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**REQUEST FOR PROPOSAL**

**DATA CENTER RELOCATION**

RFP No.

HHSC FY 20-04

FOR

HAWAII HEALTH SYSTEMS CORPORATION

Kauai Region

Kauai Veterans Memorial Hospital

Kauai Veterans Memorial Hospital

4643 Waimea Canyon Drive

Waimea, HI 96796

Hawaii Health Systems Corporation

An Agency of the State of Hawaii

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**SECTION 1: ADMINISTRATION**

* 1. **INTRODUCTION**

This Request for Proposal (hereinafter “RFP”) is issued by the Kauai Region of the Hawaii Health Systems Corporation (hereinafter “HHSC”), a public body corporate and politic and an instrumentality and Agency of the State of Hawaii.

Thank you for your interest in submitting a proposal for this solicitation. The rationale for this competitive sealed RFP is to promote and ensure the fairest, most efficient means to obtain the **best value** to HHSC, i.e, the proposal offering the greatest overall combination of service and price. Hereinafter, organizations interested in submitting a proposal in response to this RFP shall be referred to as “OFFEROR”.

In order for HHSC to evaluate OFFEROR’s response in a timely manner, please thoroughly read this RFP and follow instructions as presented.

* 1. **PROCUREMENT TIMETABLE**

The timetable as presented represents HHSC’s best estimated schedule. If an activity of the timetable, such as “Closing Date for Receipt of Proposals” is delayed, the rest of the timetable dates may be shifted. OFFEROR will be advised, by addendum to the RFP, of any changes to the timetable. Contract start date will be subject to the issuance of the Notice to Proceed.

|  |  |
| --- | --- |
| **ACTIVITY** | **SCHEDULED DATES** |
| 1. | RFP Public Announcement | 7/27/20 |
| 2. | **MANDATORY Pre-Proposal Conference** | 8/5/20 @10AM |
| 3. | Closing Date for Receipt of Questions | 8/12/20 |
| 4. | Addendum for HHSC Response to Offeror's Questions | 8/24/20 |
| 5. | **Closing Date**  | **3:00pm on 9/9/20** |

* 1. **MANDATORY PRE-PROPOSAL CONFERENCE**

HHSC will hold a Mandatory Pre-Proposal Conference at Kauai Veterans Memorial Hospital on **August 5, 2020 @ 10 a.m.** for all interested Offerors for the purpose of discussing the RFP and viewing the site. Please check in at the information desk in the lobby of the Hospital **(temperature screening and face masks are required)**. Failure to send a representative to this meeting will disqualify an Offeror from participating in this solicitation. The Kauai Region Technical Representative will be present to answer questions relating to this project. Questions posed at this meeting must be submitted in writing to the Contracting Manager via email or fax no later than **August 12, 2020**. Subsequent answers from HHSC that affect the scope of this project will be contained in a written response to questions and clarification requests.

* 1. **QUESTIONS & CLARIFICATION**

*Questions and request for clarifications must be submitted in writing to the Contracting Manager via email no later than* ***August 12, 2020****.* Subsequent answers from HHSC that affect the scope of this project will be contained in a written response to questions and clarification requests.

* 1. **RFP ORGANIZATION**

This RFP is organized into five sections:

**SECTION 1: ADMINISTRATIVE**

 Provides information regarding administrative requirements.

**SECTION 2: SCOPE OF SERVICES**

Provides a detailed description of goods and/or services to be provided and delineates HHSC and CONTRACTOR responsibilities.

 **SECTION 3: PROPOSALS**

 Describes the required format and content for submission of a proposal.

 **SECTION 4: EVALUATION**

 Describe how proposals will be evaluated and lists the “value weight percentages” of the evaluation categories.

**SECTION 5: AWARD OF CONTRACT**

Describes procedures for selection and award of contract.

* 1. **HEAD OF PURCHASING AGENCY (HOPA)**

The HOPA for HHSC, or designee, is authorized to execute any and all Agreements (Contracts), resulting from this RFP.

The HOPA for this RFP is:

Lance K. Segawa

Regional CEO – Kauai Region

**1.7 DESIGNATED OFFICIALS**

The officials identified in the following paragraphs have been designated by the HOPA as HHSC’s procurement officials responsible for execution of this RFP, award of Agreement and coordination of CONTRACTOR’s satisfactory completion of contract requirements.

**1.8 ISSUING OFFICER**

The Issuing Officer is responsible for administrating/facilitating all requirements of the RFP solicitation process and is the **sole point of contact** for OFFEROR from date of public announcement of the RFP until the selection of the successful OFFEROR. The Issuing Officer will also serve as the Contract Manager responsible for contractual actions throughout the term of the contract.

The Issuing Officer is:

Cora Shirai, Contract Manager

HHSC/Kauai Veterans Memorial Hospital

4643 Waimea Canyon Drive, P. O. Box 337

Waimea, HI 96796

Phone: 338-9454

email: cshirai@hhsc.org

**1.9 HHSC ORGANIZATIONAL INFORMATION**

**1.9.1 CHARTER**

HHSC is a public body corporate and politic and an instrumentality and agency of the State of Hawaii. HHSC is administratively attached to the Department of Health, State of Hawaii and was created by the legislature with passage of Act 262, 1996 Session Laws of Hawaii. Act 262 affirms the State’s commitment to provide quality health care for the people in the State of Hawaii, including those served by small rural facilities.

**1.9.2 STRUCTURE AND SERVICES**

HHSC oversees the operation of twelve public health facilities throughout the Hawaiian Island chain, including Oahu, Kauai and Hawaii. HHSC is organized into four operational regions and provides a broad range of healthcare services including acute, long term, rural and ambulatory health care services. As the fourth largest public health system in the country, HHSC is the largest provider of healthcare in the Islands, other than on Oahu and Maui. This solicitation includes Kauai Veterans Memorial Hospital on the island of Kauai.

**1.9.3 MISSION**

The mission of HHSC is to provide and enhance accessible, comprehensive health care services that are quality-driven, customer-focused and cost-effective.

1.9.4 FACILITY INFORMATION

Detailed information pertaining to HHSC Facilities is located at <http://www.hhsc.org>.

**1.10 SUBMISSION OF QUESTIONS**

Relevant questions must be submitted in writing via electronic mail or facsimile to the Issuing Officer no later than the “Closing Date for Receipt of Questions”, identified in paragraph 1.2 in order to generate an official answer. All written questions will receive an official written response from HHSC and become addenda to the RFP.

**- IMPORTANT -**

**OFFEROR may request changes and/or propose alternate language to the HHSC Non Healthcare General Terms and Conditions during this phase only. All requests will be presented to the HHSC Legal Department for review. No requests to change the HHSC Non Healthcare General Terms and Conditions will be entertained after the proposals have been submitted or during the contracting process.**

HHSC reserves the right to reject or deny any request(s) made by OFFEROR.

Responses by HHSC shall be due to the OFFEROR no later than the dates for initial questions and final questions stipulated in Section 1.2.

Impromptu, un-written questions directed to the Issuing Officer are permitted and verbal answers will be provided during pre-proposal conferences and other occasions, but are only intended as general direction and shall not represent the official HHSC position and shall not be relied upon by OFFEROR. The only official position of HHSC is that which is stated in writing and issued in the RFP as addenda thereto.

Any communication other than that described in this Section 1.10, whether oral or written, shall not be construed as a formal or official response/statement and may not be relied upon. Please send questions to the Issuing Officer, Cora Shirai (cshirai@hhsc.org) and Maia Guirao (mguirao@hhsc.org).

**1.11 SOLICITATION REVIEW**

OFFEROR should carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter, **excluding requests to revise the General or Special Conditions**, must be made in writing and should be received by the Issuing Officer, Cora Shirai, no later than the “Closing Date for Receipt of Questions” as identified in Section 1.2. This will allow issuance of any necessary amendments to the RFP. It will also assist in preventing the opening of proposals upon which award may not be made due to a defective solicitation package.

**1.12 RFP AMENDMENTS**

HHSC reserves the right to amend the RFP any time prior to the ending date for the proposal evaluation period. RFP Amendments will be in the form of addenda and posted on the Kauai Region Procurement website. It is the OFFERORS responsibility to check the website located at <http://kvmh.hhsc.org/procurement/open-solicitations/> to ensure that any and all Amendments are incorporated into their RFP response.

**1.13 CANCELLATION OF RFP**

The RFP may be canceled when it is determined to be in the best interests of HHSC.

Any and all protests shall be submitted in writing to the HOPA, as follows:

Lance K. Segawa

Regional Chief Executive Officer – Kauai Region

Hawaii Health Systems Corporation

4643 Waimea Canyon Drive, P.O. Box 337

Waimea, HI 96796

**SECTION TWO**

## SCOPE OF SERVICES

**SECTION 1**—**GENERAL INFORMATION**

 **1.1 Introduction**

1.1.1 Hawaii Health Systems Corporation Kauai Region is building a new Data Center at 4643 Waimea Canyon Drive Waimea, Hawaii 96796. The Data Center will be 30’ x 16’ feet in size and will be a robust, flexible, and productive environment that hosts our most critical applications and patient health information.

1.1.2 All Data Center-related installations—including but not limited to room infrastructure, in-room electrical, standby power, cooling, data cabling, monitoring lights, and fire suppression systems—must be completed at least (2) weeks prior to cutover of the site. This includes all testing and provision of documentation by the respective vendors for each section of this project.

 **1.2 Standards**

1.2.1 Only new equipment and materials are to be used in this Data Center project. All items will be from reputable and qualified companies and meet prevailing industry standards. All equipment and individual connections will be verified by the Project Manager before completion.

1.2.2 Where a discrepancy between this document and local building codes or building control standards occurs, the more stringent will apply.

 **1.3 Client Approval**

1.3.1 Hawaii Health Systems Corporation Kauai Region reserves the right to inspect and unilaterally reject installations that do not conform to its standards of workmanship, neatness, and cleanliness.

 **1.4 Acronyms and Abbreviations**

1.4.1 The following acronyms and abbreviations are used in this document:

EPO—Emergency Power Off SC—Server Cabinet

PDU—Power Distribution Unit UPS—Uninterruptible Power Source

 **1.5 Cleanup Requirements**

1.5.1 Debris generated during installation and testing of the room’s infrastructure systems— power, cooling, data cabling, emergency lights, and fire suppression—must be removed by the corresponding contractor upon conclusion of its work.

1.5.2 At the conclusion of all construction, the Data Center’s floor surface will be professionally cleaned so that all constructed-related dust and debris are removed.

 **1.6 Submittal Requirements**

1.6.1 At the conclusion of the project the following are to be submitted to the Project Manager:

* Electrical as-built drawings of the Data Center
* Model numbers, capacity, and runtimes of cooling devices and backup power systems supporting the Data Center
* Drawings indicating paths of distributed cable runs
* Fiber and copper test results

 **1.7 Monitoring**

1.7.1 Electrical, standby power, cooling, and fire suppression systems sensors will be connected to Nagios to monitor the data center.

 **1.8 Demonstration and Personnel Instruction**

1.8.1 The winning vendor(s) will provide the Project Managers with a onsite demonstration showing the correct operation of the Data Center’s standby electrical, emergency power off, cooling, and fire suppression systems. Included will be a complete review of the posted sequence of operation for each control system.

**SECTION 2**—**ROOM INFRASTRUCTURE**

The following figures are associated with this section:

FIG. 1— Electrical Location

FIG. 2— New Cabinet Location Plan

 **2.1 Installation of Cabinets**

2.1.1 A wire management system will be surface mounted to the concrete wall above and behind the cabinets. Horizontal wire management will be 2 rack units high—3.5 inches. Vertical wire management will be 8 inches or 12 inches wide in the Network Row. Cable troughs will also be installed above the Network Row as needed to route cables.

2.1.2 Cabinets will be grounded to the building ground.

**SECTION 3**—**IN-ROOM ELECTRICAL SYSTEM**

The following figures are associated with this section:

FIG. 1— Electrical Location

FIG. 2— New Cabinet Location Plan

 **3.1 Provision of Power**

 3.1.1 Power will be distributed from a dedicated panel for the server/data center.

Each outlet/whips will be on their own dedicated circuit breaker.

3.1.2 Power will be distributed from panels by electrical conduits. Provide (2) such whips to each cabinet location and network equipment racks. Each whip will be the required distance plus 2 feet.

 **3.2 Termination Requirements**

 3.2.1 The electrical contractor will provide all necessary tools and materials not specified (tie wraps, screws, consumables, hardware, and so on) and equipment (ladders, lifts, storage containers, and so on) necessary to provide a complete an operating system.

3.2.2 There will be 12 whips and will be terminated with NEMA 5-30R, no less than 20 amps, 120 volts.

 **3.3 Grounding**

3.3.1 All Network Row cabinets will be grounded to the building ground. Electrical contractor will install ground bar and ground to the building ground.

 **3.4 Emergency Power Off**

3.4.1 Emergency Power Off (EPO) controls will be located inside theroom entrance. The EPO system will shut down all PDUs, air handlers, and convenience outlets at the electrical source that is outside the Data Center.

3.4.2 EPO controls will be a switch-knob. The controls will be covered with a transparent plastic shell to inhibit accidental activation, and equipped with an audible alarm that will sound, once the shell is removed.

 **3.5 Labeling and Signage**

 3.5.1 Circuits within each electrical panel will be numbered and labeled to match the installed

electrical outlets. Panel schedules will include outlet type and cabinet location.

3.5.2 Receptacles will be labeled with circuit information indicating its location in the source panel.

3.5.3 EPO buttons will be labeled “Emergency Power Off.” Signage explaining basic EPO function will be installed immediately above the button. A map indicating the EPO’s zone of effect will be posted above the button at eye level.

 **3.6 Testing**

3.6.1 The following will be performed upon the Data Center electrical system:

1. Load Bank test—A field load bank will be conducted on the Uninterruptible Power Source (UPS) batteries and standby generator.
2. Circuit injection test—Electrical current will be applied to the breakers at all major distribution points in the electrical system to confirm their trip characteristics.
3. Functional Performance test—Utility source will be shut down to the Data Center to confirm the load will be supported by UPS and then transferred to standby generator. The test will include transferring Data Center load back to utility source. During all stages of the test, measuring devices will be used on random electrical outlets to confirm that voltage levels remain steady.
4. A visual inspection of all monitoring lights, as documented in Section 4, will be conducted during each step of the functional performance test to confirm that they are functioning correctly.
5. A test of the Emergency Power Off system, confirming that all PDUs, air handlers, and convenience units shut down correctly.

 **3.7 Convenience Outlets**

 3.7.1 (8) Power outlets will be placed on each Data Center wall, 18 inches above the floor’s top surface. These outlets will not be connected to the room’s backup power system, but will be connected to the EPO system.

 **3.8 Room Lights**

3.8.1 All room lights are to be connected to the standby power system. These lights should be plentiful enough to enable safe departure of the room or shutdown of servers.

 **3.9 Monitoring Lights**

 3.9.1 Emergency lights will be installed in key locations inside and outside of the Data Center to monitor the room’s standby power system. The lights will have individual battery packs such that they will operate when commercial power to the building is interrupted.

3.9.2 Beacon lights will be mounted outside of the room above the door so their domes are 12 inches below the Data Center ceiling. A blue-domed light will indicate when the generator is running and supporting the room with power.

 **3.10 Testing**

3.10.1 Performance of the monitoring lights will be verified during the full system test conducted upon the Data Center In-Room Electrical System. See Section 3.6.

3.10.2 Monitoring lights must activate immediately upon each start of the generator. The blue light must activate when the generator is running. The blue light must shut off when the generator is no longer providing power.

**Power Status Blue Light**

Utility power holding Data Center load OFF

Generator starts --

Generator holding Data Center load **ON**

Utility power resumes, generator still on --

Utility power holding Data Center load OFF

**SECTION 4**—**COOLING SYSTEM**

The following figures are associated with this section:

FIG. 3—HVAC Location Plan

 **4.1 Scope of Work**

 4.1.1 The Data Center will be designed with an existing 8 ton of cooling coverage, including (2) redundant external chillers as well as an air handler.

4.1.2 The HVAC Contractor will provide an air handler and ducting will be positioned to provide the most effective cooling to the server rows. Contractor will install the units close to Data Center walls so as to conserve floor space. Also, provide sufficient buffer areas around each air handler to enable future maintenance access. This configuration helps to effectively circulate cool air through and around Data Center servers and networking devices.

**SECTION 5**—**FIRE SUPPRESSION SYSTEM**

 **5.1 Smoke Detection**

5.1.1 The Data Center will be equipped with a continuous air-sampling system that will provide early warning of a fire. System settings must be adjustable to different levels of sensitivity.

 **5.2 Suppression System Description**

 5.2.1 The fire suppression system will provide for total flooding of the Data Center with a gaseous fire suppression agent that is clean, dry, noncorrosive, non-damaging, and non-deteriorating. The choice of substance, traditionally Heptafluorpropane—FM-200 will be installed in accordance with local regulations.

5.2.2 The fire suppression system will also provide for particle and air sampling to initiate stages of alarms in preparation for release of the agent.

5.2.3 Fire suppression system cylinders will preferably be located outside the Data Center in a controlled room. If cylinders are placed in the Data Center, the Project Manager must be contacted prior to installation to discuss their location.

 **5.3 Labeling and Signage**

5.3.1 Signage explaining fire suppression system functions will be installed adjacent to system controls and alarm components.

 **5.4 Fire Extinguishers**

 5.4.1 Fire extinguishers will be installed within the Data Center, wall-mounted in multiple locations around the room. These handheld extinguishers will be of the appropriate type for a room containing electronic equipment and must meet local building codes/building control standards and fire codes.

**SECTION 6**—**DATA CABLING SYSTEM**

The following figures are associated with this section:

FIG. 1— Electrical Location

FIG. 2— New Cabinet Location Plan

**6.1 Scope of Work**

 6.1.1 This Data Center will consist of one row.

6.1.2 Network connections will be provided via copper and fiber structured cabling. This cabling will run in bundles from the Network Row (NR) to a Network Substation (NS) at one end of each Server Row and then from each Network Substation to all server cabinet locations (SC) in that row. Structured cabling will also extend from the Network Row to an external Network Room.

6.1.3 Cabling between the Network Row and Network Room will be run over the ceiling in cable trays, using waterfall supports when entering or exiting cabinets.

6.1.4 All structured cabling for this project will be plenum/low smoke zero halogen rated.

 6.1.5 The scope of work for this project includes all Data Center-related:

* Cabling to cabinet locations and cable-mounting hardware.
* Networking cabinets and wire management.
* Mounting hardware to secure networking cabinets to the cement floor.
* Grounding networking cabinets to the (provided) grounding system.
* Ladder rack and cable runs, including cable shielding.
* Fire-stop materials as well as splicing and protection materials.

**SECTION 3**

**PROPOSALS**

**3.1 INTRODUCTION**

One of the objectives of the RFP is to make proposal preparation easy and efficient, while giving OFFEROR ample opportunity to highlight their proposal. When an OFFEROR submits a proposal, it shall be considered a complete plan for accomplishing the requirements described in this RFP.

3.2 PROPOSAL PREPARATION

OFFEROR shall prepare a written proposal in accordance with requirements of this Section.

The Technical and Price proposals shall be distinct documents and readily separable for review. Proposals shall include all data and information requested to qualify proposals for evaluation and consideration for award. Non-compliance may be deemed sufficient cause for disqualification of a proposal.

Prepare proposals in three-ring binders, organized into distinctive sections, with tabs corresponding with the technical and price categories and other categories, as appropriate. The development of overly elaborate proposals and presentation material, not required and/or related to RFP requirements, is **HIGHLY DISCOURAGED**. This procedure will facilitate proposal evaluations.

**3.3 COSTS FOR PROPOSAL PREPARATION**

Any and all costs incurred in the development of proposals, i.e., preparing and submitting, on-site product/service demonstrations, on-site visits, oral presentations, travel and lodging, etc. shall be the sole responsibility of OFFEROR.

**3.4 DISQUALIFICATION OF PROPOSALS**

HHSC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP and which demonstrate an understanding of the Scope of Services. HHSC reserves the right to ask for clarification of any item in the proposal.

**- ATTENTION -**

**Any proposal offering any other set of terms and conditions contradictory to those included in the RFP may be disqualified without further notice.** **Please refer to Section 1.10.**

An OFFEROR will be disqualified and the proposal automatically rejected for any one or more of the following reasons:

* Proof of collusion among OFFERORS, in which case all proposals involved in the collusive action will be rejected.
* The OFFEROR’S lack of responsibility and cooperation as shown by past work or services.
* The proposal shows any noncompliance with applicable law.
* The proposal is conditional, incomplete, or irregular in such a way as to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
* The proposal has any provision reserving the right to accept or reject award, or to enter into a contract pursuant to an award, or provisions contrary to those required in the solicitation.
* Proof of exclusion from participation in federal health care programs, as defined in the Social Security Act (section 1128 and 1128A), and other federal laws and regulations relating to health care.

**3.5 SUBMISSION OF PROPOSALS**

Each OFFEROR may submit only one (1) written proposal (which includes a technical proposal and a price proposal). Alternate proposals will not be accepted. The Issuing Officer must receive one (1) original and two (2) copies **and one copy in electronic format** of the proposal no later than the “Closing Date for Receipt of Proposals”, identified in Section 1, paragraph 1.1. **Proposals received after this time/date may be rejected.** The original shall be clearly marked “ORIGINAL” and copies shall be clearly marked “COPY”. Mail or deliver proposals to the following address:

Cora Shirai, Contract Manager

Maia Guirao, Procurement Specialist

Re: RFP No. 20-04

Kauai Veterans Memorial Hospital

4643 Waimea Canyon Drive, P. O. Box 337

Waimea, HI 96796

The outside cover of the package containing the proposal should be noticeably marked, as follows:

**Proposal Submitted in Response to: RFP # 20-04**

**3.6** **PROPOSAL INFORMATION**

OFFERORs are hereby notified that evidence of the authority of the person(s) signing the offer document is required to be included with the offer documents. Failure to comply with this requirement will be cause for rejection of an offer as being non-responsive.

Each OFFEROR is to submit its proposal with the required number of copies in the format as contained in this RFP. The material should be in sequence and related to the RFP. HHSC will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may have a negative impact on the evaluation of the OFFEROR’s proposal. The proposal should include at least the following information:

**3.7 TECHNICAL PROPOSAL**

The technical proposal shall include the following categories:

1. Technical Summary (See Section 3.11.1)
2. Background, Qualification and Experience
3. Technical Proposal
4. Personnel Organization and Staffing; and
5. Management and Control

**3.7.1 TECHNICAL SUMMARY**

 Clearly, concisely and briefly summarize and highlight the contents of the technical proposal in such a way to provide HHSC with a broad understanding and the unique, most promising aspects of the proposal.

**3.7.2 BACKGROUND, QUALIFICATION AND EXPERIENCE**

Provide explicit details on Company’s background, qualifications, and experience relative to performing requirements set forth in the Scope of Services, including but not limited to:

1. Background of Company, i.e. services offered, size, resources, years in business, location, State of Hawaii presence, state of incorporation, etc.
2. Brief description of Company’s qualifications to perform Scope of Services requirements.
3. Brief description of three (3) past and/or present contracts demonstrating Company’s qualifications, experience, and performance. Include customer name, contact name and telephone number. If not available, provide contact name and telephone number of three (3) references that can discuss your Company’s qualifications, experience, and performance.
4. Identification of litigation currently impacting the Company, if any. State “NONE”, if none.

**3.7.3 TECHNICAL PROPOSAL**

Provide details on your technical proposal addressing how you will comply with the Statement of Work.

**3.7.4 PERSONNEL ORGANIZATION AND STAFFING**

Provide explicit details on the Company’s personnel organization and staffing relative to performing requirements set forth in the Scope of Services, as follows:

1. Company’s managerial organizational chart and resumes of key positions.
2. Key personnel identified to perform services, including: name, years of experience, years with the Company, qualifications and verifiable references (with contact telephone numbers), if any.

**3.7.5 MANAGEMENT AND CONTROL**

Provide a detailed summary of the methodology relative to performing requirements set forth in the Scope of Services, as follows:

1. Assignment and management of personnel.
2. Coordination of requirements with HHSC personnel.
3. Problems anticipated, if any.

**3.8 PRICE PROPOSAL**

While price is a consideration, the overall value of the proposal is a critical factor in the evaluation. The Offeror shall provide material and labor cost and others (if applicable) using the Bid Form, (see APPENDIX E).

**3.9 PROPOSAL TRANSMITTAL COVER LETTER**

OFFEROR is required to submit the proposal with a transmittal cover letter. The transmittal cover letter must be on the OFFEROR’S official business letterhead; signed by an individual authorized to legally bind the OFFEROR; affixed with the corporate seal or notarized; and minimally include information, as written/requested, on the “sample” letter in Section 5, APPENDIX A.

**3.10 PUBLIC INSPECTION**

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and OFFERORS’ proposals shall be open to public inspection after the contract is executed by all parties.

OFFEROR shall request in writing the nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the proposal and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. The proposals are subject to disclosure rules set forth in Chapter 92F, HRS. The OFFEROR bears the burden of establishing that the designated data is exempted from the disclosure requirements set forth in Chapter 92F.

All proposals and other material submitted by OFFEROR become the property of HHSC and may be returned only at HHSC’s option.

**3.11 TECHNICAL SECTION**

Any proposal offering a significantly non-compliant Technical Section may be disqualified without further notice.

**3.11.1 TECHNICAL SUMMARY**

Clearly, concisely and briefly summarize and highlight the contents of the technical proposal in such a way to provide HHSC with a broad understanding and the unique, most promising aspects of the proposal. This shall be placed at the beginning of the technical proposal.

**3.12 NON APPLICABLE PROPOSAL REQUIREMENT**

Excluding HHSC Special Conditions and Non-Healthcare General Terms and Conditions, and any objectionable or defective RFP matters, if any proposal requirement, as describe in this Section, is not applicable to the OFFEROR and therefore will/cannot be provided, list the requirement(s) and provide detailed explanation of the reasons why the requirement(s) is not applicable. HHSC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in this Section.

**3.13 NON ACCEPTANCE OF ANY RFP REQUIREMENT**

If any RFP requirement, as described in this RFP, is not acceptable to the OFFEROR, list the requirement(s) and provide a detailed explanation of the reasons why the requirement(s) is not acceptable and provide a recommended revision, if applicable. HHSC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP.

**- ATTENTION -**

**Any proposal offering any other set of terms and conditions contradictory to those included in the RFP will be disqualified without further notice. Please refer to Section 1.10.**

**3.14 PROPOSAL SUBMISSION CHECKLIST**

The proposal submission checklist is designed to be used as a tool to ensure that all required documents and information are being submitted with OFFEROR’S proposal; and, as a supplementary means of performing evaluation of the “Mandatory Requirements”, as set forth in Section 4, paragraph 4.3.1. The checklist is required to be completed by each OFFEROR and included (as the last document) in the proposal package. The proposal submission checklist is in Section 5, APPENDIX B.

**SECTION 4**

**EVALUATIONS**

**4.1 INTRODUCTION**

The evaluation of proposals shall be conducted comprehensively, fairly, and impartially. Structural, quantitative scoring techniques will be utilized to maximize the objectivity of the evaluation.

**4.2 PROPOSAL EVALUATION COMMITTEE**

An evaluation committee will be selected from HHSC to perform all evaluation requirements. The committee will be composed of individuals with experience in, knowledge of, and program responsibility for the requirements identified in the RFP. HHSC reserves the right to request information from OFFEROR to clarify the OFFEROR’S proposal.

**4.3 EVALUATION PHASES**

Evaluation phases will be conducted as follows:

 Phase 1.....Evaluation of Mandatory Requirements

 Phase 2.....Technical Proposal Evaluation

 Phase 3.....Price Proposal Evaluation

 Phase 4….Determination of Priority List of OFFERORS

Phase 4.....Proposal Discussions by Priority-List **(optional)**

 Phase 5.....Best and Final Offers by Priority List **(optional)**

 Phase 6.....Recommendation for Contract Award

**4.3.1 PHASE 1 – EVALUATION OF MANDATORY REQUIREMENTS**

The evaluation of the mandatory requirements, as listed below, shall be based upon a “Pass/No Pass” basis. The purpose of this phase is to determine whether an OFFEROR’S proposal is sufficiently responsible and responsive to RFP requirements to permit a complete evaluation, i.e., responsible in terms of “Does the OFFEROR have the capability to perform fully the Scope of Services requirements”; and, “Were proposal documents, as identified below, received by HHSC and do they contain the required information?” Failure to meet any mandatory requirement will be grounds for deeming the proposal non-responsible, non-responsive or both and disqualification (“No Pass”) thereof.

 Proposal “Mandatory Requirements”

* + - Proposal Transmittal Cover Sheet
		- Proposal in response to solicitation
		- Pricing Schedule & Compensation
		- Proposal Submission checklist
		- Certificate of Compliance
		- Certificate of Good Standing

**4.3.2 PHASE 2 TECHNICAL PROPOSAL EVALUATION**

Evaluation of OFFEROR’S technical proposal shall be conducted using the technical proposal categories and the value weight percentages identified in paragraph 4.4 and the evaluation scoring system identified in paragraph 4.5.

4.3.3 PHASE 3: PRICE PROPOSAL EVALUATION

 Evaluation of the price proposal shall be conducted using the price proposal category and the value weight percentages identified in paragraph 4.4.

**4.3.4 PHASE 4: PROPOSAL DISCUSSIONS WITH PRIORITY LISTED OFFERORS (OPTIONAL)**

At its discretion, following the Mandatory Requirements Phase, HHSC may develop a Priority List of Offerors based on the evaluation of OFFERORS’ Technical and Price proposals. This Priority List may be asked to conduct discussions with HHSC. OFFEROR’S proposal may be accepted without Discussions. In the event that HHSC elects to hold Discussions, HHSC shall inform Priority-Listed OFFERORS of specific Discussion topics and issues; and schedule Discussion proceedings.

**4.3.5 PHASE 5: BEST AND FINAL OFFERS (OPTIONAL)**

OFFEROR may be requested to submit a Best and Final offer. Best and Final offers shall be evaluated and scoring of the OFFEROR’S proposal adjusted, accordingly. If a Best and Final offer is requested but not submitted, the previous submittal shall be construed as the Best and Final offer.

**4.3.6 PHASE 6: RECOMMENDATION FOR CONTRACT AWARD**

The Evaluation Committee shall prepare a report summarizing proposal evaluation findings/rankings and provide recommendation for award of contract to the HOPA.

**4.4 EVALUATION CATEGORIES AND VALUE WEIGHT PERCENTAGES**

 **Mandatory Requirements Pass/No Pass**

 **Technical Proposal Value Weight**

 Cost 30%

 Background, Qualifications and Past Performance 40%

 Personnel Organization & Staffing 30%

 **TOTAL.................. 100%**

**4.5 EVALUATION SCORING SYSTEM**

The maximum number of points available for scoring is one thousand (1000) per evaluator. The proposal receiving the highest number of points is considered statistically the best proposal and the **best value** to HHSC; and, will be recommended for award of contract, unless otherwise determined and justified by the evaluation committee.

The evaluation categories are assigned a value weight percentage, as determined by HHSC, totaling 100%.Each category will be rated between one (1) and ten (10), with ten being the highest (the best rating) by each member of the evaluation committee. The OFFEROR’S total score (see note below) will be determined by: a) multiplying the assigned weight value of each category by the numerical rating provided by the evaluation committee member to determine the score for each category; b) totaling the score for all categories of each evaluation committee member; and, c) totaling the score of all evaluators.

**Note:** In determining the total score, the OFFEROR’S price proposal with the lowest price will receive the highest available rating allocated to price. Each proposal that has a higher price than the lowest will have a lower rating for price. The points allocated to higher-priced proposals will be equal to the lowest proposal price multiplied by the maximum points available for price, divided by the higher proposal price.

SECTION 5

AWARD OF CONTRACT

**5.1 AWARD OF CONTRACT**

Award of contract shall be made to the most responsible and responsive OFFEROR whose proposal is determined by the Evaluation Committee to provide the best value to HHSC, considering all evaluation reviews and results. The Contract award may be awarded in whole or in part based on the availability of funds.

5.2 CONTRACT AWARD NOTIFICATION

The notice of award, if any, resulting from this solicitation shall be posted on the HHSC/Kauai Veterans Memorial Hospital website. This will serve as the official notification to all OFFERORS. In addition, the Issuing Officer will inform the successful OFFEROR of contract award selection by an official “notice of award” letter.

At its discretion and as a courtesy to the OFFEROR the Issuing Officer may issue a “Notice of Posting of Award” to the unsuccessful OFFERORS. However, a delay in issuing the notice or the inadvertent omission of such courtesy notice will not extend the protest filing time.

**5.3 CONTRACT AWARD DEBRIEFING**

If requested, HHSC shall provide a contract award debriefing. The purpose of a debriefing is to inform the non-selected OFFEROR of the basis for the source selection decision and contract award. A written request to the Issuing Officer for a debriefing shall be made within three (3) working days after receipt of non-award of contract letter from HHSC and/or posting of the award of the contract.

5.4 CONTRACT DOCUMENT

The contract will be awarded by executing an “Agreement for Goods or Services Based Upon Competitive Sealed Proposals” (hereinafter “CONTRACT”) by HHSC and the successful OFFEROR (hereinafter “CONTRACTOR”). This document will serve as the official, legal contractual instrument between both parties. This document will incorporate (by attachments or reference) the RFP, with any and all addendums; GENERAL CONDITIONS and any SPECIAL CONDITIONS; and the CONTRACTOR’s accepted proposal, with any and all addendums, changes, negotiated agreements, all of which becomes part and whole of the CONTRACT.

A “sample” CONTRACT is located at APPENDIX C. Please DO NOT complete or execute the “sample” CONTRACT.

5.5 GENERAL AND SPECIAL CONDITIONS

HHSC Non-Healthcare General Conditions are applicable and shall be a part and whole

but are not physically included in these documents, but are included by reference.

In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control.

**5.6 GENERAL EXCISE/USE TAX**

Work to be performed under this solicitation is a business activity taxable under Chapter 237, Hawaii Revised Statutes (HRS), and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii CONTRACTOR are advised that the gross receipts derived from this solicitation are subject to the general excise tax imposed by Chapter 237, HRS, and where applicable to tangible property imported into the State of Hawaii for resale, subject to the use tax imposed by Chapter 28, HRS.

Pursuant to Section 237-9, HRS, the CONTRACTOR is required to obtain and/or possess a valid General Excise Tax License from the Hawaii State Department of Taxation (DOTAX) prior to executing a contractual agreement with a State Agency.

The **General Excise Tax License** shall be obtained from the DOTAX offices in the State of Hawaii or the DOTAX Web Site and by mail or FAX. Refer to the next paragraph for procedures in obtaining DOTAX forms and information.

5.7 CERTIFICATE OF COMPLIANCE

The CONTRACTOR is required to obtain/possess a valid Certificate of Compliance from the Hawaii State Department of Labor and Industrial Relations (DLIR) prior to executing a contractual agreement with a State Agency. The certificate is valid for six months from the date of issue and must be valid on the date it is received by HHSC.

The Certificate of Compliance shall be obtained on the State of Hawaii, DLIR APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR, Form LIR #27, which is available at www.hawaii.gov/labor (open “Get a Form”; then open “LIR#27) or at the neighbor island DLIR District Offices. The application for the certificate is the responsibility of the OFFEROR and must be submitted directly to the DLIR and not to HHSC. The DLIR will return the form to the CONTRACTOR who in turn shall submit the form to HHSC.

**5.8** **CERTIFICATE OF GOOD STANDING**

1. HAWAII BUSINESS. A business entity referred to as a “Hawaii Business”, is registered and incorporated or organized under the laws of the State of Hawaii. As evidence of compliance, the CONTRACTOR shall obtain/possess Certificate of Good Standing issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG). A “Hawaii Business” that is a sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate. A CONTRACTOR’s status as sole proprietor and its business street address as indicated on the proposal transmittal cover letter (APPENDIX A) will be used to confirm that the CONTRACTOR is a Hawaii Business.

b. COMPLIANT NON-HAWAII BUSINESS. A business entity referred to as a “Compliant Non-Hawaii Business” is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State. As evidence of compliance, the CONTRACTOR shall obtain/possess Certificate of Good Standing issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG).

c. The Certificate of Good Standing can be obtained by phone (call (808) 586-2727, Monday thru Thursday 7:45-4:30 HST) or by mail (Department of Commerce and Consumer Affairs, Business Registration Division, P.O. Box 40, Honolulu, Hawaii 96810). The certificate is valid for six (6) months from date of issue and must be valid on the date it is received by HHSC.

5.9 HAWAII COMPLIANCE EXPRESS

Alternatively, OFFEROR may apply and obtain proof of compliance with the above agencies electronically through the Hawaii State Procurement Office’s “Hawaii Compliance Express website at <http://vendors.ehawaii.gov>

One interface covers all the forms for all state agencies and partners. Easy to read instructions and context sensitive help make compliance safe, fast and efficient. Using the Wizard will file with Department of Taxation and optionally with the Business Registration Division of the DCAA. If you have or will have employees, the Wizard will also file with Department of Labor and Industrial Relations.

OFFERORS who elect to use the services will be required to pay an annual fee.

5.10 CONTRACT EXECUTION

Upon receipt of the CONTRACT document, the CONTRACTOR shall have ten (10) business days to execute and return the CONTRACT to the Issuing Officer. Explicit execution instructions will accompany the CONTRACT. A copy of the fully executed CONTRACT will be provided the CONTRACTOR within seven (7) business days of CONTRACT execution.

Award of CONTRACT may be withdrawn if the CONTRACTOR is unable to meet CONTRACT execution requirements.

* 1. **CONTRACT COMMENCEMENT DATE**

Upon completion of CONTRACT execution requirements, a **“Notice to Proceed”** letter will be provided the CONTRACTOR specifying the “Commencement” (start work) date of the CONTRACT. No work is to be undertaken by the CONTRACTOR prior to the commencement date specified in the Notice to Proceed letter. HHSC is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to the official, notice to proceed “Commencement” date.

* 1. **HEALTH AND HR REQUIREMENTS**
	2. Health, Insurance and Confidentiality requirements:  If applicable, Offeror must ensure that personnel have the required health clearances and that all health, insurance and confidentiality requirements are maintained.  Each individual performing on site work must be cleared with the Hospital’s Human Resources and Employee Health Departments before starting work to include:

1. Facility will perform or Contractor will provide evidence of:

a) If Facility performs the State and Federal background checks, the cost is $20 per individual billable to the Contractor.  The Facility will bill the Contractor for the amount of checks performed.  The Contractor should make prior arrangements with the Facility’s HR Department to coordinate the checks and continued work is contingent upon satisfactory clearance of the background checks.

b) OIG/GSA clearance.

 2. Contractor will provide satisfactory evidence of the following:

1. TB clearance – 2 step TST or historical documentation of a 2-step TST and a current skin test within 30 days of start date, or in the case of a positive TST, Chest X-ray with no evidence of active TB within the past (12) months. TB clearance shall be provided annually.

Drug screen – 10 panel drug screen, marijuana, cocaine, opiates, amphetamines [including crystal methamphetamine, phencyclidine (PCP), barbiturates, propoxyphene, methaquolone, benzodiazephine, and methadone] which is required within 30 days of start.

**APPENDIX A**

**SAMPLE**

**PROPOSAL TRANSMITTAL COVER LETTER**

Ms. Shirai:

(Name of Business) proposes to provide any and all goods and services as set forth in the “Request for Proposals for Competitive Sealed Proposals” to provide the **DATA CENTER RELOATION, RFP # 20-04**, for which fees/costs have been set. The fees/costs offered herein shall apply for (Please insert applicable period of time) .

It is understood and agreed that (Name of Business) have read HHSC’s Scope of Services described in the RFP and that this proposal is made in accordance with the provisions of such Scope of Services. By signing this proposal, (Name of Business) guarantee and certify that all items included in this proposal meet or exceed any and all such Scope of Services.

 (Name of Business) agree, if awarded the contract, to provide the goods and services set forth in the RFP; and comply with all terms and conditions indicated in the RFP; and at the fees/costs set forth in this proposal. The following individual(s) may be contacted regarding this proposal:

**Other information:**

|  |  |  |  |
| --- | --- | --- | --- |
| Business Phone #: |  | Federal Tax ID #:  |  |
| Facsimile #: |  | Hawaii GET Lic. ID #: |  |
| E-mail address: |  |

 (Name of Business) is a:  Sole Proprietor  Partnership  Corporation  Joint Venture Other (Specify)

State of Incorporation is: (Specify)

The exact legal name of the business under which the contract, if awarded, shall be executed is:

Business Address:

(Authorized Bidder’s Signature, Printed Name/Title; Corporate Seal or Notarized)

Encl: ProposalAPPENDIX B

**PROPOSAL SUBMISSION CHECKLIST**

 **\*Please Check Off**

 **Items For**

**Submitted HHSC Use**

 🞏 Proposal Received “On-Time”

🞏 🞏 One Original; two copies; one electronic copy of Proposals

🞏 🞏 Proposal Transmittal Cover Letter:

🞏 🞏 Official Business Letterhead

🞏 🞏 Authorized Signature

🞏 🞏 Corporate Seal or Notarized

🞏 🞏 Required Information

Technical Proposal

🞏 🞏 Technical Summary

🞏 🞏 Background, Qualification & Experience

🞏 🞏 Technical Proposal

🞏 🞏 Personnel Organization and Staffing

🞏 🞏 Management & Control

**🞏 🞏** Cost Proposal

**🞏 🞏** Certificate of Compliance

**🞏 🞏** Certificate of Good Standing

**🞏 🞏** All Data and Information Required of the RFP

**🞏 🞏** Proprietary Documents (optional)

**🞏 🞏** Others (optional)

**🞏 🞏** Proposal Submission Checklist

**🞏 🞏** General Excise License

**DRAFT ONLY**

**APPENDIX C**

**HAWAII HEALTH SYSTEMS CORPORATION**

**AGREEMENT FOR GOODS OR SERVICES**

**BASED UPON COMPETITIVE SEALED PROPOSALS**

**AGREEMENT NO: FY**

 **THIS AGREEMENT**, by and between Kauai Region, a division of the Hawaii Health Systems Corporation, a public body corporate and politic and an instrumentality and agency of the State of Hawaii (hereinafter "HHSC"), by its Regional Chief Executive Officer (hereinafter "RCEO"), whose address is 4643 Waimea Canyon Drive, Waimea, Hawaii 96796, and , (hereinafter

"CONTRACTOR"), a , under the laws of the State of whose business address and taxpayer identification number are as follows:

 **RECITALS**

A. The HHSC is in need of the goods or services, or both, described in this Agreement and its attachments.

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

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

D. The HHSC desires to retain and engage the CONTRACTOR to provide the goods or services, or both, as the case may be, and the CONTRACTOR is agreeable to providing said goods or services, or both.

**NOW, THEREFORE,** in consideration of the promises contained in this Agreement, the HHSC and the CONTRACTOR agree as follows:

1. **Scope of Services.** The CONTRACTOR shall, in a proper and satisfactory manner as determined by the HHSC, provide all the services set forth in the request for competitive sealed proposals, **RFP #20-04** ("REQUEST"), and the CONTRACTOR's accepted proposal, including any and all revisions/addendum’s/negotiated agreements thereto (collectively "PROPOSAL"), both of which, even if not physically attached to this Agreement, are hereby made a part of this Agreement.

2. **Time of Performance.** The performance required of the CONTRACTOR under this Agreement shall be executed in accordance with the time period set forth in Attachment S2.

3. **Compensation.** The CONTRACTOR shall be compensated for goods supplied or services performed, or both, under this Agreement in a total amount not to exceed DOLLARS ($ ), including taxes, at the time and in the manner set forth in the RFP and CONTRACTOR’s proposal.

4. **Bonds.**  The CONTRACTOR (is) not required to provide a (performance and payment) bond.

5. **Standards of Conduct Declaration.**  The Standards of Conduct Declaration of the CONTRACTOR, is attached and is made a part of this Agreement.

6. **Other Terms and Conditions.**  The DAGS Interim General Conditions and any Special Conditions are attached hereto and made a part of this Agreement. In the event of a conflict between the DAGS Interim General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) Agreement, as may be amended by supplemental amendments from time to time, (2) Special Conditions, (3) DAGS Interim General Conditions, (4) Request, including all attachments and addenda; and (3) Proposal.

7. **Liquidated Damages.** Liquidated damages shall be assessed in the amount of $250.00 per day.

8. **Notices.**  Any written notice required to be given by any party to this Agreement shall be (a)

delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the RCEO shall be sent to: HHSC, Head of Purchasing Agency (HOPA) / CEO, 4643 Waimea Canyon Drive, Waimea, Hawaii 96796. Notice to the "head of the purchasing agency" and/or “Agency Procurement Officer” as denoted in the General Conditions shall be sent to: HHSC, Attn: Procurement Office, 4643 Waimea Canyon Drive, Waimea, Hawaii 96796. Notice to the CONTRACTOR shall be sent to the CONTRACTOR's address as indicated in this Agreement. A notice shall be deemed to have been received three (3) days after mailing or at the time or actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the HHSC in writing of any change of address.

[**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.**

**SIGNATURES APPEAR ON THE FOLLOWING PAGE.**]

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

**HHSC**

*(Signature)*

Lance K. Segawa

*(Printed Name)*

Regional Chief Executive Officer - Kauai

*(Title)*

*(Date)*

\***CONTRACTOR**

*(Signature)*

*Printed Name:*

*(Title)*

*(Date)*

**\* Evidence of authority of the CONTRACTOR's representative to sign this Agreement for the CONTRACTOR must be attached.**

****

 **STANDARDS OF CONDUCT DECLARATION**

For the purposes of this declaration:

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

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

On behalf of , CONTRACTOR, the undersigned does declare, under penalty of perjury, as follows:

1. CONTRACTOR (is) (is not) a legislator or an employee or a business in which a legislator or an employee has a controlling interest.\*

2. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of the Agreement, if the legislator or employee had been involved in the development or award of the Agreement.

3. CONTRACTOR has not been assisted or represented for a fee or other compensation in the award of this Agreement by a State or HHSC employee or, in the case of the Legislature, by a legislator.

4. CONTRACTOR has not been represented or assisted personally on matters related to the Agreement by a person who has been an employee of the State or HHSC within the preceding two (2) years and who participated while in state office or employment on the matter with which the Agreement is directly concerned.

5. CONTRACTOR has not been represented or assisted on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, has been a State or HHSC employee, or in the case of the Legislature, a legislator.

6. CONTRACTOR has not been represented or assisted in the award of this Agreement for a fee or other consideration by an individual who, 1) within the past twelve (12) months, served as a State or HHSC employee or in the case of the Legislature, a legislator, and b) participated while an employee or legislator on matters related to this Agreement.

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

CONTRACTOR

By:

Title:

Date:

\*Reminder to FACILITY: if "is" is circled, YOUR FACILITY is required, under section 84-15, Hawaii Revised Statutes, to file with the State Ethics Commission, ten (10) days before the Agreement is entered into, a written justification as to why the Agreement was not required to be competitively bid.

 **ATTACHMENT 1**

**Scope of Services**

 **ATTACHMENT 2**

**Time of Performance**

1. This Agreement shall commence on the Notice to Proceed Date as set for the in the RFP #20-04 and continue for period of one (1) year unless sooner terminated or extended as provided in the Agreement.
2. This Agreement may be extended for two (2) one (1) year terms, subject to mutual written agreement between Kauai Region and the CONTRACTOR prior to the end of the then current contract period. A supplemental agreement shall be executed by the CONTRACTOR and Kauai Region to exercise any and all extensions.

**ATTACHMENT 3**

**Compensation**

1. In full consideration for the services to be performed by the CONTRACTOR under this Agreement, the HHSC agrees, subject to appropriation and allotments, to pay to the CONTRACTOR a total sum of money not to exceed DOLLARS ($000,000.00), including all applicable taxes and expenses incurred, and in accordance with the following:

B. The CONTRACTOR shall submit invoices to the Facility’s Technical Representative for approval and payment. Invoices shall reference the Agreement number and include, at a minimum, an itemized account of all compensation due.

**­HAWAII HEALTH SERVICES CORPORATION GENERAL CONDITIONS**

(PURCHASE OF GOODS AND SERVICES - NON-HEALTHCARE SERVICE PROVIDERS)

(FOR NON-HRS 103D AGREEMENTS)

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41. **COORDINATION OF SERVICES BY HHSC**. The "head of the purchasing agency" (through the Technical Representative(s) or other designee as specified in the Agreement) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in this Agreement. The CONTRACTOR shall maintain communication with the head of the purchasing agency through the Technical Representative(s) or other designee at all stages of the CONTRACTOR's work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Agreement. "Purchasing agency" as used in these General Conditions means and includes any HHSC region or facility which is authorized to enter into contracts for the procurement of goods and services. The term "HHSC" refers to HHSC and the region or facility entering into this Agreement. The term, “CONTRACTOR” includes all employees, agents, subcontractors, and other entities and persons utilized by the CONTRACTOR to fulfill the obligations of this Agreement. It will be the responsibility of CONTRACTOR to ensure that those other persons and entities follow the terms of this Agreement.
42. **RELATIONSHIP OF PARTIES: INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES, INCLUDING TAX RESPONSIBILITIES**.
	1. In the performance of services required under this Agreement, 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 agreement; however, HHSC shall have a general right to inspect work in progress to determine whether, in HHSC's opinion, the services are being performed by the CONTRACTOR in compliance with this Agreement. Unless otherwise provided by special condition, it is understood that HHSC does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to provide services to other individuals or entities.
	2. The CONTRACTOR and the CONTRACTOR's employees and agents are not by reason of this Agreement, agents or employees of HHSC for any purpose, and the CONTRACTOR and the CONTRACTOR's employees and agents shall not be entitled to claim or receive from HHSC any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to HHSC employees.
	3. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR's performance under this Agreement. 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 Agreement, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR's employees or agents in the course of their employment.
	4. 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 Agreement, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes and (iii) general excise taxes. Unless provided otherwise by agreement between the parties, the CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.
	5. 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.
	6. 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.
43. **PERSONNEL REQUIREMENTS**.
	1. The CONTRACTOR shall secure, at the CONTRACTOR's own expense, all personnel required to perform this Agreement.
	2. 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 Agreement, 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. Where the facility is Joint Commission accredited, CONTRACTOR agrees to meet all applicable Joint Commission standards.
44. **CONTRACTOR EXCLUSION FROM FEDERAL PROGRAMS**. CONTRACTOR affirmatively states that it and none of its employees, agents or subcontractors performing services or providing goods pursuant to this Agreement are excluded from participation in federal health care programs, as defined in the Social Security Act (Section 1128 and 1128A), and other federal laws and regulations relating to health care. CONTRACTOR has an affirmative duty to verify the accuracy of this statement at least monthly and to inform HHSC in the event it is discovered that it is no longer true. HHSC reserves the right to verify that the above statements are true and to immediately cancel this Agreement in the event they are not true.
45. **NONDISCRIMINATION.** No person performing work under this Agreement, 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 or regulation.
46. **CONFLICTS OF INTEREST**. The CONTRACTOR represents that neither the CONTRACTOR, nor any employees or agents 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 Agreement.
47. **SUBCONTRACTS AND ASSIGNMENTS: CHANGE OF NAME**.
	1. No assignment without consent. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR’S duties, obligations, or interests under this Agreement and no such assignment or subcontract shall be effective unless the CONTRACTOR obtains the prior written consent of HHSC. Additionally, no such assignment or subcontract shall be effective unless the contractors assignee or subcontractor obtains a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9 HRS.
	2. Recognition of a successor in interest. When in the best interests of HHSC, a successor in interest may be recognized in an assignment agreement in which HHSC, 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 Agreement but waives all rights under this Agreement as against HHSC; and

(3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

* 1. Change of name. When the CONTRACTOR asks to change the name under which it holds this Agreement with HHSC, the contract officer of the purchasing agency shall, upon receipt of a document acceptable or satisfactory to said officer indicating such change of name (for example, an amendment to the CONTRACTOR’S articles of incorporation), enter into an amendment to this Agreement with the CONTRACTOR to effect such a change of name. The amendment to this Agreement changing the CONTRACTOR’S name shall specifically indicate that no other terms or conditions of this Agreement are thereby changed.
1. **INDEMNIFICATION AND DEFENSE**. The CONTRACTOR shall defend, indemnify and hold harmless HHSC, the contracting facility, and their directors, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys’ fees and costs, and all claims, suits and demands therefor, arising out of or resulting from any acts or omissions of the CONTRACTOR or the CONTRACTOR’S employees, officers, agents or subcontractors under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement for any reason.
2. **LIQUIDATED DAMAGES**. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 11 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to HHSC the amount, if any, set forth in this Agreement per calendar day from the date set for cure until either (i) HHSC reasonably obtains similar goods or services, or both, if the contract is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the contract is not terminated for default. To the extent that the CONTRACTOR’s delay or nonperformance is excused under paragraph 11.d (Excuse for Nonperformance or Delayed Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR shall remain liable for damages caused other than by delay. This paragraph is of no force and effect unless the amount of liquidated damages is specified in the Agreement.
3. **SUSPENSION OF AGREEMENT.** HHSC reserves the right at any time and for any reason to suspend this Agreement for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
	1. Order to stop performance. The head of the purchasing agency 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 Agreement. This order shall be for a specified period of time not exceeding sixty (60) days unless the parties agree to a different 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 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 Agreement 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 other period to which the parties shall have agreed, the head of the purchasing agency 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 Agreement.
	2. 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 or performance schedule or contract price, or both, and the Agreement 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 Agreement and
		2. The CONTRACTOR asserts a claim for such adjustment within thirty (30) days after the end of the period of performance stoppage provided that if the head of the purchasing agency 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 Agreement.
	3. 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.
	4. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provisions of this Agreement.
4. **TERMINATION FOR DEFAULT**.
	1. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, or otherwise fails to timely satisfy the Agreement provisions, or commits any other substantial breach of this Agreement, the head of the purchasing agency 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 head of the purchasing agency, such officer may terminate the CONTRACTOR’s right to proceed with the Agreement or such part of the Agreement as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part the head of the purchasing agency may procure similar goods or services in a manner and upon the terms deemed appropriate. The CONTRACTOR shall continue performance of the Agreement to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods and services.
	2. CONTRACTOR’S duties. Notwithstanding termination of the Agreement and subject to any directions from the head of the purchasing agency, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the State of Hawaii or HHSC has an interest.
	3. Compensation. Payment for completed goods and services delivered and accepted by HHSC shall be at the price set forth in the Agreement. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the head of the purchasing agency. If the parties fail to agree, the head of the purchasing agency shall set an amount. HHSC may withhold from amounts due the CONTRACTOR such sums as the head of the purchasing agency deems to be necessary to protect HHSC against loss because of outstanding liens or claims and to reimburse HHSC for the excess costs expected to be incurred by HHSC in procuring similar goods and services.
	4. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Agreement 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 failure arises out of causes such as: acts of God; acts of a Public enemy; acts of the State of Hawaii 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 Agreement. Upon request of the CONTRACTOR, the head of the purchasing agency 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 Agreement, the delivery schedule shall be revised accordingly, subject to the rights of HHSC under this Agreement. As used in this paragraph the term “subcontractor” means subcontractor at any tier.
	5. 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 11.d, “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 12.
	6. 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 Agreement.
5. **TERMINATION FOR CONVENIENCE BY HHSC.**
	1. Termination for convenience of goods and services agreements. The head of the purchasing agency may, when the interests of HHSC so require, terminate this Agreement in whole or in part, for the convenience of HHSC. HHSC shall give written notice of the termination to the CONTRACTOR specifying the part of the Agreement terminated and when such termination becomes effective. HHSC shall exercise its rights under this paragraph in good faith and only when circumstances subsequent to the signing of this Agreement are changed to the extent that continuation of the Agreement is not in the best interest of HHSC. Such termination shall not be arbitrary or capricious.
	2. CONTRACTOR’s obligations. The CONTRACTOR shall mitigate the cost of termination and incur no further obligations in connection with the terminated performance. The CONTRACTOR will stop performance to the extent specified on the date(s) set in the notice of termination. 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. The head of the purchasing agency may direct the CONTRACTOR to assign the CONTRACTOR’S right, title, and interest under terminated orders or subcontracts to HHSC. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.
	3. Right to goods and work product. The head of the purchasing agency may require the CONTRACTOR to transfer title and deliver to HHSC in the manner and to the extent directed by the head of the purchasing agency:
		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 Agreement; and
		3. The CONTRACTOR shall, upon direction of the head of the purchasing agency, protect and preserve property in the possession of the CONTRACTOR in which HHSC has an interest. If the head of the purchasing agency 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 HHSC has breached the Agreement by exercise of the termination for convenience provision.
	4. Compensation. The CONTRACTOR may submit a termination claim specifying the unavoidable costs incurred because of the termination for convenience. This claim is in addition to any claim for payment for goods or services already performed prior to the termination. The head of the purchasing agency shall review the termination claim and respond to the CONTRACTOR with written objections or full payment within 60 days, provided that the claim is substantiated with invoice documentation. The amount paid for a termination claim shall be determined by the head of the purchasing agency but in no event shall exceed the amount remaining on the contract.
6. **CHANGE ORDERS TO GOODS AND SERVICES AGREEMENTS.** A change order is a written order signed by the head of the purchasing agency, directing the CONTRACTOR to make changes which the below “change clause” authorizes the head of the purchasing agency to order without the consent of the CONTRACTOR.
	1. Change clause. By written order, at any time, and without notice to any surety, the head of the purchasing agency may, unilaterally, order:
		1. Changes in the work within the scope of the Agreement; and
		2. Changes in the time of performance of the Agreement that do not alter the scope of the work of the Agreement.
	2. Adjustment 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 Agreement, an adjustment shall be made and the Agreement modified in writing accordingly. Any adjustment in Agreement price made pursuant to this clause shall be determined, where applicable, as negotiated. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Agreement as changed, provided that the head of the purchasing agency promptly and duly makes the provisional adjustments in payment or time for the direct costs of the work as HHSC deems reasonable. The right of the CONTRACTOR to dispute the Agreement price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows the written notice requirements for disputes and claims established in the Agreement or in these rules.
	3. Time period of claim. Within ten (10) days after receipt of a written change order, unless the period is extended by the head of the purchasing agency in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response cannot be waived and shall be a condition precedent to the assertion of a claim.
	4. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written response is not given prior to final payment under this Agreement.
	5. Claims not barred. In the absence of a change order, nothing in the clause shall be deemed to restrict the CONTRACTOR’S right to pursue a claim under the Agreement or for breach of contract.
7. **MODIFICATIONS OF AGREEMENT**.
	1. In writing. Any modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be made by written amendment to this Agreement signed by the CONTRACTOR and HHSC. Change orders shall be made in accordance with paragraph 13 herein. Notice to any surety is not required.
	2. No oral modification. No oral modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be permitted or acknowledged.
	3. Adjustment 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 Agreement, an adjustment shall be made and this Agreement modified in writing accordingly. Anyadjustment in price made pursuant to this clause shall be determined, where applicable, in accordance with the terms of this Agreement or as negotiated.
	4. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Agreement and the claims are not made prior to final paymentunder this Agreement.
	5. Claims not barred. In the absence of a written modification to the Agreement, nothing in this clause shall be deemed to restrict the CONTRACTOR’S right to pursue a claim under this Agreement orfor breach of contract.
8. **VARIATION IN QUANTITY FOR DEFINITE QUANTITY AGREEMENTS.** Upon the agreement of HHSC and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in the Agreement, 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 head of the purchasing agency makes a written determination that such an increase will either be more economical than awarding another Agreement or that it would not be practical to award another agreement.
9. **CLAIMS BASED ON THE HEAD OF THE PURCHASING AGENCY'S ACTIONS OR OMISSIONS**.
	1. Change in scope. If any action or omission on the part of the head of the purchasing agency (which term includes the designee of such officer) requiring performance changes within the scope of the Agreement 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 Agreement in compliance with the directions or orders of proper officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages or extension of time for completion, provided:
		1. Written notice required. The CONTRACTOR shall give written notice to the head of the purchasing agency:
			1. Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission; or
			2. Written 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
			3. Within such further time as may be allowed by the head of the purchasing agency 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 head of the purchasing agency, upon receipt of such a notice, may rescind such action, remedy such omission or take such other steps as may be deemed advisable.
		3. Basis must be explained. The notice required by this paragraph must describe 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 head of the purchasing agency within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to HHSC, justifying the claimed additional costs or an extension of time in connection with such changes.
	2. CONTRACTOR not excused. Nothing herein contained, however shall excuse the CONTRACTOR from compliance with any rules or laws precluding collusion or bad faith in causing the issuance of or performing change orders which are clearly not within the scope of the Agreement.
10. **COSTS AND EXPENSES.** Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Agreement shall be subject to the following guidelines, unless otherwise stated in the Agreement:
	1. Reimbursement for air transportation shall be for actual cost or coach class airfare, whichever is less.
	2. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
	3. Unless prior written approval of the head of the purchasing agency is obtained, reimbursement for subsistence allowance (i.e., hotel and meals) shall be $145 per day, which consists of $85 for hotel and $60 for food, computed on quarter days. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by HHSC, other than those items listed in subparagraphs a and b, above. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the HHSC technical representative.
	4. CONTRACTORS with an office located on the same island as the site of the services to be provided pursuant to this Agreement are not entitled to per diem or transportation expense reimbursement unless explicitly specified in the Agreement.
11. **PAYMENT PROCEDURES**.
	1. Original invoices required. All payments under this Agreement shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Agreement have been performed by the CONTRACTOR according to the Agreement.
	2. Payment only for work under contract. HHSC is not responsible to pay for work performed by CONTRACTOR or its subcontractors that is not in this Agreement and any amendments or change orders thereto. All CONTRACTORS must follow paragraph 14, Modifications of Agreement or paragraph 13, Change Orders to Goods and Services Agreements and must have proper authorization before performing work outside the original Agreement.
12. **PROMPT PAYMENT OF SUBCONTRACTORS.**

a. Generally. Any money paid to a CONTRACTOR shall be disbursed to subcontractors within ten 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 regarding payment.

b. Final payment. Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor’s performance under the subcontract.

c. Penalty. The procurement officer or the CONTRACTOR, as applicable, will be subject to a penalty of one and one-half per cent per month upon outstanding amounts due that were not timely paid by the responsible party under the following conditions. Where a subcontractor has provided evidence to the CONTRACTOR of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in paragraph (d), and:

(1) Has provided to the CONTRACTOR an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in Section 103-32.1, HRS; or

(2) The following has occurred:

(A) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to CONTRACTOR and the surety, as provided for in Section 103D-324, HRS (reference of HRS 103D-324 provision does not intend to imply that this contract is governed by that chapter or the implementing rules and regulations); and

(B) The subcontractor has provided to the CONTRACTOR, an acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the CONTRACTOR; any other bond acceptable to the CONTRACTOR; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the CONTRACTOR and subsequently, upon receipt from the procurement officer, by the CONTRACTOR to the subcontractor within the applicable time periods specified in paragraph (b) and Section 103-10, HRS. The penalty may be withheld from future payment due to the CONTRACTOR, if the CONTRACTOR was the responsible party. If a CONTRACTOR has violated paragraph (2) three or more times within two years of the first violation, the contractor shall be referred by the procurement officer to the contractors license board for action under Section 444-17(14), HRS.

d. A properly documented final payment request from a subcontractor, as required by paragraph (c), shall include:

(1) Substantiation of the amounts requested;

1. A certification by the subcontractor, to the best of the subcontractor’s knowledge and belief, that:

(A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

1. The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and
2. The payment request does not include any amount that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and
3. The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the CONTRACTOR within seven days after receipt, with a statement identifying the defect.

* 1. This section shall not be construed to impair the right of a CONTRACTOR or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under paragraph (c); provided that any such payments withheld shall be withheld by the procurement officer.
1. **CONFIDENTIALITY OF MATERIAL**.
	1. All material given to or made available to the CONTRACTOR by virtue of this Agreement, 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 HHSC. It is acknowledged and agreed that all of the trade secrets, business plans, marketing plans, know how, data, contracts, including this Agreement, documents, scientific and medical concepts, billing records, personnel records, medical records of any kind, and referral sources for existing or future services, products, operations, management, business, pricing, financial status, valuations, goals, strategies, objectives and agreements of HHSC and any of its facilities, affiliates or subsidiaries, and all patient information in any form, whether written, verbal or electronic are confidential (“Confidential Information”); provided, however, that Confidential Information, with the exception of patient information, shall not include information that is in the public domain.
	2. All information, data, or other material provided by the CONTRACTOR to the HHSC is subject to the Uniform Information Practices Act, chapter 92F, HRS, as modified by chapter 323F HRS.
2. **CORPORATE COMPLIANCE PROGRAM**. A description of the Corporate Compliance Program of HHSC, including orientation materials, is posted on the HHSC internet site ([www.hhsc.org](http://www.hhsc.org/)). The CONTRACTOR, by signing this contract, acknowledges that it has read said description, and that the CONTRACTOR knows of the fact and substance of the Corporate Compliance Program, which governs operations at all facilities of the HHSC. The CONTRACTOR understands and agrees that employees, agents, contractors and subcontractors performing any services at any of the HHSC facilities shall be fully subject to such Corporate Compliance Program, as may be amended from time to time, as well as all federal program requirements and applicable policies and procedures of HHSC and its facilities. The Corporate Compliance Program requires periodic training, including an orientation program, of all people who provide financial, business office, personnel, coding, medical records information systems and clinical services in the facility. The CONTRACTOR agrees to cause its employees, agents and contractors who provide financial, business office, personnel, coding, medical records information systems and/or clinical services at any of the HHSC facilities to review the posted orientation materials and participate in any compliance training programs HHSC may require.
3. **BUSINESS ASSOCIATE ADDENDUM.**   By signing this Agreement, CONTRACTOR acknowledges that CONTRACTOR may be a Business Associate of HHSC within the meaning of the federal privacy and security laws as stated in 45 C.F.R. Parts 160 and 164, Subparts A, C, and E.  CONTRACTOR further acknowledges that CONTRACTOR has read the Business Associate Addendum, which is posted on the HHSC internet site ([www.hhsc.org/BAA](http://www.hhsc.org/BAA)). If CONTRACTOR is a Business Associate as defined in the above laws, said Business Associate Addendum is hereby incorporated by reference and made a part of this Agreement as if fully repeated herein.  By signing this Agreement, CONTRACTOR agrees to fully comply with, and be bound by, all terms set forth in the Business Associate Addendum, as it may be amended from time to time.
4. **PUBLICITY**. The CONTRACTOR shall not refer to the HHSC or any office, agency, or officer thereof, or any HHSC employee, including the head of the purchasing agency, the Agency procurement officer, the HHSC Board of Directors, or to the services or goods, or both, provided under this Agreement, in any of the CONTRACTOR’s brochures, advertisements, or other publicity of the CONTRACTOR without the explicit written consent of HHSC. All media contacts with the CONTRACTOR about the subject matter of this Agreement shall be referred to the head of the purchasing agency.
5. **OWNERSHIP RIGHTS AND COPYRIGHT**. HHSC shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Agreement and all such material shall be considered “works for hire.” All such materials shall be delivered to HHSC upon expiration or termination of this Agreement. HHSC, 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 Agreement.
6. **INSURANCE**. During the term of this Agreement, CONTRACTOR shall maintain at all times or cause to be maintained general and professional liability insurance coverage for CONTRACTOR and its employees rendering services to HHSC under this Agreement. The insurance policies shall be issued by a company or companies authorized to do business in Hawaii and approved by HHSC, with combined single limits of not less than ONE MILLION DOLLARS ($1,000,000) per occurrence and THREE MILLION DOLLARS ($3,000,000) in the aggregate, or such greater amount as may be required from time to time by HHSC. HHSC shall receive not less than thirty (30) days notice prior to any cancellation or material change or reduction in coverage. No such material change or reduction may be made without approval from HHSC. HHSC shall be listed as an additional insured on all policies. Prior to the commencement of this Agreement, CONTRACTOR shall provide HHSC with a certificate of insurance. Thereafter, prior to the expiration of each policy period, the CONTRACTOR shall provide HHSC with certificates of insurance evidencing the foregoing coverage and provisions. HHSC reserves the right to request a certified copy of the policies. CONTRACTOR shall also carry workers’ compensation insurance for CONTRACTOR’S employees in the amounts required by applicable law. Failure to maintain the necessary insurance in accordance with the provisions set forth herein shall constitute a material breach of this Agreement and HHSC shall thereafter have the option of pursuing remedies for such breach and/or immediate termination of this Agreement.
7. **LIENS AND WARRANTIES**.
	1. Liens. All products provided under this Agreement shall be free of all liens and encumbrances.
	2. Warranties for products and services. In the event this Agreement is for the provision of products (goods or equipment), CONTRACTOR warrants that it has all rights, title and interest in and to all products sold, leased or licensed to HHSC. CONTRACTOR also warrants that the products shall substantially conform to all descriptions, specifications, statements of work and representations set forth in the Agreement, schedules, publications of CONTRACTOR and/or any order(s), and will be free from defects in materials, performance, workmanship and design. CONTRACTOR further warrants that it will perform any services required with promptness, diligence and in accordance with prevailing standards in the industry to the reasonable satisfaction of HHSC. The Warranty period shall commence after Acceptance, as defined in this Agreement. Any specific warranty periods shall be as set forth in the proposals, schedules, orders or Special Conditions pertaining to this Agreement but in any event such warranty period shall not be less than one (1) year.
8. **ACCESS TO BOOKS AND RECORDS AND AUDIT BY HHSC**. If the value or cost of Services rendered to HHSC pursuant to this Agreement is Ten Thousand Dollars ($10,000.00) more over a twelve-month period, CONTRACTOR agrees as follows:
	1. Until the expiration of four (4) years after the furnishing of such services, CONTRACTOR shall, upon written request, make available to the Secretary of the Department of Health and Human Services (the “Secretary”), the Secretary’s duly-authorized representative, the Comptroller General, or the Comptroller General’s duly- authorized representative, such books, documents, and records as may be necessary to certify the nature and extent of the cost of such Services; and
	2. If any such Services are performed by way of subcontract with another organization and the value or cost of such subcontracted Services is Ten Thousand Dollars ($10,000.00) or more over a twelve month period such subcontract shall contain and CONTRACTOR shall enforce a clause to the same effect as paragraph 26.a, above.
	3. The availability of CONTRACTORS’ books, documents and records shall be subject to all applicable legal requirements, including such criteria and procedures for obtaining access that may be promulgated by the Secretary. The provisions of paragraph 26.a and 26.b shall survive the expiration or other termination of this Agreement regardless of the cause of such termination.
	4. HHSC may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor or prospective subcontractor which are related to this Agreement. HHSC may utilize third-party agents to conduct an audit and/or analysis of CONTRACTOR’s records related to quotes, proposals, orders, invoices, sales reports, expenses charged to HHSC, sales reports, and discounts related to this Agreement and or proposed amendment to this Agreement. Any such agents will be bound by the same confidentiality clauses as stated in this Agreement.
9. **ANTITRUST CLAIMS.** The HHSC 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 HHSC any and all claims for overcharges as to goods and materials purchased in connection with this Agreement, except as to overcharges which result from violations commencing after the price is established under this Agreement and which are not passed on to the HHSC under an escalation clause.
10. **DISCOUNT AND REBATE.** CONTRACTOR hereby acknowledges its obligations to comply with any and all requirements imposed upon it as a seller under 42 U.S.C. Sec. 1320a-7b(b)(3)(A) and 42 C.F.R. Sec. 1001.952(h) Discounts.
11. **GOVERNING LAW.** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, 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 Agreement shall be brought in a State court of competent jurisdiction in Hawaii.
12. **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 Agreement. Other laws which may be applicable to contractors include, but are not limited to: HRS Chapters 383, 386, 387, and 393. It shall be the responsibility of the CONTRACTOR to determine applicability and comply with the law.
13. **ACCESS TO HHSC NETWORK AND SYSTEMS.** CONTRACTOR may be given access to some of the HHSC computer network and systems in order to fulfill the terms of the Agreement. CONTRACTOR agrees to follow and to require all agents, employees and subcontractors to also follow the Information Technology and Confidentiality polices summarized and posted on the HHSC Procurement internet site ([www.hhsc.org/GC](http://www.hhsc.org/GC)) and to comply with such other instructions as provided by HHSC in the use of HHSC computer systems. CONTRACTOR shall not use the HHSC systems or data for any purpose other than to fulfill its duties under this Agreement.
14. **CAMPAIGN CONTRIBUTIONS.** CONTRACTOR acknowledges that it is unlawful under Section 11-355, Hawaii Revised Statutes, unless specifically permitted under that law, for CONTRACTOR at any time between the execution of this Agreement through the completion of the Agreement to: (a) directly or indirectly make any contribution or to promise expressly or impliedly to make any contribution to any political party, committee or candidate or to any person for any political purpose or use; or (b) knowingly solicit any such contribution from any person for any purpose during any period.
15. **ENTIRE AGREEMENT.** This Agreement sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the HHSC and the CONTRACTOR relative to this Agreement. This Agreement 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 HHSC and the CONTRACTOR other than as set forth or as referred to herein.
16. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile/electronic executions or a combination thereof, shall be construed together and shall constitute one and the same Agreement.
17. **SEVERABILITY.** In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or non-enforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.
18. **WAIVER**. The failure of HHSC to insist upon strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of HHSC’s right to enforce the same in accordance with this Agreement. The fact that HHSC specifically refers to one provision of the law, and does not include other provisions shall not constitute a waiver or relinquishment of HHSC’s rights or the CONTRACTOR’s obligations under the law.
19. **ACCEPTANCE OF GOODS AND SERVICES.** HHSC shall accept goods and services or give CONTRACTOR notice of rejection within a reasonable time, notwithstanding any payment, prior test, or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance with the specifications, shall relieve CONTRACTOR of any obligations under this Agreement or impair any rights or remedies of HHSC.
20. **OBSOLETE PARTS/LONG TERM PARTS AVAILABILITY (Goods and Equipment Agreements Only).** CONTRACTOR shall timely report on the status of end of life (EOL) hardware that has been procured for the purchased or leased product. EOL hardware includes the following: electronic components/piece parts and mechanical hardware. CONTRACTOR shall provide advanced notification in writing to the Technical Representative of any changes to tooling, facilities, materials, availability of parts, or processes that could affect the contracted product. This includes but is not limited to fabrication, assembly, handling, inspection, acceptance, testing, facility relocation, or introduction of a new manufacturer. CONTRACTOR shall notify the HHSC Technical Representative of any pending or contemplated future action to discontinue articles purchased or replacement parts for the articles purchased pursuant to this Agreement and shall work with HHSC to determine the need to stockpile any parts for the likely life of the product and offer those parts to HHSC prior to the actual discontinuance. CONTRACTOR shall extend opportunities to HHSC to place last time buys of such articles with deliveries not to exceed twelve months after the last time buy date.
21. **DISPUTES.** Prior to resorting to any remedies allowed by law, disputes between the CONTRACTOR and HHSC arising out of this Agreement shall first be addressed in a telephonic or in-person meeting between the HHSC Technical Representative or designee and the CONTRACTOR’S representative. If the issue is not resolved to the mutual satisfaction of the Parties, a HHSC Regional CFO shall hold a telephonic or in-person meeting with the manager of the CONTRACTOR’S representative. Both Parties shall discuss and attempt to resolve the issues in good faith.

END OF GENERAL CONDITIONS

APPENDIX D

CERTIFICATION OF COMPLIANCE

 certifies it is in compliance with all laws

(Company Name)

governing entities doing business in the State, including the following:

 1. Chapter 237 HRS (General Excise Tax)

 2. Chapter 383 HRS (Hawaii Employment Security Law - Unemployment Insurance)

 3. Chapter 386 HRS (Workers’ Compensation Law)

 4. Chapter 392 HRS (Temporary Disability Insurance)

 5. Chapter 393 HRS (Prepaid Health Care Act)

6. Offeror / Bidder is incorporated or organized under the laws of the State or is registered to do business in the State as a separate branch or division that is capable of fully performing under the contract.

Furthermore, acknowledges that

 (Company Name)

making a false certification shall cause its suspension from further offerings or awards.

Signature: Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPENDIX E

BID FORM

FOR

FURNISHING LABOR, MATERIALS, EQUIPMENT AND OTHER TOOLS

REQUIRED FOR

KAUAI VETERANS MEMORIAL HOSPITAL

DATA CENTER RELOCAION

RFP NO. 20-04

TAX MAP KEY: 1-2-006:035

WAIMEA, KAUAI, HAWAII

FOR THE

HAWAII HEALTH SYSTEMS CORPORATION

STATE OF HAWAII

After carefully examining the bid documents, drawings and specifications identified above, the Offeror proposes to furnish at its own expenses all necessary labor, materials, tools and equipment to complete the work according to the true intent and meaning of the drawings and specifications, all for the Lump Sum Base Bid of:

 DOLLARS ($ )

(Bid Breakdown shall be submitted in bid)

In addition, please submit pricing for:

Submitted By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature / Printed Name Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Name of Business) is a: 🞏 Sole Proprietor

🞏 Partnership 🞏 Corporation 🞏 Joint Venture Other (Specify)

Business Address:

Business Phone Number:

E-mail address:

Federal TAX ID #:

Hawaii GET Lic ID #:

State of Incorporation is: (Specify) .

The exact legal name of the business under which the contract, if awarded, shall be executed is:

RECEIPT OF ADDENDA

Receipt of the following addenda issued by the HHSC is acknowledged by the date(s) of receipt indicated below:

Addendum No. 1 Addendum No. 4

Addendum No. 2 Addendum No. 5

Addendum No. 3 Addendum No. 6

It is understood that failure to receive any such addendum shall not relieve the Bidder from any obligations under this Proposal as submitted.