State, the following, including but not limited to deliverable items:

Deliverable
Coordinate/Guide a Regional Catastrophic Logistics & Supply Chain Management Working Group
Conduct a Capability Assessment & Gap Analysis
Develop and Finalize a Regional Catastrophic Logistics & Supply Chain Management Plan and related documentation
Update and/or establish County-level point of distribution plans and related documentation.
Plan and Conduct Training and Exercises -(4) Individual county-centric discussions-based workshops -(4) Tabletop Exercises -(1) Statewide functional exercise
Public Outreach Evaluation
Communication and Updates
Final Closeout Report

## Section 8: Special Provisions

### 8.1 Scope

The Scope of Work described below is intended to provide offerors with a general understanding of the HI-EMA's expectations for the project. Offerors are encouraged to suggest alternative approaches to this scope based on their professional experience. HI-EMA seeks a qualified Contractor to do the following but not limited to plan, administer, conduct, analyze, and provide a Regional Catastrophic Logistics and Supply Chain Management Plan.

Each proposal shall include information clearly indicating that the following required tasks shall be performed and completed by the contractor:

- 1. *Coordinate/Guide a Regional Catastrophic Logistics & Supply Chain Management Working Group.*** This working group shall be composed of high-profile community leaders—"systems-level thinkers" who understand how to integrate multiple resources, fully capable of catalyzing plans into actions and obtaining community buy-in critical to long-term success and resiliency. These stakeholders shall provide valuable subject matter expertise relating to emergency management, logistics, maritime and transportation, supply chain management, finance, vulnerable populations, commodity distribution, and public health preparedness, with many representative stakeholders from governing authority of implementing statutory change at the community, organizational, and policy levels. It is anticipated that this workgroup shall be able to identify new partnerships within the community to address shelter space, commodity acquisition and storage, and innovative methods to reach Hawai'i's socially vulnerable populations.
- 2. *Conduct a Capability Assessment & Gap Analysis.*** The capability assessment and gap analysis shall take an up-to-date inventory of all existing county and regional planning, organizational, equipment, training, and exercise assets to prioritize the working group's efforts. This information shall be unitized to further strengthen long-term plan sustainability and responsibilities beyond the performance period. Contractor time shall be allocated to support each counties' effort based on the need identified during this task.
- 3. *Develop and Finalize a Regional Catastrophic Logistics & Supply Chain Management Plan and related documentation.*** The contractor shall be responsible for drafting and finalizing required plans based on the work completed and input received by the working group.
- 4. *Update and/or establish County-Level point of distribution plans and related documentation.*** The contractor shall provide full-time technical assistance to county-level emergency management to support their efforts to update and/or create county-level points of distribution plans and related documentation. These plans are meant to further enhance national, regional, and local resiliency and long-term sustainability.



- 5. Plan and Conduct Training and Exercises.** The contractor shall conduct county-specific and Statewide training and exercises to validate and refine plans. These training sessions shall relate to commodities distribution, resource allocation, and specifically identify and target socially vulnerable populations. Four (4) individual county-centric, discussion-based workshops addressing Logistics and Distribution Management/C-PODs and sheltering, with four (4) Tabletop Exercises focusing on C-POD/Logistics Distribution Management, and Shelter Activation Drills (can be combined into one day-training/TTX events if time permits) shall be planned and executed, as well as one (1) Statewide Functional Exercise.
- 6. Public Outreach Evaluation.** Conduct a post outreach program comparison to measure the effectiveness of the *14-Day Ready Go* public campaign that had been completed in previous years of the grant period of performance.
- 7. Communication and Updates.** Ongoing communication to provide updates to the Program Manager on a weekly/biweekly basis shall keep HI-EMA current on the progress of the grant tasks and deliverables. In addition, invoices shall be submitted to HI-EMA on a quarterly basis for timely payment.

## **8.2 Acceptance and Testing**

Define design documents, acceptance testing procedures, and remedies for those items not accepted.

## **8.3 Intellectual Property Rights**

The State reserves the right to unlimited, irrevocable, worldwide, perpetual, royalty-free, non-exclusive licenses to use, modify, reproduce, perform, release, display, create derivative works from, and disclose the work product, and to transfer the intellectual property to third parties for State purposes.

## **8.4 Termination for Convenience or Unavailability of Funds**

The State has the right to cancel this solicitation should, at any time during this solicitation process, funding become unavailable.

## **8.5 Certification of Offeror Concerning Wages, Hours and Working Condition of Employees Supplying Services**

All Offerors for service contracts shall comply with section HRS §103-55, which

provides as follows:

Wages, hours, and working conditions of employees of CONTRACTOR supplying services: Before any prospective Offeror is entitled to submit an offer for the performance of any contract to supply services in excess of \$25,000 to any governmental agency, Offeror shall certify that the services to be performed will be performed under the following conditions:

Wages: The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Compliance with labor laws: All applicable laws of the Federal and State governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

No contract to perform services for any governmental contracting agency in excess of \$25,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of the contract to perform services shall result in the cancellation of the contract.

It shall be the duty of the government contracting agency awarding the contract to perform services in excess of \$25,000 to enforce this section.

This section shall apply to all contracts to perform services in excess of \$25,000, including contracts to supply ambulance service and janitorial service.

This section shall not apply to:

- 1) Managerial, supervisory, or clerical personnel.
- 2) Contracts for supplies, materials, or printing.
- 3) Contracts for utility services.
- 4) Contracts to perform personal services under paragraphs (2), (3), (12), and (15) of section 76-16, paragraphs (7), (8), and (9) of section 46-33, and paragraphs (7), (8), and (12) of section 76-77, Hawaii Revised Statutes, (HRS).
- 5) Contracts for professional services.
- 6) Contracts to operate refreshment concessions in public parks, or to provide food services to educational institutions.
- 7) Contracts with nonprofit institutions.

## **8.6 Responsibility of Offerors**

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

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

### **8.6.1 Vendor Compliance - Hawaii Compliance Express (HCE)**

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

### **8.6.2 Timely Registration on HCE**

Vendors/Contractors/service providers intending to use the HCE to demonstrate compliance are advised to register on HCE as soon as possible at <https://vendors.ehawaii.gov>. The annual registration fee is \$12.00 and the 'Certificate of Vendor Compliance' is accepted for the execution of a contract and final payment. If a vendor/Contractor/service provider is not compliant on HCE at the time of award, the Offeror will not receive the award.

### **8.6.3 Verification of Compliance on the HCE**

Prior to awarding this contract, the State shall verify compliance of the Contractor(s).

### **8.6.4 Vendor Compliance - Paper Documents**

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

#### **8.6.4.1 HRS Chapter 237 Tax Clearance Requirement for Award**

Pursuant to Section 103D-328, HRS, the Contractor shall be required to submit a tax clearance certificate issued by the Hawaii 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.

The *Tax Clearance Application*, Form A-6, and its completion and filing instructions, are available on the DOTAX website: <http://tax.hawaii.gov/forms/>.

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

Pursuant to Section 103D-310(c), HRS, the Contractor shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue. A photocopy of the certificate is acceptable to the [DOD].

The *DLIR Form LIR#27 Application for Certificate of Compliance with Section 3-122-112, HAR*, and its filing instructions are available on the DLIR website: <http://labor.hawaii.gov/forms/>.

#### **8.6.5 Compliance with Section 103D-310(c), HRS, for an entity doing business in the State.**

The Contractor shall be required to submit a *Certificate of Good Standing (COGS)* issued by the State of Hawaii Department of Commerce and Consumer Affairs (DCCA) - Business Registration Division (BREG). The Certificate is valid for six (6) months from the date of issue. A photocopy of the certificate is acceptable to the [DOD].

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

For more information regarding online business registration and the COGS is available at <http://cca.hawaii.gov/breg/>.

#### **8.6.6 Timely Registration**

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

#### **8.6.7 Verification of Compliance**

Upon receipt of compliance documents, the State reserves the right to verify their validity with the respective issuing agency. The Contractor shall maintain their compliance throughout the term of the contract.

### **8.6.8 Required Review**

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

Should Offeror find defects and questionable or objectionable items in the RFP, Offeror shall notify the State in writing prior to the deadline for written questions as stated in the Section 1.3 Schedule and Significant Dates, as amended. This will allow the issuance of any necessary corrections and/or amendments to the RFP by addendum and mitigate reliance on a defective solicitation and exposure of proposal(s) upon which award could not be made.

## **8.7 Proposal Preparation**

### **8.7.1 Offer Form OF-1**

Offer Form OF-1 is required to be completed using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable, in the appropriate space on OFFER FORM page OF-1.

The Offeror's authorized signature on the OFFER FORM, OF-1 shall be an original signature in ink, which shall be required before an award, if any, can be made. The submission of the proposal shall indicate Offeror's intent to be bound.

Completion of Offer Form OF-1 is Offeror's acknowledgment and agreement to provide services in all categories identified in the RFP, agreement to provide services in all fifty states, and the understanding of evaluation criteria and process.

### **8.7.2 Offer Guaranty**

An offer guaranty is NOT required for this RFP.

An acceptable proposal security deposit shall be in an amount equal to at least five percent of the amount offered and shall be limited to: a bond in a form satisfactory to the State underwritten by a company licensed to issue bonds in this State; legal tender; or a certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official check drawn by, or a certified check accepted by a bank, a savings institution, or a credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration. Certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, official check, or certified check may be utilized only to a maximum of \$100,000, provided, however, if the required security or bond amount totals over \$100,000, more than one instrument not exceeding \$100,000 each and issued by different financial institutions, may be submitted.

If an offer does not comply with the security requirements, the offer shall be rejected as non-responsive, unless the failure to comply is determined by the chief procurement officer, the head of a purchasing agency, or the designee of such officer to be non-substantial pursuant to section 3-122-223, Hawaii Administrative Rules (HAR).

### **8.7.3 Tax Liability and County Surcharge**

Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237, and if applicable, taxable under HRS Chapter 238. Offerors are advised that they are liable for Hawaii GET at the current 4.0% rate for transactions made on Oahu, Hawaii, Maui, Kauai, Molokai, and Lanai or the applicable Use tax. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, the Offeror shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption.

County surcharges on state general excise (GE) tax or Use tax may be visibly passed on but are not required. For more information on county surcharges and the max pass-on tax rate, please visit the Department of Taxation's website at <http://tax.hawaii.gov/geninfo/countysurcharge>.

### **8.7.4 Federal I.D. No. and Hawaii General Excise Tax License I.D.**

Offeror shall submit its current Federal I.D. No. and Hawaii General Excise Tax License I.D. number in the space provided on OFFER FORM, page OF-1, thereby attesting that the Offeror is doing business in the State and that Offeror will pay such taxes on all sales made to the State.

## **8.8 Confidentiality**

**8.8.1** If an Offeror in good faith considers a portion of an Offer, or correspondence with the State, to contain confidential information, it

shall follow the procedures set forth in Section 4.5 Required Format and Content. Costs included or required to be included in an Offer cannot be confidential and will not be withheld from public access.

- 8.8.2** Any Offeror may request the nondisclosure of designated trade secrets or other proprietary data it considers confidential. Such request shall be in writing specifically identifying the information or material asserted to be confidential and the justification for confidential treatment. The request shall be submitted with the submission of the Offer. The information or material asserted by the Offeror to be confidential to the Offeror shall be clearly marked and be submitted in or with the Offer in such manner as to be readily separable from the Offer (or remaining portion of the Offer) to facilitate public access to and inspection of the non-confidential portion of the Offer. Total Cost proposals cannot be marked confidential.
- 8.8.3** Pursuant to HAR §3-122-58, the State will consult with the Attorney General regarding an Offeror's request for confidentiality of part of its Offer. The Attorney General shall determine what portions of the request are confidential under Law and what portions are not, in accordance with HRS Chapter 92F. The State shall communicate the Attorney General's determination to the Offeror in writing. If the request for confidentiality is denied in whole or in part, the information or material deemed to be non-confidential shall be made available as public information unless the Offeror appeals pursuant to HRS § 92F-42(1).

## **8.9 Redaction by the State**

If the State determines, pursuant to HRS §92F-13, that any information or material in an Offer, any written question or submission by a Prospective Offeror, an Offeror or a Contractor, any response to any question or submission from a Prospective Offeror, Offeror or Contractor, and/or any Contract document is not required to be disclosed, then the State shall segregate, or redact, or otherwise cause any such information or material to not be made available as public information.

## **8.10 Protest Procedures**

Pursuant to HRS §103D-701 and HAR §3-126-3, an actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Procurement Officer at:

Procurement Officer  
Department of Defense  
3949 Diamond Head Road  
Honolulu, Hawaii 96816

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

The notice of award, if any, resulting from this solicitation shall be posted on the State of Hawaii electronic procurement site.

## **8.11 Notice to Proceed**

Work will commence on the official commencement date specified on the Notice to Proceed.

## **8.12 Contract Execution**

The successful Offeror receiving award shall enter into a formal written contract to be signed by the Contractor and returned within ten (10) working days.

No performance or payment bond is required for this contract.

No work is to be undertaken by the Contractor prior to the commencement date specified on the Notice to Proceed. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date.



If an option to extend is mutually agreed upon, the Contractor shall be required to execute a supplemental contract for the additional extension period.

**8.13 Liability Insurance**The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to protect the Contractor and his Subcontractors, if any, from claims for damages for personal injury, accidental death, and property damage which may arise from operations under this contract, whether such operations be by the Contractor or by Subcontractor or anyone directly or indirectly employed by either of them. If any Subcontractor is involved, the insurance policy or policies shall name the Subcontractor as additional insured.

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

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its Subcontractor(s) where appropriate.

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability (Occurrence form)	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability	\$1,000,000 per accident

Professional Liability shall be required from vendors providing professional services requiring a license to conduct its business such as an engineer, architect, accountant, lawyer, information technology services, etc.

Professional and Technology-Based Services Liability Insurance shall be required to insure against damages and claim the expense as a result of claims arising from actual or alleged wrongful acts in performing cyber and technology activities in the amount of \$2,000,000, per accident/occurrence/annual aggregate.

#### Network and Cyber Liability Insurance

Include coverage for Professional and Technology-Based Services Liability if not covered under Company's Professional Liability/Errors and Omissions Insurance reference above in the amount of \$2,000,000.

Each insurance policy required by this contract (with the exception of the Professional Liability policy), including a Subcontractor's policy, shall contain the following clauses:

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

A Waiver of Subrogation shall apply to the General Liability, Automobile Liability, and Worker's Compensation insurance policies and shall be in favor of the State of Hawaii.

Prior to award, the Contractor agrees to deposit with the State of Hawaii certificate(s) of insurance necessary to satisfy the State that the insurance provisions of this RFP have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of the price list and price list extensions, if any, including those of its Subcontractor(s), where appropriate. Upon request by the State, Contractor shall be responsible for furnishing a copy of the policy or policies.

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

The procuring of such required insurance shall not be construed to limit the Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this RFP. Notwithstanding said policy or policies of insurance, the Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this price list.

## **8.14 Contract Invalidation**

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

## **8.15 Mistakes in Proposals**

**8.15.1** Mistakes shall not be corrected after awarding of the contract.

**8.15.2** When the Procurement Officer knows or has reason to conclude before award that a mistake has been made, the Procurement Officer may request the offeror to confirm the proposal. If the Offeror alleges a

mistake, the proposal may be corrected or withdrawn pursuant to this section.

**8.15.3** If discussions are not held, or if the best and final offers upon which award will be made have been received, mistakes shall be corrected to the intended correct offer whenever the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn.

**8.15.4** If discussions are not held, or if the best and final offers upon which award will be made have been received, an Offeror alleging a material mistake of fact which makes a proposal non-responsive may be permitted to withdraw the proposal before award if the mistake is clearly evident on the face of the proposal but the intended correct offer is not, or the Offeror submits evidence which clearly and convincingly demonstrates that a mistake was made.

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

## **8.16 Modification Prior to Submittal Deadline or Withdrawal of Offers**

**8.16.1** The Offeror may modify or withdraw a proposal before the proposal due date and time.

**8.16.2** Any change, addition, deletion of attachment(s), or data entry of an Offer may be made prior to the deadline for submittal of offers.

## **8.17 Contract Changes – Unanticipated Amendments**

During the course of the contract, the Contractor may be required to perform additional work which shall be within the general scope of the initial contract. When additional work is required, the Contract Administrator will provide the Contractor a written description of the

additional work and request the Contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work.

Contractor will not commence additional work until the Contract Administrator has secured the required State approvals necessary for the amendment and an executed written contract amendment has been issued.

### **8.18 Re-execution of Work**

The Contractor shall re-execute any work that fails to conform to the requirements of the contract which appear during the course of the work and shall immediately remedy any defects due to faulty work by the Contractor.

**Attachment A**  
**STATEMENT OF WORK**  
**FOR**  
**RFP- CA-202407**

**Purpose.** On 16 September 2021 the Hawai'i Emergency Management Agency (HI-EMA) was awarded the FY 2021 Regional Catastrophic Preparedness Grant (RCPG) by the Department of Homeland Security (DHS). The purpose of this project is to build and enhance Hawai'i's local and regional logistics response capacity, thus reducing its reliance on Federal assistance. To do this, HI-EMA's goals are to assemble a Logistics and Supply Chain Management Working Group with key partners around the State and to develop and finalize a written plan. Through these collaborative efforts, we can foster an environment of self-sustainability, reduce the need for external assistance, and increase a sense of shared responsibility at the individual, community, business, and government levels. Additionally, this project is designed to have significant and lasting impact on the physical and social fabric of our island communities. By building resilient distribution infrastructures, it shall ensure equitable and adequate access and partnerships to provide life-sustaining commodities that shall mitigate the disproportionate occurrence of morbidity, mortality, and poverty experienced by our socially vulnerable populations.

The purpose of this contract is to provide staffing services to HI-EMA to complete the final year of the FY 2021 Regional Catastrophic Preparedness Grant.

**Overview.** Accessible only by land or sea, Hawai'i's geographic isolation, limited landmass, aging infrastructure, just-in-time logistics practice, and near-total reliance on the importation of life-sustaining commodities has increased its vulnerability during the response and recovery phases of a catastrophic incident. Nearly 90% of all commodities and 100% of all fuel is imported into the State, with 99% of all imports via seaports, and 1% via air, placing a heavy burden on Hawai'i's commercial seaport system. Furthermore, the complexity of the transpacific supply chain results in prolonged transit times of up to three weeks and an on-island commodity storage capacity of five to seven days, effectively guaranteeing catastrophic impacts to Hawai'i's population if the current logistics and supply chain system were to be disrupted in any capacity.

Hawai'i's existing supply chain and commodities distribution system further adds to its inherent vulnerability. The physical location of all seaports and 95% of its airports are in tsunami inundation zones. The Port of Honolulu (PoH) located within Urban Honolulu serves as the State's primary port of importation and distribution, with commodities for neighboring counties subsequently transferred to smaller maritime vessels. In the event of a catastrophic incident, the PoH's capabilities cannot be replicated in any other of the State's nine commercial ports. These circumstances render the PoH the single point of failure in the State's primary means of importation of all goods and materials, as none of the airports have the capacity to replicate any of the seaport throughputs. Although there are protocols in place to safeguard Hawai'i's ports against a catastrophic incident, there still exists a risk for failure. The State lacks large-scale salvage and dredging equipment needed to clear debris that may block entryways, with estimated 7 to 10 days of travel time from the West Coast before work can even begin.

The looming challenges of the 21st century, such as climate change, increasing occurrence of natural and human-caused hazards, income inequality, and resource

scarcity clearly pose resilience issues for countries, cities, and communities all around the world. Yet, they are more pronounced for us in Hawai'i—an island chain in the middle of the Pacific Ocean with the nearest source of assistance over 2,000 miles away.

In addition, the lack of long-term commodity storage further compounds the complex transpacific supply chain and commodities distribution. Regional logistics & supply chain management contingency plans are a high-level necessity in the event future catastrophic incidents, including pandemic outbreaks, result in the partial or total shut down of our West Coast ports.

### ***Planned Project Deliverables***

- 1. *Coordinate/Guide a Regional Catastrophic Logistics & Supply Chain Management Working Group.*** This working group shall be composed of high-profile community leaders—"systems-level thinkers" who understand how to integrate multiple resources, fully capable of catalyzing plans into actions and obtaining community buy-in critical to long-term success and resiliency. These stakeholders shall provide valuable subject matter expertise relating to emergency management, logistics, maritime and transportation, supply chain management, finance, vulnerable populations, commodity distribution, and public health preparedness, with many representative stakeholders from governing authority of implementing statutory change at the community, organizational, and policy levels. It is anticipated that this workgroup shall be able to identify new partnerships within the community to address shelter space, commodity acquisition and storage, and innovative methods to reach Hawai'i's socially vulnerable populations.

Meetings are expected to be conducted once a month or every other month (as time permits). The projected working partners include: City & County of Honolulu, Department of Emergency Management (DEM); Hawai'i County Civil Defense Agency (HCCDA), State of Hawai'i, State Procurement Office (SPO); State of Hawai'i, Department of Transportation (DOT); University of Hawai'i, West Oahu, Sustainable Community Foods Program (UHWO); American Red Cross, Hawai'i Chapter (ARC); Hawai'i Technology Development Corporation (HTDC); SSFM International, Inc.; County of Kauai, Kauai Emergency Management Agency (KEMA); Hawai'i State Energy Office (HSEO); County of Maui, Maui Emergency Management Agency (MEMA). HI-EMA continues to solicit support and stakeholder participation from other public and private entities within the community.

- 2. *Conduct a Capability Assessment & Gap Analysis.*** The capability assessment and gap analysis shall take an up-to-date inventory of all existing county and regional planning, organizational, equipment, training, and exercise assets to prioritize the working group's efforts. This information shall be unitized to further strengthen long-term plan sustainability and responsibilities beyond the performance period. Contractor time shall be allocated to support each counties' effort based on the need identified during this task.
- 3. *Develop and Finalize a Regional Catastrophic Logistics & Supply Chain Management Plan and related documentation.*** The contractor shall be responsible for drafting and finalizing required plans based on the work completed and input received by the working group.
- 4. *Update and/or establish County-Level point of distribution plans and related documentation.*** The contractor shall provide full-time technical assistance to county-

level emergency management to support their efforts to update and/or create county-level points of distribution plans and related documentation. These plans are meant to further enhance national, regional, and local resiliency and long-term sustainability.

5. **Plan and Conduct Training and Exercises.** The contractor shall conduct county-specific and Statewide training and exercises to validate and refine plans. These training sessions shall relate to commodities distribution, resource allocation, and specifically identify and target socially vulnerable populations. Four (4) individual county-centric, discussion-based workshops addressing Logistics and Distribution Management/C-PODs and sheltering, with four (4) Tabletop Exercises focusing on C-POD/Logistics Distribution Management, and Shelter Activation Drills (can be combined into one day-training/TTX events if time permits) shall be planned and executed, as well as one (1) Statewide Functional Exercise.
  
6. **Public Outreach Evaluation.** Conduct a post outreach program comparison to measure the effectiveness of the *14-Day Ready Go* public campaign that had been completed in previous years of the grant period of performance.
  
7. **Communication and Updates.** Ongoing communication to provide updates to the Program Manager on a weekly/biweekly basis shall keep HI-EMA current on the progress of the grant tasks and deliverables. In addition, invoices shall be submitted to HI-EMA on a quarterly basis for timely payment.

<b>High-Level Milestones</b>
Solicit contract support to facilitate regional planning
<p>Procure Contract Support for the FY 2021 Regional Catastrophic Preparedness Grant</p> <p><u>Contractor + HI-EMA:</u></p> <p><b>Phase 1</b> – Complete Regional Logistics &amp; Supply Chain Management Capability Assessment &amp; Gap Analysis</p> <p><b>Phase 2</b> – Planning: Coordinate Working Group meetings, Support County Level Plans, Initiate and draft County-Specific Plans and develop Trainings and Exercises</p> <ul style="list-style-type: none"> <li>• Conduct Project Kickoff Meeting: Establish Meeting Schedule, Goals, Objectives, defined roles &amp; responsibilities, and action plan; Meetings shall occur as often as needed, but at least every other month</li>   <li>• Initiate development of Regional Catastrophic Logistics &amp; Supply Chain Management Plan, County-Specific Plans, and related documentation</li>   <li>• Initiate development of 2023 Regional Catastrophic Logistics &amp; Supply Chain Management Training &amp; Exercises</li> </ul>

<b>High-Level Milestones</b>
<p>Ongoing draft and review of Regional Catastrophic Logistics &amp; Supply Chain Management Plan (for the State); ongoing review of County-Specific Plans and related documentation</p> <p><b>Phase 3</b> – Conduct/Facilitate Working Group Workshop (solicit feedback on <i>Regional Catastrophic Logistics &amp; Supply Chain Management Plan</i> and County-Specific Plans; use feedback to revise plans)</p>
<p><b>Phase 4</b> – Conduct County Training Workshops and TTXs to test logistics capabilities and operational actions (Logistics &amp; Distribution Management/C-POD; Sheltering; Access &amp; Functional Needs, Commodities Distribution &amp; Resource Allocation)</p> <p>Initiate Planning for Statewide Functional Exercise</p>
<p>Complete revision of Regional Catastrophic Logistics &amp; Supply Chain Management Plan and County – Specific Plans and related documentation</p> <p><b>Phase 5</b> – Conduct Statewide Functional Exercise</p>
<p>Complete all AARs for training &amp; exercises conducted for the 2024 Regional Catastrophic Logistics &amp; Supply Chain Management</p> <p>Initiate Development &amp; Administer <i>Phase II Population Preparedness Survey</i> to evaluate effectiveness/reach of “14-Day Ready Go” campaign (from previous years of grant)</p> <p>Analyze &amp; Evaluate <i>Phase II Population Preparedness Survey</i>. Complete <i>Population Preparedness Survey Report</i> (Phase I &amp; II)</p> <p>Submit Regional Catastrophic Logistics &amp; Supply Chain Management &amp; County-Specific Plans and related documentation for Final Approval and Review</p>
<p>Finish all work by February 28, 2025 Prepare Grant &amp; Contract Close-Out</p>

**Outcome.** The anticipated capability assessment upon project completion of this comprehensive regional catastrophic logistics and supply chain management project is that the State of Hawai'i within 2 days of an incident, has the capability to identify, procure, and mobilize life-sustaining commodities, resources, and services to 256,071 people requiring food, water, and other commodities with the ability to maintain a distribution system for 2 months. This could close the current capability gap by 20%.

## **PERIOD OF PERFORMANCE**

The Period of Performance shall commence upon execution of contract and expire on June 30, 2024, unless terminated by the State with a thirty (30) day notice.



Any modifications or extension of the services beyond June 30, 2024, shall be by mutual written agreement.

## **VENDOR QUALIFICATIONS**

Primary selection for the Award shall be based on price; however, to be considered a responsive bid, the vendor shall demonstrate a thorough understanding of the purpose and scope of this service, as well as the necessary knowledge, skills, abilities, and experience relating to the delivery of the proposed services.

In accordance with 2 CFR 200.321 this solicitation must take all necessary steps to ensure small, minority, and/or women-owned enterprises are used when possible. Preference for this solicitation will be given to qualified vendors who meet the above-stated criteria.

Additionally, vendors shall provide the following:

1. Hawaii Compliance Express (HCE) certificate or proof of compliance with the four (4) entities: Internal Revenue Service, State Department of Taxation, Department of Commerce and Consumer Affairs, and the Department of Labor and Industrial Relations.
2. Printout of validation that the business entity is not debarred or suspended from receiving federal funding as evidenced in [www.SAM.gov](http://www.SAM.gov).

## **SPECIAL TERMS AND CONDITIONS**

The Vendor shall in good faith regard the collaboration and development of all finished and draft elements whether published or unpublished as wholly proprietary processes to the State of Hawaii and the Department, and shall not disclose the content, methods, practices, or information employed in developing the content under this scope of services.

## **SUBMITTING A QUOTE**

Vendors shall submit a quote for the entirety of the project, inclusive of general excise tax, applicable fees, and all incidental costs (if any). Award will be made to the lowest responsible/responsive Vendor for the total of the solicitation. Vendors shall include a statement addressing the qualifications listed in Section, Vendor Qualifications, with their submission of quote.

## **COMPENSATION AND PAYMENT**

The project budget shall not exceed \$415,826 in total, including all applicable taxes and costs associated with this project.

The compensation and payment schedule will be subject to post-award agreement between the Contractor and HI-EMA.

Payment for goods and services, that have been validated as complete and satisfactorily

received and rendered, shall be made via purchase order.

Invoices must be submitted no more than fifteen (15) calendar days after the performance end day.

## **COMPLIANCE AND DOCUMENTATION**

Vendors are required to be compliant with all appropriate state and federal statutes. Proof of compliance is required through Hawaii Compliance Express (HCE) or via paper documentation. Please see the instructions of this solicitation for more information.

## **FUNDING FOR AWARD**

The funding for this award is provided through the Regional Catastrophic Preparedness Grant Program. As such, the procurement requirements must adhere to federal grant procurement policies in addition to State of Hawaii policies.

## **DISQUALIFICATIONS**

The State has the right to disqualify vendors who do not submit the minimum requirements and follow instructions as listed in Section IV when providing its quote containing the cover letter, required attachments, and the Bid Cost Schedule. In addition, the State has the right to disqualify vendors who do not meet the minimum requirements and/or have been assessed to be unable to execute any of the services professionally.

## **CANCELLATION OF SOLICITATION**

The State has the right to cancel this solicitation should, at any time during this solicitation process, funding become unavailable.

Attachment B  
Letter of Acknowledgement

RCPGP (Staffing  
& Support)  
Department of Defense  
Hawaii Emergency Management Agency  
4204 Diamond Head Road, Honolulu  
State of Hawaii Honolulu, Hawaii 96826

RFP- CA-202407

Dear [Insert Name]:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto, [may include any General Provisions your agency implements], dated XX/XXXX, and the AG General Conditions, Form AG-008 or as amended; 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 bid, 1) Offeror is declaring this offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) Offeror is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Offeror is:

- Sole Proprietor     Partnership     \*Corporation     Joint Venture  
 Other \_\_\_\_\_  
\*State of incorporation: \_\_\_\_\_

Hawaii 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	<b>(x)</b>	Authorized (Original) Signature
Telephone No.		Name and Title (Please Type or Print)
Fax No.	**	<b>Exact Legal Name of Company (Bidder)</b>
E-mail Address		

\*\*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:

**Attachment C  
Pricing Form  
CLIENT REFERENCES  
OFFER FORM OF-2**

Client References: Offeror is required to fill out Section 1 for a minimum of three (3) references to customers who received services similar to those called out in this RFP. Offeror shall then complete Section 2 for each reference and email to referenced customer to complete Section 3.

**Section 1. To be completed by the offeror and submitted with offer.**

Customer Name #1: \_\_\_\_\_  
Address: \_\_\_\_\_  
Reference Name: \_\_\_\_\_  
Current Phone: \_\_\_\_\_

Customer Name #2: \_\_\_\_\_  
Address: \_\_\_\_\_  
Reference Name: \_\_\_\_\_  
Current Phone: \_\_\_\_\_

Customer Name #3: \_\_\_\_\_  
Address: \_\_\_\_\_  
Reference Name: \_\_\_\_\_  
Current Phone: \_\_\_\_\_

Customer Name #4: \_\_\_\_\_  
Address: \_\_\_\_\_  
Reference Name: \_\_\_\_\_  
Current Phone: \_\_\_\_\_

Customer Name #5: \_\_\_\_\_  
Address: \_\_\_\_\_  
Reference Name: \_\_\_\_\_  
Current Phone: \_\_\_\_\_

The State may contact all of the references listed to inquire about Offeror's equipment, services, performance, and degree of customer satisfaction. Full points for references will not be awarded unless Section 2 and 3 are emailed from referenced customers in accordance with Section 6.1.1.

**Section 2. To be completed by the Contractor – Offeror or Sub-contractor**

[This section is an example only. Adjust to your requirements]

Contractor Name:	Contractor Contact/Name:
Project Dates:	Contractor Contact Phone:
Customer Organization:	Customer Contact Name:
	Customer Phone:
Customer Address:	Customer Fax:
Operating Budget of Organization:	
Project included implementation in which of the following procurement categories (Check all that apply): <input type="checkbox"/> Acquisition Planning <input type="checkbox"/> Market Research <input type="checkbox"/> Solicitation and Award <input type="checkbox"/> Contract Management <input type="checkbox"/> Completion & Closeout <input type="checkbox"/> Other Services	
Project included implementation of procurement categories listed above in a government and/or education organization: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Scope of Project:	
Number of employees staffed for this project:	
Total One-Time Cost of Project (Estimated/Actual):	

Reason for Change in Total One-Time Cost of Project, if applicable:					
Scope of Contractor/Offeror's Involvement in this project:					
Number of employees Contractor/Offeror staffed for this project:					
Original Value of Contractor/Offeror's Contract:		Actual Total Contract Value:			
Reason(s) for Change in Value:					
Estimated Start & Completion Dates:		From:	Click here to enter a date.	To:	Click here to enter a date.
Actual Start & Completion Dates:		From:	Click here to enter a date.	To:	Click here to enter a date.
Reason(s) for Difference Between Estimated and Actual Dates:					

**Section 3. To be completed by the Customer Organization**

[This section is an example only. Adjust to your requirements]

Contractor Name (maybe subcontractor to Offeror):

Customer Organization:

Contractor Name:

Customer Organization:

**A. Validation of Referenced Project Data Provided by Offeror in Section 2**

Comments from the Customer Organization

**B. Past Performance Reference**

**RATING GUIDELINES**

Selection	Rating
5	Significantly exceeded your expectations.
4	Somewhat exceeded your expectations.
3	Met your expectations.
2	Somewhat below your expectations.
1	Significantly below your expectations.

Please explain ratings of 1, 2, or N/A in the Comments section below.

Criteria	Rating	Not Applicable
1. The Contractor provided sufficient project resources with appropriate skill sets to meet all project goals and objectives.	Choose an item.	<input type="checkbox"/>
2. The Contractor effectively managed its project staff to achieve project goals and objectives.	Choose an item.	<input type="checkbox"/>
3. The Contractor met all required tasks and deliverables timely and satisfactorily.	Choose an item.	<input type="checkbox"/>
4. The Contractor provided effective training and knowledge transfer to meet project goals.	Choose an item.	<input type="checkbox"/>
5. The Contractor satisfactorily managed project scope and risk to adhere to project schedule, control costs, and meet project goals.	Choose an item.	<input type="checkbox"/>
6. The Contractor provided effective post-implementation maintenance and operations support.	Choose an item.	<input type="checkbox"/>

Comments:
For Criteria with Ratings of 1, 2, or N/A:
General Comments:

As a representative of the Customer Organization listed above, I approved the responses to the previous statements about the performance of the Contractor listed above on the project identified in Section 2 of this Offeror Experience Reference Form.	
Printed Name:	Printed Title:
Signature:	Date:



GENERAL CONDITIONS

Exhibit 1  
Table of Contents

Page(s)

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

## GENERAL CONDITIONS

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

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

3. Personnel Requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 13. Termination for Default.

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

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

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

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

#### 14. Termination for Convenience.

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

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:
- (1) Any completed goods or work product; and
  - (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

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

d. Compensation.

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

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

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

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

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

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

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or

- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

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

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

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

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

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

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



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

17. Payment Procedures; Final Payment; Tax Clearance.

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

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

19. Modifications of Contract.

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

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

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

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

21. Price Adjustment.

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

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

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

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

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

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
  - b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

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

30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. Records Retention.

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

32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.

33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

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

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

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

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

b. Confidentiality of Material.

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

c. Security Awareness Training and Confidentiality Agreements.

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

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

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

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

e. Records Retention.

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