

Hawaii Health Systems Corporation

**REQUEST FOR PROPOSALS
KAUAI REGION FY 19-01**

TO PROVIDE

LAUNDRY SERVICES

FOR

*KAUAI VETERANS MEMORIAL HOSPITAL/ The Clinics at Waimea, Port
Allen, Kalaheo, Poipu and Kapaa*

AND

SAMUEL MAHELONA MEMORIAL HOSPITAL

AN AGENCY OF THE STATE OF HAWAII

Due date for Proposals in response to this solicitation:

March 29, 2019 2:00 P.M. HST

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SECTION ONE –GENERAL NOTICE

1.1 INTRODUCTION

This Request for Proposals (“RFP”) is issued by Hawaii Health Systems Corporation (“HHSC”), Kauai Region (Kauai Veterans Memorial Hospital/The Clinics at Waimea, Port Allen, Kalaheo, Poipu and Kapaa and Samuel Mahelona Memorial Hospital, (collectively the “Kauai Region Facilities”). HHSC is an agency and instrumentality of the State of Hawaii. This RFP is not governed by Chapter 103D, Hawaii Revised Statutes (“HRS”). The rationale for this RFP is to promote and ensure the fairest, most efficient means to obtain the benefits of the most qualified responsive and responsible offer. In order for the Kauai Region to evaluate your response in a timely manner, please follow the instructions presented in each section of this document. All prospective applicants are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid proposal by any prospective applicant shall constitute admission of such knowledge on the part of the prospective applicant.

Campaign contributions by State and County Contractors. Contractors are hereby notified of the applicability of Section 11-355, HRS, which provides that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if payment for the performance of the contract is to be made in whole or in part from funds appropriated by the legislature. For more information, please consult with the Campaign Spending Commission, or visit its website: www.hawaii.gov/campaign.”

1.2 DESIGNATED OFFICIALS

The Officials identified in the following paragraphs have been DESIGNATED by the Head of the Purchasing Agency to be Kauai Region’s Procurement Officials responsible for execution of this RFP, award of Contract, and coordination of Contractor satisfactory completion of Contract requirements.

1.3 ISSUING OFFICER

The Issuing Officer is responsible for administering/facilitating all requirements of the RFP solicitation process and is the sole point of contact for Applicant’s from the date of release of the RFP until the selection of a proposal. The Issuing Officer will also serve as the Contract Administrator responsible for “contractual actions” throughout the term of the contract. The Issuing Officer is:

Cora Shirai, Contract Manager
Ph: (808) 338-9454
Fax: (808) 240-5518

1.4 TECHNICAL REPRESENTATIVE

The Technical Representative is responsible for overseeing the successful completion of contract requirements, including monitoring, coordinating and assessing Contractor performance; and approving completed work/services with verification of same for Contractor's invoices. The Technical Representative also serves as the point of contact ("POC") for the Contractor for "Technical" matters (non-contractual) from award to contract completion. The Technical Representative is:

Wally Nishimura, Kauai Region
Environmental Services
Superintendent, Housekeeping
Ph: (808) 823-4188 / 338-9431

1.5 PROCUREMENT TIMETABLE

The timetable set out herein represents Kauai Region's best estimate of the schedule that will be followed in the RFP process. If an activity identified on the timetable, such as "Closing Date for Receipt of Proposals" is delayed, the rest of the timetable dates may be shifted by the same number of days. Applicants will be advised, by addendum to the RFP, of any changes to the timetable.

<u>Activity</u>	<u>Scheduled Date</u>
1. RFP Public Announcement	February 5, 2019
2. Offerors Intent to Submit a Proposal	February 19, 2019
3. Submission Deadline for Questions & Clarification Requests	March 1, 2019
4. HHSC's Response to Questions	March 15, 2019
5. Closing Date for Receipt of Proposals	March 29, 2019
6. Contract Start Date	June 1, 2019

1.6 SUBMISSION OF QUESTIONS AND CLARIFICATION REQUESTS

Offerors are encouraged to submit written questions and requests for clarifications pertaining to the RFP. Questions must be submitted in writing via hand delivery, electronic mail, facsimile or postal mail to the Issuing Officer no later than the "Submission Deadline for Questions & Clarification Requests", identified above, in order to generate an official answer.

Offerors may request changes and/or propose alternate language to the attached "General Conditions" during this phase only, all requests will be presented to the HHSC Legal Department for review. No requests to change the General Conditions will be entertained after the proposals have been submitted or during the contracting process. All written

questions and/or approved changes will receive an official written response from the Kauai Region and shall be recorded as addenda to the RFP. The only official position of the Kauai Region is that which is stated in writing and issued in the RFP as addenda thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response/statement and may not be relied upon.

Offerors must also request, in writing, during this phase only, permission to use any Contractor agreements in addition to the Sample Agreement included in Exhibit D. The proposed Contractor agreement must be submitted to Issuing Officer for legal review by HHSC. It is important to note that as a State Agency, the Kauai Region cannot indemnify any other entity or individual. Proposed Contractor agreements must delete any reference to indemnification.

No requests to change the General Terms and Conditions or use an alternative agreement (e.g. agreement from a Contractor) will be entertained after the proposals have been submitted or during the contracting process.

1.7 HHSC ORGANIZATIONAL INFORMATION

The HHSC is organized into five operational regions and provides a broad range of healthcare services including acute, long term, rural and ambulatory health care services. The RFP is only for one region which is known as the Kauai Region. The Kauai Region is comprised of two Critical Access Hospital (“CAH”) facilities (KVMH and SMMH) and five outpatient clinics (Waimea Clinic, Port Allen Clinic, Kalaheo Clinic, Poipu Clinic, and Kapaa Clinic).

Kauai Veterans Memorial Hospital (KVMH):

KVMH, is a CAH facility with a med/surg unit, ICU unit, emergency room, surgery, LTC, and birthing center. It also provides various outpatient services such as Radiology, PT, OT, RT, and Laboratory.

Samuel Mahelona Memorial Hospital (SMMH):

SMMH, a CAH facility with (66) dually certified ICF and SNF beds, (5) acute beds (CAH), and (9) psychiatric beds, and (3) emergency room beds. It also provides outpatient services such as PT, OT and Radiology.

The Clinics at Waimea, Port Allen, Kalaheo, Poipu and Kapaa and soon the Urgent Care Clinic at Poipu)

1.8 FACILITY INFORMATION

SECTION 2

SCOPE OF SERVICES

2.1 INTRODUCTION

The Kauai Region is seeking competitive sealed proposals for a Contractor to provide laundry services for the Kauai Region. The award of the Contract shall be made to the most responsible and responsive Offeror(s) whose proposal is determined by the Evaluation Committee to provide the best value to Kauai Region, considering all evaluation reviews and results.

2.2 GENERAL

Contractor shall provide the cleaning of linen, which shall include but not be limited to the pick up of soiled linen and garments at the Kauai Region Facilities, delivery of all processed linen and garments to the Kauai Region Facilities, providing an inventory of all linen and garments picked up and delivered, and within reason complying with Kauai Region Facilities' schedule changes.

2.3 SPECIFIC REQUIREMENTS

1. Daily Linen and Garment Rental Service. Contractor shall:
 - a. Furnish the Kauai Region with all items listed on Exhibit A, attached hereto.
 - b. Replace unserviceable linen on an even exchange basis.
 - c. Timely respond to the Kauai Region's emergency requests and provide other services as may be requested by the Kauai Region acceptable to Contractor.

2. Processing. All items furnished by Contractor shall be processed using specifications for a first class hospital laundry, as set forth below, and returned to the appropriate Kauai Region facility within a 24-hour period; provided that dry cleaned goods shall be excepted from this requirement. Processing specifications include:
 - a. Visually pleasing and bacteriologically sanitary linen.
 - b. Acceptable as to optical whiteness.
 - c. Reasonably free from holes, spots, and stains.
 - d. Properly mended, e.g., replace ties or buttons.
 - e. Neatly processed and reasonably wrinkle free.
 - f. Removal, count and replacement of unusable items.
 - g. Systematically and uniformly folded, stacked, and poly-wrapped.

3. Surgical Linen. Items designated for use in the surgical and delivery rooms shall be reasonably free of lint, hair, or any other foreign material and shall conform to Hospital standards. Hospital standards may be found in the Hospital Infection Control section of the Center for Medical & Medicaid Services (CMS) regulations.

4. Bacteriostatic Rinse. All laundering shall include a rinse treatment to all items with a bacteriostatic agent such as certain quaternary ammonium compounds, polybrominated salicylanilide or a mutually acceptable and equally effective substitute. The bacteriostatic agent selected by Contractor shall be approved by the Kauai Region prior to its use.
5. Pickup and Delivery Service. Contractor shall provide daily pick-up and delivery of Kauai Region's linen seven (7) days a week at Samuel Mahelona Memorial Hospital; six (6) days a week, Monday through Saturday, at Kauai Veterans Memorial Hospital; once a week to The Clinic at Poipu; and every other week at the Clinics at Port Allen, Kalaheo, Kapaa or as otherwise requested, holidays included. There will be no extra charge for holiday deliveries. Any linen picked up by Contractor shall be processed and returned within a 24-hour period. Kauai Region agrees to cooperate with the Contractor in the pickup, delivery and accounting of all linen and garments. Contractor shall make extra deliveries only at Kauai Region's request.
6. Carts. Contractor shall provide carts to the Kauai Region, which shall be used exclusively for the transporting of linen to and from the Kauai Region Facilities. If carts are damaged while being used for purposes other than transportation of linen, or as the result of other misuse or gross negligence by the Kauai Region, the Kauai Region shall bear the associated repair or replacement costs.
7. Property of Contractor. The Kauai Region agrees that all linen, garments, laundry bags and laundry carts furnished by Contractor shall remain the property of Contractor. Items are to be returned to Contractor upon request, in the same condition as when received, ordinary wear and tear from use excepted.
8. Rental Items Lost or Damaged/Shrinkage Allowance.
 - a. The Kauai Region shall be given the opportunity to count and inspect all goods at the time of pickup and delivery. If the Kauai Region does not count or inspect the goods, any assessment by Contractor for shortages and damaged goods shall be determined by Contractor and the Kauai Region shall have been deemed to have waived its rights to contest any inventory shortages and the value of the damaged goods.
 - b. The rental linen and garments will be under the control and custody of the Kauai Region, therefore the Kauai Region will be responsible for any loss of linen or garments or for damaged linen or garments rendered unserviceable by excessive staining and or any other unreasonable use. An unreasonable use is any use, which renders the article unserviceable. The value of the losses will be based on the then reasonable current replacement costs and the Kauai Region will be assessed such charges. Contractor will bill the Kauai Region for any additional items requested to be placed in circulation. It is agreed Contractor has placed sufficient inventory to service the Kauai Region adequately. The Kauai Region may request increase of inventory level up to 4 pars. The Kauai Region may also request reduction of

inventory level, at which time Contractor shall remove the amount of linen necessary consistent with the reduction.

- c. Contractor shall establish a “shrinkage reserve” account for the Kauai Region.
 - d. Losses will be charged against the shrinkage reserve account. Losses exceeding the shrinkage reserve account will be billed to the Kauai Region. Upon termination of the Contract, any balance remaining in the shrinkage reserve account after the deduction of loss charges, late interest payment and or payments for the services provided will be paid directly to the Kauai Region.
9. Special Goods. In the event the Kauai Region request special linen or garments (items not used by other Contractor accounts), Contractor may agree to purchase such goods subject to the following conditions:
- a. Contractor in order to properly service the Kauai Region may order a reasonable amount of special request items as back up inventory.
 - b. Such items will remain the property of Contractor and subject to the same provisions of the Contract as all other goods as applicable.
 - c. Any such purchases that increase the compensation of the Contract shall be documented by the mutual execution of a supplemental agreement setting forth the new terms.
10. Emergency Operations Plan. Contractor and the Kauai Region will identify emergency needs and establish a response procedure to provide the Kauai Region with “reserve linen” for ninety-six (96) hours of operation.
- a. Contractor shall purchase and store for the Kauai Region its established “reserve linen” with D.O.T. carts at an and at an agreed upon monthly cost Kauai Veterans Memorial Hospital and Samuel Mahelona Memorial Hospital.
 - b. Contractor shall not charge the Kauai Region storage or warehousing fees for the “reserve linen” during the term of this Contract.
 - c. Contractor and the Kauai Region will develop and maintain a written Emergency Operations Plan that describes the response procedures to follow when emergencies occur.
11. Customer Owned Goods (“COG”) Servicing. In the event the Kauai Region requests that Contractor service items belonging to the Kauai Region (the “COG”) Contractor agrees to service COGs subject to the following conditions:

- a. COGs shall be subject to the same terms as stated in the Contract for rental goods and Exhibit B and terms of the Contract shall serve as the entire Contract for the servicing of COGs.
 - b. Contractor shall be responsible for COGs only while in possession of Contractor and Contractor agrees to pay for any damages or losses directly caused by Contractor.
12. Quality Control. Contractor shall control the quality of all laundry services it provides to the Kauai Region so that the Kauai Region receives the quality of laundry services that it requires. If there are any quality or service-related problems, the Kauai Region reserves the right to notify Contractor in writing of the specific problem(s). If the problem is not corrected to the Kauai Region's satisfaction within the period stated by the Kauai Region, Contractor shall be in violation of this Contract and the Kauai Region shall have the right to terminate the Contract.
13. Licenses and Permits. Contractor warrants that it has all necessary licenses and permits to engage in the commercial laundry and dry cleaning service business and to provide all services and otherwise perform all of its obligations under this Contract.
14. Laundry Area. Contractor agrees that all area of the laundry shall be maintained in a clean, sanitary manner that will assure that the Kauai Region receives its linen free from pathogenic bacteria and the potential for cross-infection. Sanitary maintenance shall include:
- a. Written exposure control plan.
 - b. Laundry area planned, equipped, and ventilated to prevent the dissemination of contaminants from the soiled to the clean linen.
 - c. Personnel working with soiled linens shall be provided with the amount of training necessary to comply with universal precautions and shall use personal protection equipment.
 - d. Contractor shall provide a cleaning and sterilizing schedule for the laundry area as follows:
 - i) Daily: transport vehicles; carts; floors; folding and wrapping tables; sorting area and equipment
 - ii) Weekly: washing and processing equipment
 - iii) Quarterly: interior walls
 - iv) Semi-annually: cleaning of overhead beams

Prior to awarding the contract, the Kauai Region will perform a site visit of the Contractors' facility.

The Kauai Region shall have the right to enter upon and to inspect any part of the premises of Contractor for the purpose of determining compliance with this subparagraph upon 24 hour prior notice of such inspection.

15. Handling of Soiled Linen. the Kauai Region shall take all necessary action to ensure that all soiled linen picked up by Contractor has been packaged and handled in a safe manner, and that foreign objects such as glass, knives, utensils and other sharp objects shall not be included with soiled linen picked up by Contractor.
16. Inventory. An inventory of all linen shall be completed and submitted on an annual basis and/or as reasonably requested by Kauai Region.
17. List of Items to be Cleaned. A list of items to be cleaned is included in Appendix A, attached hereto. Offeror should provide prices for each of these items in its bid. Prices for other items not on the list but which Offeror believes may be potentially required by the Kauai Region should also be included when possible.

SECTION THREE– GENERAL AND SPECIAL PROVISIONS

3.0 FUNDING

Funding amounts are not being stated at this time. Offerors should propose funding amounts in their proposals based on their best estimate of the cost of providing the services described in the specifications. **In the event that all proposals exceed available funds, the Kauai Region is authorized to negotiate an adjustment to the scope of services for the sole purpose of reducing the dollar amount and bringing the proposal within the amount of available funds. These negotiations may include a reduction to the proposed scope of services or the negotiation of only specific items within the scope of services.**

3.1 CANCELLATION OF RFP/REJECTION OF PROPOSALS

The RFP may be canceled and any or all proposals may be rejected when it is determined to be in the best interests of the Kauai Region .

3.2 RFP AMENDMENTS

The Kauai Region reserves the right to amend this RFP any time prior to the ending date for proposal review/evaluation period.

3.3 INFORMAL PROTESTS

It is the policy of the Kauai Region to work cooperatively with all vendors to the end of fair and fiscally sound procurement decisions. In the event an offeror or prospective offeror believes that a procurement decision has been made or is about to be made that is not in accordance with applicable law or policies, the Offeror is encouraged to contact the Technical Representative and/or the Issuing Officer for a debriefing.

3.4 GENERAL AND SPECIAL CONDITIONS

The **GENERAL CONDITIONS**, attached hereto as Exhibit D and the **SPECIAL CONDITIONS**, if any, is attached and shall become part of the Contract. Contractors must acknowledge that the General Conditions shall become part of the Contract unless otherwise approved by HHSC legal department by the “Closing Date for Receipt of Questions”.

3.5 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 & lodging, etc. shall be the sole responsibility of Applicant. Additionally, the Kauai Region will not assume responsibility for any costs associated with mechanical failures or other events, which interfere with any product and/or service demonstrations.

3.6 DISQUALIFICATION OF PROPOSALS

The Kauai Region 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. **Any proposal offering any other set of terms and conditions contradictory to those included in the RFP may be disqualified without further notice.** The Kauai Region reserves the right to ask for clarification of any item in the Offeror's proposal.

An Offeror shall 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 shall be rejected.
- The Offeror's lack of responsibility and cooperation as shown by past work or services.
- The proposal shows 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.

SECTION FOUR– PROPOSAL EVALUATION

4.0 PROPOSAL EVALUATION COMMITTEE

The evaluation committee members will be selected from HHSC facilities 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. The Kauai Region reserve the right to request information from Offerors to clarify proposals.

4.1 EVALUATION PHASES

Evaluation(s) will be conducted as follows:

- Phase 1.....Evaluation of Mandatory Requirements
- Phase 2.....Establishment of Priority-List of proposals (**if necessary**)
- Phase 3.....Preliminary Review of Proposals
- Phase 4.....Submittal of Revised Proposals (**optional**)
- Phase 5.....Evaluation of Proposals
- Phase 6.....Best and Final Offers (**optional**)
- Phase 7.....Recommendation for Contract Award

4.2 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 a proposal is sufficiently responsible and responsive to RFP requirements to permit a complete evaluation. That is, is the application responsible in terms of “Does the applicant have the capability to perform fully the “Scope of Services” requirements”; and responsive in terms of “Were proposal documents, as identified below, received and contain the required information”? Failure to meet any mandatory requirement (“no pass”) will be grounds for deeming the proposal non-responsible, non-responsive or both to the RFP and disqualification thereof. Only those proposals meeting all mandatory requirements (“pass”), or as favorably determined by the evaluation committee, will proceed to Phase 2.

Proposal “**Mandatory Requirements**”:

- Proposal Submission Checklist, Exhibit B
- Proposal Cover Letter, Exhibit A
- Application Includes
 - Technical Proposal
 - Proposed Method of Approach
 - Cost Proposal
- Certificate of Good Standing (DCCA) Exhibit C
- Certificate of Compliance (DLIR) Exhibit C

4.3 PHASE 2 – ESTABLISHMENT OF PRIORITY LIST OF PROPOSALS

All applicants who pass Phase 1, above, shall be classified as “acceptable”. If there are more than eight (8) “acceptable” applicants, the evaluation committee shall rank proposals by determining a preliminary score (scoring system to be determined by the Kauai Region) by evaluating one or more proposal categories. A priority-list of acceptable proposals shall be established and limited to no more than the eight (8) who received the highest preliminary scores. The proposals on the priority-list will continue the evaluation process.

4.4 PHASE 3 – PRELIMINARY REVIEW OF PROPOSALS

The Kauai Region will conduct a preliminary review of the proposals on the priority-list. The review will determine if proposals clearly and adequately understood/addressed “Scope of Services” requirements; and, identify concerns/issues requiring further information, clarification, data, etc.; and, if discussions with applicants are required.

4.5 PHASE 4 – SUBMITTAL OF REVISED PROPOSALS (Optional)

Applicants may be requested to submit revised proposals for clarification, if discussions (Phase 4) are conducted. If revised proposals are requested but not submitted, the previous proposal submitted will be construed as the revised proposal.

4.6 PHASE 5 – EVALUATION OF PROPOSALS

Evaluation of the written proposals will be conducted using the categories and the value weight as outlined in this proposal.

4.7 PHASE 6 – BEST AND FINAL OFFERS (Optional)

Applicants may be requested to submit a “Best and Final” offer. “Best and Final” offers will be evaluated and proposal “ranking” adjusted, accordingly. If a “Best and Final” offer is requested but not submitted, the previous submittal will be construed as the “Best and Final” offer.

4.8 PHASE 7 – RECOMMENDATION FOR CONTRACT AWARD

The Evaluation Committee will prepare a report summarizing proposal evaluation rankings/findings and provide recommendation for award of contract(s) to the CEO.

4.9 EVALUATION CATEGORIES AND VALUE WEIGHT PERCENTAGES

The content of each proposal category will be evaluated and scored for completeness by a team of evaluators. The specific information solicited for each category and the corresponding percentage weighting of the category is listed below.

PROPOSAL INFORMATION

A. Technical Proposal:

The Offerors should prepare their technical proposals to highlight all the elements of Scope of Work the Offeror's program meets. Offerors are free to provide brochures or flyers on the proposed program; however, these should not be the sole component of the technical proposal. A narrative detailing the specifications of the program offered should also be included.

The Offeror's experience and past performance providing the requested services will be evaluated on the extent of its success in managing and integrating projects relevant to that defined in this Solicitation and General Requirements. Therefore, the Offeror is advised to submit any and all information which documents successful and reliable experience in past performances as related to this RFP.

References: References should be verifiable and be able to comment on the Offeror's related experience. The Offeror should submit, at a minimum, **two (2) professional references** for similar services provided over the last two (2) to three (3) years that would demonstrate the Offeror possesses an understanding and the experience in providing the required services. As these references may be checked, insure all information is current, accurate and prior permission to use is obtained from each reference.

Quality of staff will be an area considered. The Offeror's clients' assessment of the quality of staff provided will be an element specifically sought after during reference verifications.

The Offeror should provide **an organizational chart** that clearly shows the reporting and lines of authority; to include all proposed key personnel and any proposed subcontractors. The organizational chart should identify the prime point of contact between the Offeror and the Kauai Region.

The Offeror may submit any other pertinent information that would substantiate the firm and its key personnel possess the experience, expertise and capability to provide the required services.

B. Proposed Method of Approach:

Proposals will be evaluated based on another important element of the technical proposal. A section should be included that outlines the program options that are being proposed and the overall value and service under the program. The **Offeror's distinctive plan for providing the requested services** should be provided in this section as well, along with details of the service levels the Offeror will commit to achieve. Since the evaluators will have already read the RFP for the equipment and services described, it is not necessary for the Offeror to repeat the exact language, or to present a paraphrased version, as an original idea for a technical approach.

The Offeror may utilize a written narrative or any other printed technique to demonstrate its ability to satisfy the requirements of the Scope of Services. When appropriate, the narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The usage of technical language should be minimized and used only when necessary to describe a technical process.

C. COST

The evaluation of the category of Cost shall be based on the prices, submitted with Offeror’s proposal. The Offeror’s should provide their best pricing in their proposal. The Kauai Region is not required to come back to each Offeror for further negotiations, even though that option is available.

D. Additional Information

The Offeror may submit any other pertinent information that would substantiate the Offeror has the experience, expertise and capability to provide the required services.

CATEGORIES AND WEIGHT:

Mandatory Requirements	Pass/No Pass
	<u>Value Weight</u>
Technical Proposal	
Experience and Expertise of Firm & Key Staff	<u>30</u> %
Proposed Method of Approach to Scope	<u>30</u> %
Cost Proposal	<u>40</u> %
Total	100%

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 the Kauai Region; 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 the Kauai Region, totaling One Hundred percent (100%). Each member of the evaluation committee will rate each category between one (1) and ten (10), with ten being the highest (the best rating). 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 cost proposal with the lowest cost will receive the highest available rating allocated to costs. Each proposal that has a higher cost than the lowest will have a lower rating for costs. 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 FIVE– CONTRACT DOCUMENTATION AND INFORMATION

5.0 AWARD OF CONTRACT

Award of contract(s) shall be made to the most responsible and responsive proposal who is judged/determined (by the Evaluation Committee) to provide the best value to the Kauai Region, considering all evaluation reviews, results, and proposed cost. **The Kauai Region may elect to award multiple contracts to meet their needs.**

5.1 CONTRACT AWARD NOTIFICATION

The Issuing Officer will inform the successful applicant(s) of contract award selection additionally, an official “notice of award” letter will be provided to the successful Offeror; and, a “notice of non-award” letter shall be provided to all un-successful OFFERORS, at the earliest date.

The notice of award, if any, resulting from this solicitation shall be posted on Kauai Region website (<http://corp.hhsc.org/kauai/kvmh/wkmc-prosolicit.html> & <http://corp.hhsc.org/kauai/smmh/mmc-prosolicit.html>).

5.2 CONTRACTUAL DOCUMENT

Contract(s) will be awarded by executing an “**Agreement for Goods or Services Based Upon Competitive Sealed Proposals**” (“Contract”) by the Kauai Region and the successful applicant(s) (“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 Special Conditions, if any; and, the accepted proposal, with any and all addendums /changes / negotiated agreements/etc.; all of which becomes part and whole of the “contract”. A “sample” contract is attached. **Do not complete or execute the “Sample”.**

5.3 CONTRACT AWARD DEBRIEFING

If requested, the Kauai Region 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 the Kauai Region and/or posting of the award of the Contract.

5.4 COMPENSATION

The contract compensation (if applicable) provision shall include a “**Not To Exceed (NTE)**” fixed total amount representing the maximum payment limit of the contract. The NTE shall be computed and determined by the **Kauai Region** inconsistent with the estimated annual facility(s) requirements and the Contractor’s accepted proposal. The NTE amount shall be fixed, at a sufficient level, to meet anticipated Contractor’s compensation requirements.

Any and all compensation, above the NTE amount shall be subject to the Kauai Region's approval and execution of a Supplemental Agreement (contract amendment).

SECTION SIX– PROPOSALS

6.0 INTRODUCTION

Offerors shall prepare a written proposal in accordance with requirements of Section 2 and this Section; and, provide the proposal to the **Kauai Region** by cover letter. Offerors shall submit all data and information specified/requested and provide proposals on an “all or none” basis to qualify proposal for evaluation and consideration for award. Non-compliance may be deemed sufficient cause for disqualification of the proposal.

Proposals must contain all components. Each Offeror may submit only one (1) written proposal, in accordance with instructions of Section 2, of this RFP. Alternate proposals will not be accepted. **The Contract Manager must receive ONE (1) original, ONE (1) copy and ONE (1) electronic copy of proposals no later than 2:00 pm, HST, March 29, 2019 at the location identified below, on the “Closing Date For Receipt of Proposals”, **Proposals received after this time/date will not be considered and be returned to the applicant.** The original shall be clearly marked “ORIGINAL” and copies shall be clearly marked “COPY”. Mail or deliver all proposals to the following address:**

Cora Shirai, Contract Manager
Issuing Officer – RFP 19-01
4643 Waimea Canyon Drive
P.O. Box 337
Waimea, HI 96796

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

RFP # Kauai Region FY 19-01

6.1 REQUIRED CERTIFICATES

GENERAL EXCISE TAX LICENSE

Pursuant to Section 237-9, HRS, successful applicant(s) are required to obtain and/or possess a valid General Excise Tax License from the Hawaii State Department of Taxation prior to executing a contractual agreement with a State Agency (reference paragraph 2.e. of the General Conditions). the Kauai Region enforces this requirement. Refer to the next paragraph for procedures in obtaining Department of Taxation forms and information.

Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii contractors 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.

6.2 CONTRACT PERIOD

The term of the contract will be for a period of one (1) year beginning on June 1, 2019 thru May 31, 2020 with options to renew for three (3) additional one year periods subject to appropriation and allotments.

6.3 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 applicants' proposals shall be open to public inspection after the contract is executed by all parties.

Applicant(s) shall request in writing 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 Kauai Region cannot guarantee that designated data will be kept confidential. The proposals are subject to disclosure rules set forth in Chapter 92F, H.R.S. 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 applicant become the property of the Kauai Region and may be returned only at the Kauai Region's option.

6.4 PROPOSAL TRANSMITTAL COVER LETTER

The proposal transmittal cover letter must be on the Offeror's official business letterhead; signed by an individual authorized to legally bind the Offerors affixed with the corporate seal or notarized; and minimally include information, as written/requested, on the "sample" letter in Attachment "A".

6.5 CONTRACTOR "OPTIONAL SERVICES"

Contractor "optional services" are defined as services (and/or goods) that are included in the "Scope of Services" and would be considered enhancements, thereof. Costs for CONTRACTOR "optional services", selected by the Kauai Region, will be added to the total amount of the Contract or be included in the Agreement as an optional service item, to be exercised by the Kauai Region, if and when elected.

Provide brief description and detailed/total costs for Contractor "optional services" offered, if any; relative to "Scope of Services" requirements (include all worksheets and supportive documentation necessary to verify computations).

6.6 NON APPLICABLE PROPOSAL REQUIREMENT(S)

If any proposal requirement(s) are not applicable to the applicant and therefore will not be provided, explain reason(s) why, by attachment to the proposal. The Kauai Region reserves the right to

consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP.

6.7 NON ACCEPTANCE OF “SCOPE OF SERVICES” REQUIREMENTS

If any “Scope of Services” requirement(s) are not acceptable to the applicant, provide detailed explanation of the reason(s) why, by attachment to the proposal. (The Kauai Region reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the Scope of Services.

6.8 PROPOSAL SUBMISSION CHECKLIST

The proposal submission checklist is designed to be used as a tool to insure that all required documents/information is being submitted with the proposal; and, as a supplementary means of performing evaluation of the “Mandatory Requirements”, as set forth in Section 4.2. The checklist is required to be completed and included (as the last document) in the proposal package. The proposal submission checklist is Exhibit B.

**SAMPLE
PROPOSAL TRANSMITTAL COVER LETTER**

Cora Shirai, Issuing Officer, RFP # 19-01
HHSC/Kauai Region
4643 Waimea Canyon Drive
P.O. Box 337
Waimea, HI 96796

Ms. Shirai:

We propose to provide any and all goods and services as set forth in “Request for Proposals” to provide Laundry Services at Kauai Veterans Memorial Hospital/West Kauai Clinics and Samuel Mahelona Memorial Hospital, **RFP # 19-01** for which prices have been set. The price(s) offered herein shall apply for _____ . (insert applicable period of time)

It is understood and agreed that we have read the Kauai Region’s Scope of Services and the attached General and Special Conditions and it is further understood that only during the question phase (Section 3.1) shall any requested changes be accepted and considered.

By signing this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such Scope of Services.

We 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 price set forth in this proposal.

You may contact the following individual(s) regarding this proposal:

Company information, as requested, follows:

- Business telephone #:
- Facsimile #:
- E-mail address (optional):
- Federal Tax Identification #:
- Hawaii General Excise Tax #:

(Authorized Offeror’s Signature, Printed Name/Title)
Encl: Proposal

EXHIBIT B

PROPOSAL SUBMISSION CHECKLIST

*Please Check Off Items Submitted	For HHSC Use	
_____	_____	Proposal Received “On-Time”
_____	_____	One Original & One Copy & One Electronic of Proposals
_____	_____	Proposal Transmittal Cover Letter:
_____	_____	Official Business Letterhead
_____	_____	Authorized Signature
_____	_____	Corporate Seal or Notarized
_____	_____	Required Information
_____	_____	Technical Proposal
_____	_____	Experience and Expertise of Firm & Key Staff
_____	_____	Proposed Method of Approach to Scope
_____	_____	Cost Proposal
_____	_____	CONTRACTOR Optional Services (optional)
_____	_____	Non Applicable Proposal Requirements (optional)
_____	_____	Non-Acceptance of “Scope of Services” Requirements (optional)
_____	_____	All Data and Information Required of the RFP
_____	_____	Proprietary Documents (optional)
_____	_____	Others (optional)
_____	_____	Proposal Submission Checklist
_____	_____	General Excise License
_____	_____	Certificate of Good Standing (DCCA)
_____	_____	Certificate of Compliance (DLIR)

***IF SPECIFIC ITEM(S) ARE NOT APPLICABLE, MARK WITH “N/A”---DO NOT LEAVE BLANK**

Instructions for Hawaii Compliance Express

Hawaii Compliance Express (HCE)

Instead of filling out forms and manually applying for the certificates listed below at the various state agencies, this new process allows businesses to register online through a simple wizard interface at:

<http://vendors.ehawaii.gov>

On the last line, click on “Create An Account” and once there, click on the circle and line marked:

No, I just want to get setup to use this service.

From this point, just fill in the blocks and follow the directions.

One simple interface covers all the forms with all the state agencies and partners. Easy to read instructions and context sensitive help make compliance safe, fast, and efficient. Using the Wizard will file with the [Business Registrations Division](#) of the [DCCA](#). If you have or will have employees, the Wizard will also file with [Dept. of Labor and Industrial Relations](#).

Vendors that elect to use the new Hawaii Compliance Express services will be required to pay an annual fee of \$12.00.

Government procurement personnel will be provided with no-cost online access to the HCE system, allowing them to view and print the compliance status of registered vendors. Since the HCE process may require the disclosure of sensitive company information, access to view information on registered vendors will be restricted to the respective vendor and to registered authorized procurement personnel.

Vendors choosing not to participate in the program will be required to provide the paper certificates. This can be done by contacting the various state agencies below:

DLIR Certificate of Compliance. By law vendors are required to provide a Certificate of Compliance from the Hawaii State Department of Labor and Industrial Relations (DLIR), TO ENSURE COMPLIANCE WITH LAWS, AS APPLICABLE, CONCERNING UNEMPLOYMENT INSURANCE, WORKERS’ COMPENSATION, TEMPORARY DISABILITY INSURANCE, AND PREPAID HEALTH CARE.

Visit <http://labor.hawaii.gov/ui/certificate-of-compliance/> to obtain Form LIR#27. Once approved by DLIR, **provide HHSC a copy of the certificate.**

Certificate of Good Standing. By law vendors are required to provide a Certificate of Good Standing from the Hawaii State Department of Commerce and Consumer Affairs (DCCA).

Business are required to be registered to do business in the State of Hawaii. (Certificate of Good Standing not required for “Sole Proprietorship”.)

Visit <http://www.ehawaii.gov/intials/> register on-line or, to obtain a Certificate by phone call (808) 586-2727. **Provide HHSC a copy of the certificate.**

SAMPLE
HAWAII HEALTH SYSTEMS CORPORATION
KAUAI REGION
AGREEMENT FOR GOODS OR SERVICES BASED UPON COMPETITIVE SEALED
PROPOSALS
AGREEMENT #:

THIS AGREEMENT, executed on the respected dates of signatures of the parties shown hereafter, between Hawaii Health Systems Corporation, 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, HI 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 # FY 19-01** (“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 the REQUEST.

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 and expenses incurred.

4. Bonds. The CONTRACTOR is not required to provide a performance and/or 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 General Conditions and any Special Conditions are attached hereto and made a part of this Agreement (or, Any Special Conditions are attached hereto and made a part of this Agreement). In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) Agreement, including all attachments and addenda; (2) Request, including all attachments and addenda; and (3) Proposal.

7. Liquidated Damages. Liquidated damages shall be assessed per incident, in accordance with the terms of paragraph 9 of the General Conditions.

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: Kauai Region, P.O. Box 337,

Waimea, HI 96796. Notice to the “head of the purchasing agency” and/or “Agency Procurement Officer” as denoted in the General Conditions shall be sent to: Kauai Region, Attn: Procurement Office, P.O. Box 337, Waimea, HI 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 of actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the Kauai Region in writing of any change of address.

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.

Hawaii Health Systems Corporation

SIGNATURE: _____

PRINTED NAME: Lance Segawa

TITLE: RCEO – Kauai Region

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

TIME OF PERFORMANCE

COMPENSATION

HAWAII HEALTH SERVICES CORPORATION GENERAL CONDITIONS
(PURCHASE OF GOODS AND SERVICES - NON-HEALTHCARE SERVICE PROVIDERS)
(FOR NON-HRS 103D AGREEMENTS)

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1. **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.

2. **RELATIONSHIP OF PARTIES: INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES, INCLUDING TAX RESPONSIBILITIES.**

- a. 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.
- b. 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.
- c. 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.
- d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this 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.
- e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9, HRS, and shall comply with all requirements thereof.
- f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR's

employees and agents that is or may be required by law, and for payment of all premiums, costs and other liabilities associated with securing the insurance coverage.

3. **PERSONNEL REQUIREMENTS.**

- a. The CONTRACTOR shall secure, at the CONTRACTOR's own expense, all personnel required to perform this Agreement.
- b. The CONTRACTOR shall ensure that the CONTRACTOR's employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this 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.

4. **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.

5. **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.

6. **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.

7. **SUBCONTRACTS AND ASSIGNMENTS: CHANGE OF NAME.**

- a. **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.
- b. **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.

- c. 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.
8. **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.
9. **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.
10. **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.
- a. 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.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery 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.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provisions of this Agreement.
11. **TERMINATION FOR DEFAULT.**
- a. 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.
- b. 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.
- c. 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.
- d. 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.

- e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 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.
- f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Agreement.

12. TERMINATION FOR CONVENIENCE BY HHSC.

- a. 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.
- b. 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.
- c. 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.

- d. 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.

- 13. **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.

- a. 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.
- b. 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.
- c. 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.

- d. 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.
- e. 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.

14. MODIFICATIONS OF AGREEMENT.

- a. 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.
- b. 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.
- c. 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. Any adjustment in price made pursuant to this clause shall be determined, where applicable, in accordance with the terms of this Agreement or as negotiated.
- d. 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 payment under this Agreement.
- e. 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 or for breach of contract.

15. 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.

16. CLAIMS BASED ON THE HEAD OF THE PURCHASING AGENCY'S ACTIONS OR OMISSIONS.

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

(C) 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.
- b. 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.

17. 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:

- a. Reimbursement for air transportation shall be for actual cost or coach class airfare, whichever is less.
- b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
- c. Unless prior written approval of the 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.
- d. 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.

18. PAYMENT PROCEDURES.

- a. 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.
- b. 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.

19. 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;
 - (2) 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;
 - (B) 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
 - (C) 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.
- e. 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.

20. CONFIDENTIALITY OF MATERIAL.

- a. 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.
- b. 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.

- 21. 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). 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.

22. 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). 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.

23. 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.

24. 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.

25. 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.

26. LIENS AND WARRANTIES.

a. Liens. All products provided under this Agreement shall be free of all liens and encumbrances.

b. 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.

27. 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:

a. 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

b. 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.

c. 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.

d. 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.

28. 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.

29. 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.

- 30. 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.
- 31. 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.
- 32. 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 policies summarized and posted on the HHSC Procurement internet site (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.
- 33. 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.
- 34. 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.
- 35. 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.
- 36. 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.
- 37. 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.

- 38. 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.
- 39. 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.
- 40. 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 A

LIST OF ITEMS FOR COST PROPOSAL

ITEM	PRICE
SHEET, TWIN	
SHEET, DRAW	
SHEET, CONTOUR	
PILLOW SLIP	
SPREAD/BLANKET	
BLANKET, BATH	
BLANKET, BABY	
SHIRT,BABY	
BATH TOWEL	
BATHMAT WHITE	
BIB, ADULT	
PATIENT GOWN	
PATIENT GOWN XL	
PATIENT GOWN 4XL	
PATIENT BOTTOM	
PATIENT BOTTOM 2XL	
PATIENT BOTTOM 4XL	
IV GOWN	
IV GOWN 10XL	
IV GOWN 4XL	
OR GOWN	
X-RAY GOWN	
MOTHER'S GOWN	
IV GOWN, CHILD S,M,L	

CHILD PJ S,M,L	
SCRUB SHIRT S, M, L,XL,2XL,5XL	
SCRUB PANTS S,M,L,XL,2XL,5XL	
SURGICAL TOWEL	
PUKA EYE	
PUKA SHEET 2X2 2X6	
RAGS/LB	
CONTOUR KNIT SHEET	
SPECIAL QUEEN FITTED SHEET	
QUEEN SHEET	
SPECIAL CONTOUR SHEET	
QUEEN CONTOUR SHEET	
King Sheets	
King Flat Sheets	
King Contour Sheets	
WRAPPERS 15X15	
18X18	
20X20	
30X30	
32X32	
36X36	
45X45	
50X70	
COVER HAMPER	
COVER PILLOW	
PILLOW	
GARMENTS	
LAUNDRY BAG	
JACKET, WARM-UP	

DRAPES PER SQ FT	
CURTAIN, SHOWER	
CURTAIN, CUBICLE	
SPREAD	
MOPHEAD, WET	
MOPHEAD,DUST (24'')	
MOPHEAD WALL	
Body Lifter/Sling Bag	
PATIENT PERSONAL ITEMS: Pants, Shirts, Dresses, undergarments, etc.	
EXTRA DELIVERIES:	
OTHER:	
Bar Towels	
Kitchen Aprons	
Entry Rugs	