

Department of Health

CHILD AND ADOLESCENT MENTAL HEALTH DIVISION

June 16, 2026

Invitation For Bids

IFB No. 460-26-05

Sealed Offers

for

**Document Destruction for the Islands of Hawaii,
Kauai, and Maui**

SHALL BE RECEIVED VIA THE HAWAII ELECTRONIC PROCUREMENT SYSTEM

("HlePRO") UP TO 4:00 P.M. HAWAII STANDARD TIME ("HST") ON Monday,

June 29, 2026

THE STATE OF HAWAII'S DEPARTMENT OF HEALTH

CHILD AND ADOLESCENT MENTAL HEALTH DIVISION,

3627 KILAUEA AVENUE, ROOM 101, HONOLULU, HAWAII 96816

DIRECT QUESTIONS RELATING TO THIS SOLICITATION USING THE QUESTIONS

AND ANSWERS SECTION OF HlePRO BY 4:00 P.M. HST on Friday,

June 19, 2026

TABLE OF CONTENTS

SECTION 1	Offer Forms/Wage Certificate for Service Contracts/ Certification of Compliance for Final Payment
SECTION 2	Specifications Scope of Services
SECTION 3	Special Conditions 1. Introduction. 2. Authority. 3. Downloaded Solicitation. 4. Procurement Officer. 5. Issuing Officer. 6. Term of Contract. 7. Funding. 8. Offeror's Qualification. 9. Responsibility of Offerors. 10. Certification of Independent Cost Determination. 11. Site Inspection. 12. Inquiries. 13. Offer Preparation. 14. Submission of Offer. 15. Acceptance of Offer. 16. Statutory Requirements of HRS §103-55. 17. Award of Contract. 18. Cancellation of IFB and Offer Rejection. 19. Campaign Contributions by State and County Contractors. 20. Contract Execution. 21. Contract Date. 22. General Liability/Automobile Insurance. 23. Subcontractors. 24. Inspection. 25. Invoicing. 26. Payment. 27. Removal of Contractor's Employees. 28. Rights and Remedies for Default. 29. Protest.

ATTACHMENTS

SECTION 1

Procurement Officer
Child and Adolescent Mental Health Division
3627 Kilauea Avenue, Room 101
Honolulu, Hawaii 96816

Dear Procurement Officer:

The procurement conducted for the specified goods and/or services are pursuant to Hawaii Revised Statutes ("HRS") Chapter 103D and its Hawaii Administrative Rules ("HAR"). The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Conditions of IFB No. 460-26-05, the General Provisions for Goods and Services HRS Chapter 103D, and the AG General Conditions, Form AG-008 (current version) included and made a part hereof; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof.

It is understood and agreed that the STATE reserves the right to accept or reject any or all offers, and to waive any defect in any offer when, in the opinion of the STATE, such rejection is in the best interest of the STATE.

The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, HRS, concerning prohibited STATE contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Offeror is:

☐ Sole Proprietor ☐ Partnership ☐ *Corporation ☐ Joint Venture
☐ Other _____

*State of incorporation: _____

Hawaii General Excise Tax License I.D. No. _____

Payment address (other than street address below): _____

City, State, Zip Code: _____

Business address (street address): _____

City, State, Zip Code: _____

Respectfully submitted:

Date: _____

(x) _____

Authorized (Original) Signature

Telephone No.: _____

Fax No.: _____

Name and Title (Please Type or Print)

E-mail Address

**

Exact Legal Name of Company (Offeror)

**If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract shall be executed:

1. Are services to be rendered by company employees similar or equal to public officers and employees listed in the attached employee classification description?

Yes _____ No _____

If yes, percentage of unit bid price per case for labor costs: _____ %

2. No. of years experience in _____ :

3. Address of warehouse: _____

Telephone number: _____

Contact Person: _____

4. CONTRACTOR's P.U.C./DCCA Certificate No. _____

5. Insurance coverage is carried by:

Commercial General Liability: _____

Hawaii No-Fault Automobile Insurance: _____

Fire, Theft, Vandalism and/or any other physical damage for a value of
\$ _____ coverage for the STATE's property:

Insurance Co.: _____

Address: _____

General Agent's Name: _____

Telephone No.: _____

6. Offeror shall list below business firms and/or government agencies in the STATE for whom Offeror has performed services or is currently providing services comparable to the service specified herein:

	<u>Firm/Agency</u>	<u>Contact Person</u>	<u>Telephone</u>
a.	_____	_____	_____
b.	_____	_____	_____
c.	_____	_____	_____

Offeror (Name of Company)

June 16, 2026

WAGE CERTIFICATE
FOR SERVICE CONTRACTS
(See Special Conditions)

Subject: IFB No.: 460-26-05

Title of IFB: Document Destruction for the Islands of Hawaii, Kauai, and Maui Pursuant to Section 103-55, HRS, I hereby certify that if awarded the Contract in excess of \$25,000.00, the services to be performed shall be performed under the following conditions:

1. All applicable laws of the federal and STATE governments relating to workers' compensation, unemployment compensation, payment of wages, and safety shall be fully complied with; and
2. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the Contract shall result in cancellation of the Contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Payment in the final settlement of the Contract or the release of bonds, if applicable, or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by section 103-55, HRS.

Offeror _____

Signature _____

Title _____

Date _____

WAGE CERTIFICATE

IFB No. 460-26-05

CERTIFICATION OF COMPLIANCE FOR FINAL PAYMENT
(Reference §3-122-112, HAR)

Reference: ADM. SERV. OFFICE LOG NO. TBD
(Contract Number)

460-26-05
(IFB Number)

_____ affirms it is in
(Company Name)
compliance with all laws, as applicable, governing doing business in the State of Hawaii to
include the following:

1. Chapter 383, HRS, Hawaii Employment Security Law – Unemployment Insurance;
2. Chapter 386, HRS, Worker's Compensation Law;
3. Chapter 392, HRS, Temporary Disability Insurance;
4. Chapter 393, HRS, Prepaid Health Care Act; and

maintains a "Certificate of Good Standing" from the Department of Commerce and Consumer Affairs, Business Registration Division.

Moreover, _____
(Company Name)

acknowledges that making a false statement shall cause its suspension and may cause its debarment from future awards of contracts.

Signature: _____

Print Name: _____

Title: _____

Date: _____

SECTION 2

SPECIFICATIONS

SCOPE OF WORK.

Work shall consist of furnishing document destruction services to the CAMHD's designated locations listed below. It shall also consist of furnishing all labor, equipment, tools, and materials to perform all services specified herein.

The Contractor shall provide document destruction and data protection services for the CAMHD's documents as assigned and supervised by the CAMHD's Administrator or designee. Such services shall include, but not be limited to, the following:

1. Provide document destruction services at designated locations on a flexible schedule. The schedule and location may vary over the course of the Contract period of this Contract depending on quantity and need.
2. Services currently shall be provided at the following designated locations.

Designated Locations	Schedule*
East Hawaii Family Guidance Center 88 Kanoelehua Avenue, Suite B-107 Hilo, Hawaii 96720 Phone: 808 933-0610 Point of Contact: Puna Azevedo	Upon Request <i>Estimated once every three (3) weeks</i>
West Hawaii Family Center 75-5722 Kuakini Hwy, Suite 201 Kailua Kona, Hawaii 9674 Phone: 808 491-9226 Point of Contact: Clayton Berido	Upon Request <i>Estimated: once every three (3) weeks</i>
Maui Family Guidance Center 270 Waiehu Beach Road, Suite 213 Wailuku, Hawaii 96793 Phone: 808 243-1259 Point of Contact: Traci Giordano	Upon Request <i>Estimated: once every three (3) weeks</i>
Kauai Family Guidance Center 3-3204 Kuhio Highway, Room 104 Lihue, Hawaii 96766 Phone: 808 274-3883 Point of Contact: Lisa Ota	Upon Request <i>Estimated: once every three (3) weeks</i>

3. The Contractor shall supply secure (locked) consoles at each location. The number of consoles shall be based on the estimated pick-up schedule of once every three (3) weeks. At the scheduled time, the Contractor shall transfer and destroy documents at the

designated location and provide a Certificate of Destruction. On-site personnel may witness the on-site destruction of documents, as applicable, and receive the Certificate of Destruction. Documents shall be shredded until rendered illegible. Contractor shall transport the shredded documents to a disposal or recycling facility as needed.

4. The Contractor shall be responsible for its employees, agents, and/or subcontractors involved in the destruction of documents at all times and ensure each member is bonded and insured.
5. The Contractor shall be responsible for obtaining liability coverage for document shredding and the handling of confidential documents, particularly with errors and omissions.
6. The Contractor shall comply with applicable privacy protection laws, such as the Health Insurance Portability and Accountability Act ("HIPAA"), the Privacy Act, the Uniform Information Practices Act (Chapter 92F, HRS), the Special Conditions Applicable to Contractors or Providers that are Business Associates of STATE under 45 CFR § 160.103, and any applicable laws and implementing regulations. See the copy of Business Associate Agreement which is attached hereto as Attachment 1 which shall become an Exhibit to the Contract.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

SECTION 3

SPECIAL CONDITIONS

1. INTRODUCTION.

The State of Hawaii's ("STATE") Department of Health Child and Adolescent Mental Health Division ("CAMHD") is seeking offers for document destruction services for the islands of Hawaii, Kauai, and Maui, pursuant to Hawaii Revised Statutes ("HRS") 103D, all in accordance with the Specifications, Special Conditions, STATE's General Provisions for Goods and Services HRS Chapter 103D which is attached hereto as Attachment 2, and STATE's General Conditions of this IFB No. 460-26-05.

2. AUTHORITY.

This Invitation for Bids ("IFB") is issued under the provisions of the STATE Procurement Code (HRS Chapter 103D) and the STATE Procurement Office's applicable Directives, Circulars, and Administrative Rules. All prospective Offerors are charged with the presumptive knowledge of all applicable legal authorities. Submission of a valid executed Offer by any prospective Offeror shall constitute admission of such knowledge on the part of such prospective Offeror.

Any Contract arising out of this Offer is subject to the approval of the STATE's Department of the Attorney General, as to form, and to all further approvals as required by statute, administrative rule, order, or other directive.

3. DOWNLOADED SOLICITATION.

Offeror is advised that if interested in responding to this solicitation, Offeror must be registered as a Vendor in the Hawaii Electronic Procurement System ("HlePRO"). **The Offeror shall submit its quote electronically in the HlePRO system and the award shall be issued in HlePRO.** The Contract shall be issued separately after award.

4. PROCUREMENT OFFICER.

The Procurement Officer is responsible for administering and overseeing the Contract, including monitoring and assessing the Contractor's performance. The Procurement Officer for the Contract is:

Janet Ledoux
Administrative Officer
Child and Adolescent Mental Health Division
3627 Kilauea Avenue, Room 101
Honolulu, Hawaii 96816
Telephone: (808) 733-4210
Facsimile: (808) 733-8375
Email: janet.ledoux@doh.hawaii.gov

5. ISSUING OFFICER.

The individual listed below is the sole point of contact from the date of release of this IFB until the selection of the Offeror to which a Contract shall be awarded. **All correspondence shall be conducted via email.**

Curtis Tanabe
Contract Specialist
Child and Adolescent Mental Health Division
3627 Kilauea Avenue, Room 101
Honolulu, Hawaii 96816
Telephone: (808) 733-8495
Email: curtis.tanabe@doh.hawaii.com

6. TERM OF CONTRACT.

The Contractor shall enter into a Contract for furnishing services for a twelve (12) month period commencing on July 1, 2026 and ending on June 30, 2027.

Unless terminated, the Contract shall be extended for not more than five (5) additional twelve (12) month periods or portions thereof, without the necessity of rebidding, upon mutual agreement in writing, at least one (1) month prior to expiration, provided that the Contract price for the extended period shall remain the same or lower than the initial bid price, except as provided for herein.

The Contractor or the STATE may terminate the extended Contract period at any time upon thirty (30) days prior written notice.

Initial term of Contract:	<u>July 1, 2026 to June 30, 2027</u>
Length of each extension:	<u>Twelve (12) months</u>
Number of possible extensions:	<u>Five (5) yearly extensions</u>
Maximum length of Contract:	<u>Seventy-two (72) months</u>

7. FUNDING.

Funding is subject to appropriation, budget execution policies, availability, and the needs of the CAMHD. The CAMHD reserves the right to increase reimbursement rates as it deems fit if and when additional funding becomes available. Any adjustment in Contract price shall be made by written modification on a fixed price adjustment before commencement of the pertinent performance period.

8. OFFEROR'S QUALIFICATIONS.

- A. Offeror for each location shall have mobile equipment for pickup and a permanent facility for the destruction of materials on the respective Island at the time of bid submittal.
Address, telephone number, and name of contact person shall be listed on the

appropriate Offer Form page. Separate Contracts may be issued for each Island location awarded.

- B. Offeror shall have a minimum of three (3) consecutive years of experience in shredding and recycling paper products as well as materials (such as floppy disk, CD or DVD storage media) other than paper products in the STATE prior to bid opening date. Bidder shall be National Association of Information Destruction (“NAID”) certified for paper, electronic media, and computer hard drive destruction. Proof of experience and certification shall be required.
- C. Offeror shall be trained and knowledgeable with the applicable Health Insurance Portability and Accountability Act (“HIPAA”) requirements and shall sign a Business Associate Agreement (“BAA”) which is attached hereto as Attachment 1 and shall be attached as an Exhibit to the Contract.

9. RESPONSIBILITY OF OFFERORS.

Offeror is advised that if awarded a Contract under this solicitation, Offeror shall be required to be compliant with all laws governing entities doing business in the STATE, including the following chapters and pursuant to HRS §103D-310(c):

- A. Chapter 237, General Excise Tax Law;
- B. Chapter 383, Hawaii Employment Security Law;
- C. Chapter 386, Workers’ Compensation Law;
- D. Chapter 392, Temporary Disability Insurance;
- E. Chapter 393, Prepaid Health Care Act; and
- F. Chapter 103D-310(c), Certificate of Good Standing (“COGS”) for entities doing business in the State.

Refer to the Award of Contract (See Section 3, paragraph 17, page 6) provision herein for instructions to register for Hawaii Compliance Express (“HCE”) utilized for verification of compliance.

10. CERTIFICATION OF INDEPENDENT COST DETERMINATION.

By submission of an Offer in response to this IFB, Offeror certifies as follows:

- A. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.

- B. Unless otherwise required by law, the cost which have been quoted in this IFB have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the Contract.
- C. No other attempt has been made or shall be made by the Offeror to indicate any other person or firm to submit or not to submit for the purpose of restricting competition.

11. SITE INSPECTION.

Prior to submitting an Offer, Offerors may inspect at their own expense various locations to thoroughly familiarize themselves with existing conditions, rules and regulations, and the extent, nature, specifications, and requirements of work to be performed. Offeror inspection is not mandatory, and submission of an offer shall be evidence that the Offeror understands the scope of the project and shall comply with specifications herein, if awarded the Contract. No additional compensation, subsequent to bid opening, shall be allowed by reason of any misunderstanding or error regarding site conditions or work to be performed.

Appointment to inspect the delivery and pickup areas may be made by contacting the CAMHD's Family Guidance Centers ("FGC") Point of Contact in Section 2, paragraph 2, page 1 during regular business hours, except on weekends and STATE holidays.

12. INQUIRIES.

All inquiries regarding any item in this IFB shall be in writing and received by the Issuing Officer in the HlePRO QUESTION AND ANSWER SECTION by June 19, 2026 4:00 p.m. Hawaii Standard Time ("HST"). Only those electronic written inquiries received by the deadline shall be responded to on or around June 22, 2026. All questions and answers will be automatically forwarded to registered vendors. The STATE's responses shall not be construed to make any changes to the IFB unless otherwise revised by an addendum to the IFB.

13. OFFER PREPARATION.

- A. Offer Form, Page OF-1 and OF-2. **Offeror is required to submit Page OF-1 and OF-2 with its HlePRO offer** using Offeror's exact legal name as registered with the STATE's Department of Commerce and Consumer Affairs ("DCCA") and as shown in HCE, if applicable; and to indicate exact legal name in the appropriate space on Offer Form, page OF-1. Failure to do so may delay proper execution of the Contract. The authorized signature on the first page of the Offer Form shall be an original signature in ink. The signed page shall be scanned and returned with the Offer. If you are unable to scan said documents, please contact the Issuing Officer via email to make suitable arrangements.

If Offeror is selected for award the original signed copy may be required prior to the issuing of the Contract.

- B. Offer Price. The Offer price per secure document console shall be all inclusive, and include, but not limited to, all applicable taxes and expenses incurred to provide services specified herein. **There shall be one (1) award for each Island. Note that the island of Hawaii has two (2) separate locations that require pickup service. All locations are listed in Section 2, paragraph 2, page 1. Offeror may bid on one (1) or more line items or on all line items. The qualifying Offer price shall be pickup price per one (1) console by line item. Note the Offers must be made in HlePRO.**
- C. Tax Liability. Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237 and vendors are advised that they are liable for the STATE's General Excise Tax ("GET") at the current rate for each county. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax-exempt status and cite the HRS chapter or section allowing the exemption.
- D. Taxpayer Preference. For evaluation purposes, pursuant to HRS §103D-1008, the Offeror's tax-exempt price offer submitted in response to an IFB shall be increased by the applicable retail rate of GET and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.
- E. Insurance. Offeror shall provide insurance information as requested on the appropriate Offer Form page. Further, awardee shall provide insurance coverage for contents in accordance with the included Liability Insurance specifications (See Section 3, paragraph 22, page 8).
- F. References. Offeror shall list as references companies for whom Offeror has provided services specified herein. The STATE reserves the right to contact the references to inquire about Offerors past performance.
- G. Confidential Information.
Offerors shall designate those portions of their offer that contain trade secrets or other proprietary data that are to remain confidential subject to Hawaii Administrative Rules ("HAR") §§ 3-122-21(a)(7) and 3-122-30 (c) and (d). Material designated as confidential shall be readily separable from the Offer in order to facilitate public inspection of the non-confidential portion of the Offer. Prices, make, and models, or catalogue number of items

offered, deliveries and terms of payment, shall be publicly available at the time of opening regardless of any designation to the contrary.

14. SUBMISSION OF OFFER.

Offers shall be received through the HlePRO system no later than the date and time stated on the cover page of the IFB and as stated in HlePRO. Timely receipt of offers shall be evidenced by the date and time registered by the HlePRO system. Supporting detail that is physically unable to be transmitted electronically shall be identified in the HlePRO offer and **with the approval of the Issuing Officer** may be delivered and must be received at the above address within three (3) calendar days by 4:00 pm Hawaii Standard Time ("HST") of the Offer deadline.

15. ACCEPTANCE OF OFFER.

Acceptance of Offer, if any, shall be made within sixty (60) calendar days after the opening of Offerors, and the prices quoted by the Offeror shall remain firm for a sixty (60) days period or a longer period as may be allowed upon mutual agreement by the Offeror and the STATE.

16. STATUTORY REQUIREMENTS OF HRS §103-55.

Before any Offeror enters into a Contract to perform services **in excess of \$25,000.00** for any STATE government agency, the Offeror shall complete and submit the attached wage certification (See Section 1) by which Offeror certifies that the services required shall be performed pursuant to HRS §103-55.

17. AWARD OF CONTRACT.

A. Method of Award. Award, if made, shall be to the responsive, responsible Offeror submitting the lowest offer.

Only those Offers that meet all of the IFB's Specifications, Special Conditions, and General Conditions, and any other IFB requirement(s) will be considered for award. Any Offer that proposes terms, conditions, or requirements that are contrary to those specified herein or does not meet the qualification requirements of the IFB, as solely determined by the STATE and as provided for herein, may be considered to non-responsive and will be rejected as provided for herein.

B. Responsibility of Lowest Responsive Offeror. Pursuant to HRS §103D-310(c), the selected Offeror shall at the time of award be compliant with all laws governing entities doing business in the STATE. The STATE shall verify compliance on HCE.

- C. Hawaii Compliance Express. The HCE is an electronic system used to quickly verify proof of compliance of vendors/contractors/service providers doing business in the STATE. The HCE Certificate of Vendor Compliance ("CVC") is a printable certificate that will provide compliant status in real time. It is an online certificate process of the tax clearance from the Department of Taxation and the Internal Revenue Services; certificate of compliance from the Department of Labor and Industrial Relations and a Certificate of Good Standing from the Department of Commerce and Consumer Affairs required pursuant to HRS §103D-310(c) and HAR §3-122-112.

It is highly recommended that Vendors/contractors/services providers register with HCE at <https://vendors.ehawaii.gov/hce/>. Vendors/contractors/services providers will pay an annual fee which is currently \$12.00.

Participation in HCE is not mandatory. However, the selected Offeror who declines to use HCE shall provide the Issuing Officer with a hard copy of a compliance certificate from each of the following agencies:

- 1) Internal Revenue Services- Tax Compliance Report or DOTAX Waiver.
- 2) Department of Labor & Industrial Relations (DLIR) – Form LIR27.
- 3) Department of Commerce and Consumer Affairs (DCCA)- Form COGS.
- 4) Department of Taxation (DOTAX)- Form A-6.

Timely Submission of all Certificates. The HCE compliance or the above certificates should be applied for and submitted to the Issuing Officer as soon as possible. If the HCE compliance is not available online or the valid certificates above have not been received by the Issuing Officer with-in ten (10) business days for award of a Contract, an offer otherwise responsive and responsible may not receive the award.

18. CANCELLATION OF IFB AND OFFER REJECTION.

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

The STATE shall not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by the Offeror in the event this IFB is cancelled or an Offer is rejected.

19. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS.

It has been determined that funds for this Contract have been appropriated by a legislative body. Therefore, Offeror, if awarded a Contract in response to this solicitation, agrees to comply with HRS §11-205.5, which states that campaign contributions are prohibited from a STATE and County government Contractor during the term of the Contract if the Contractor

is paid with funds appropriated by a legislative body.

20. CONTRACT EXECUTION.

The successful Offeror shall be required to execute a formal Contract which shall be forwarded to the successful Offeror for execution. The Contract shall be signed by the successful Offeror and returned within ten (10) days after receipt by the Offeror or as may be otherwise allowed by the Procurement Officer.

NO PERFORMANCE OR PAYMENT BONDS ARE REQUIRED FOR THIS CONTRACT. If

an option(s) to extend the Contract is mutually agreed upon, Contractor shall be required to execute a modification supplement to the Contract.

The Contractor or the STATE may terminate the extended contract period at any time upon thirty (30) days with prior written notice.

21. CONTRACT DATE.

Work shall commence on the official commencement date specified in the Contract.

No work is to be undertaken by the Contractor prior to the official commencement date in the Contract. The STATE is not liable for any work, contract, costs, expenses, loss of profits, or any damage whatsoever incurred by the Contractor prior to the work start date.

22. GENERAL LIABILITY/AUTOMOBILE INSURANCE.

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

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

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

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability	\$1,000,000 per occurrence for bodily injury and property damage each occurrence and \$2,000,000 aggregate
Basic Motor Vehicle Insurance	\$1,000,000 per occurrence

Each insurance policy required by the Contract shall contain the following clause:

"It is agreed that any insurance maintained by the State of Hawaii shall apply in excess of, and not contribute with, insurance provided by this policy."

The general liability and automobile liability insurance policies required by this Contract shall contain the following clause:

"The State of Hawaii and its officers and employees are additional insured with respect to operations performed for the State of Hawaii."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the Contract, including any supplemental agreements.

Upon Contractor's execution of the Contract, the Contractor agrees to deposit with the STATE a Certificate of Insurance ("COI") necessary to satisfy the STATE that the insurance provisions of this Contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the STATE during the entire term of the Contract, including those of its subcontractor(s), where appropriate. Upon request by the STATE, Contractor shall be responsible for furnishing a copy of the policy or policies.

The Contractor shall immediately provide written notice to the contracting department or agency should any of the insurance policies evidenced on its COI form be cancelled, limited in scope, or not renewed upon expiration.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under the Contract, entitling the STATE to exercise any or all of the remedies provided in this Contract for a default of the Contractor.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of the Contract.

Notwithstanding said policy or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with the Contract.

23. SUBCONTRACTORS.

The Contractor shall not delegate any duties listed in this IFB to any Subcontractor, unless the Contract Administrator has given **prior written approval**.

24. INSPECTION.

The STATE retains the general right of inspection by a designated representative in order to judge, whether in the STATE's opinion, such work is being performed by the Contractor in accordance with terms of this IFB and Contract.

25. INVOICING.

Invoices shall be payable upon certification by the Contract Administrator that the Contractor has satisfactorily performed the required services.

Contractor shall submit original and two (2) copies of the invoice for the Contract to the following address:

Department of Health
Child and Adolescent Mental Health Division 3627 Kilauea Avenue, Room 101
Honolulu, Hawaii 96816.

Invoice shall reference the ASO LOG NO. as shown on the Contract.

26. PAYMENT.

HRS §103-10 provides that the STATE shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the STATE shall reject any bid submitted with a condition requiring payment within a shorter period.

Further, the STATE shall reject any bid submitted with a condition requiring interest payments greater than that allowed by HRS §103-10, as amended.

The STATE shall not recognize any requirement established by the Contractor and communicated to the STATE after award of the Contract, which requires payment within a shorter period or interest payment not in conformance with the HRS.

Original monthly claims must be submitted within thirty (30) calendar days after the last day of each calendar month. All submissions and corrections must be properly received by the CAMHD no later than ninety (90) days after the last day of the billing month.

Should the CONTRACTOR need to bill beyond the ninety (90) days, documented contact must be made with the CAMHD Provider Relations before the end of the ninety (90) days. However, no payment shall be made for claims submitted more than twelve (12) months after the last day on which services were rendered or more than six (6) months following the end of the Contract period, whichever period is shorter.

27. REMOVAL OF CONTRACTOR'S EMPLOYEES.

Contractor agrees to remove any of its employees from services rendered and to be rendered to the STATE, upon request in writing by the Procurement Officer.

28. RIGHTS AND REMEDIES FOR DEFAULT.

In the event the Contractor fails, refuses, or neglects to perform the services in accordance with the requirements of these Special Conditions, the Specifications, the General Provisions for Goods and Services HRS Chapter 103D, and General Conditions herein, in addition to any other recourse allowed by law, the STATE reserves the right to purchase in the open market, a corresponding quantity of the services specified herein and to deduct from any moneys due or that may thereafter become due the Contractor, the difference between the price named in the Contract and the actual cost thereof to the STATE. In case any money due the Contractor is insufficient for said purpose, the Contractor shall pay the difference upon demand by the STATE. The STATE may also utilize all other remedies provided by law.

29. PROTEST.

A protest shall be submitted in writing within five (5) working days after the posting of the award as listed below; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers.

The notice of award letter(s), if any, resulting from this solicitation shall be posted on the Procurement Reporting System, which is available on the SPO website:

<http://www.hawaii.gov/spo2/source/>.

Any protest pursuant to HRS §103D-701 and HAR §3-126-3 must be submitted in writing to the Procurement Officer Janet Ledoux, CAMHD, 3627 Kilauea Avenue, Room 101, Honolulu, Hawaii 96816.

ATTACHMENTS

ATTACHMENT 1

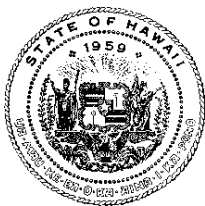


EXHIBIT _____

BUSINESS ASSOCIATE AGREEMENT

State of Hawaii Department of Health,

(COVERED ENTITY)

and

(BUSINESS ASSOCIATE)

The State of Hawaii Department of Health, _____
(COVERED ENTITY) has determined it is a Covered Entity or Health Care Component of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), as amended, and its implementing regulations at 45 CFR Parts 160 and 164 (the HIPAA Rules).

_____ (BUSINESS ASSOCIATE) and any of its subcontractor(s) will provide the COVERED ENTITY certain services described in the Contract to which this Exhibit _____ is attached and may have access to Protected Health Information (PHI) in fulfilling its responsibilities under the Contract.

To the extent BUSINESS ASSOCIATE needs to create, receive, maintain, or transmit PHI to perform services under the Contract, it will be acting as a Business Associate¹ of COVERED ENTITY and will be subject to the HIPAA Rules and terms of this Business Associate Agreement (Agreement).

¹ 45 CFR §160.103.

COVERED ENTITY and BUSINESS ASSOCIATE (collectively referred to as “the Parties”) agree as follows:

1. DEFINITIONS.

Except for terms otherwise defined herein, and unless the context indicates otherwise, any other capitalized terms used in this Agreement and the terms “person,” “use,” and “disclosure” are defined by the HIPAA Rules. A change to the HIPAA Rules that modifies any defined term, or which alters the regulatory citation for the definition, shall be deemed incorporated into this Agreement.

Breach² means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule or as provided for by this Agreement, which compromises the security or privacy of the PHI.

An acquisition, access, use, or disclosure of PHI in the manner not permitted by the Privacy Rule is presumed to be a Breach unless BUSINESS ASSOCIATE demonstrates to COVERED ENTITY’s satisfaction that there is a low probability that the PHI has been compromised based on a risk assessment that identifies at least the following: (i) the nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the PHI or to whom the disclosure was made; (iii) whether the PHI was actually acquired or viewed; and (iv) the extent to which the risk to the PHI has been mitigated.

Breach excludes:

- A. Any unintentional acquisition, access or use of PHI by a Workforce member or person acting under the authority of BUSINESS ASSOCIATE if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.
- B. Any inadvertent disclosure by a person who is authorized to access PHI at BUSINESS ASSOCIATE to another person authorized to access PHI at the same BUSINESS ASSOCIATE, or organized health care arrangement in which COVERED ENTITY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule.
- C. A disclosure of PHI where BUSINESS ASSOCIATE has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

Business Associate³ means a person or entity that performs certain functions or activities that involve the use or disclosure of PHI on behalf of, or provides services to, a Covered Entity. A member of COVERED ENTITY’s Workforce is not a Business Associate.

² 45 CFR §164.402.

³ 45 CFR §160.102.

Designated Record Set⁴ means records, including but not limited to PHI maintained, collected, used, or disseminated by or for COVERED ENTITY relating to: (i) medical and billing records about Individuals maintained by or for a Covered Health Care Provider; (ii) enrollment, Payment, claims adjudication, and case or medical management records systems maintained by or for a Health Plan; or (iii) that are used in whole or in part by COVERED ENTITY to make decisions about Individuals.

Electronic Protected Health Information (EPHI)⁵ means PHI that is transmitted by Electronic Media⁶ or maintained in Electronic Media.

HIPAA Rules mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

Individual⁷ means the person who is the subject of PHI and shall include a person who qualifies as a personal representative under 45 CFR §164.502(g) of the HIPAA Rules.

Privacy Rule means the HIPAA Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A and E.

Protected Health Information (PHI)⁸ means any oral, paper, or electronic information, data, documentation, and materials, including, but not limited to, demographic, medical, genetic, and financial information that is created or received by a Health Care Provider, Health Plan, or Health Care Clearinghouse, and relates to the past, present, or future physical or mental health or condition of an Individual; the provision of health care to an Individual; or the past, present, or future payment for the provision of health care to an Individual; and that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual. For purposes of this Agreement, the term Protected Health Information is limited to the information created, maintained, received, or transmitted by BUSINESS ASSOCIATE on behalf of or from COVERED ENTITY. Protected Health Information includes without limitation EPHI, and excludes education records under 20 U.S.C. §1232(g), employment records held by COVERED ENTITY as an employer, and records regarding an Individual who has been deceased for more than 50 years.

Privacy Incident means any successful or unsuccessful attempt, loss of control, compromise, or unauthorized use, disclosure, acquisition, or access of PHI.

Security Incident⁹ means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an Information System.

Security Rule means the HIPAA Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Parts 160 and 164, subpart C.

⁴ 45 CFR §164.501.

⁵ 45 CFR §160.103.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ 45 CFR §164.304.

Unsecured Protected Health Information (Unsecured PHI)¹⁰ means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of technology or methodology specified by the Secretary under section 13402(h)(2) of Public Law 111-5.

Unsuccessful Security Incident means the regular occurrence of unsuccessful attempts to access, use, and disclose PHI, such as, but not necessarily limited to, pings and other broadcast attacks on firewalls, denial of service attacks, port scans, unsuccessful login attempts, interception of encrypted information where the key is not compromised, or any combination of the foregoing.

Workforce¹¹ means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for COVERED ENTITY or BUSINESS ASSOCIATE and is under the direct control of such, whether or not they are paid by COVERED ENTITY or BUSINESS ASSOCIATE.

2. BUSINESS ASSOCIATE'S OBLIGATIONS.

BUSINESS ASSOCIATE agrees to:

- a. Not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law. In no event may BUSINESS ASSOCIATE use or further disclose PHI in a manner that would violate the Privacy Rule if done by COVERED ENTITY, except as expressly provided in this Agreement.¹²
- b. Implement appropriate safeguards, and comply, where applicable, with the Security Rule to ensure the confidentiality, integrity, and availability of all EPHI BUSINESS ASSOCIATE creates, receives, maintains, or transmits on behalf of COVERED ENTITY; protect against any reasonably anticipated threats or hazards to the security or integrity of EPHI; prevent use or disclosure of EPHI other than as provided for by this Agreement or as Required By Law; and ensure compliance with the HIPAA Rules by BUSINESS ASSOCIATE's Workforce.¹³ These safeguards include, but are not limited to:
 - (i) Administrative Safeguards. BUSINESS ASSOCIATE shall implement policies and procedures to prevent, detect, contain, and correct security violations, and reasonably preserve and protect the confidentiality, integrity, and availability of EPHI, as required by 45 CFR §164.308, and enforcing those policies and procedures, including sanctions for anyone not found in compliance.
 - (ii) Technical and Physical Safeguards. BUSINESS ASSOCIATE shall implement appropriate technical safeguards to protect EPHI, including access controls, authentication, and transmission security, as well as

¹⁰ 45 CFR §164.402.

¹¹ 45 CFR §160.103.

¹² 45 CFR §§164.502(a)(3), 164.504(e)(2)(ii)(A).

¹³ 45 CFR §164.306(a).

implement appropriate physical safeguards to protect EPHI, including workstation security and device and media controls;¹⁴ and

- (iii) Training. BUSINESS ASSOCIATE shall provide training to relevant Workforce members, including management, on how to prevent the improper access, use, or disclosure of EPHI; and update and repeat training on a regular basis.¹⁵
- c. In accordance with 45 CFR §164.316, document the required policies and procedures and keep them current, and cooperate in good faith in response to any reasonable requests from COVERED ENTITY to discuss, review, inspect, and/or audit BUSINESS ASSOCIATE's safeguards. BUSINESS ASSOCIATE shall retain the documentation required for six (6) years from the date of its creation or the date when it last was in effect, whichever is later.¹⁶
- d. Comply with the provisions found in 45 CFR §164.308(a)(1)(ii)(A) and (B), requiring BUSINESS ASSOCIATE to conduct an accurate and thorough Risk Analysis, and to periodically update the Risk Analysis (no less than once every 3 years); and to implement Risk Management measures to reduce the risk and vulnerabilities to a reasonable and appropriate level to comply with 45 CFR §164.306(a).
- e. Ensure that any subcontractor of BUSINESS ASSOCIATE that creates, receives, maintains, or transmits PHI on behalf of BUSINESS ASSOCIATE agrees in writing to the same restrictions, conditions and requirements that apply to BUSINESS ASSOCIATE through this Agreement with respect to such PHI.¹⁷
- f. Notify COVERED ENTITY following discovery of any use or disclosure of PHI not permitted by this Agreement including any incidents of which it becomes aware, or any Breach of Unsecured PHI.¹⁸
 - (i) BUSINESS ASSOCIATE shall immediately notify COVERED ENTITY's HIPAA Privacy and/or Security Officer verbally.
 - (ii) BUSINESS ASSOCIATE shall subsequently notify COVERED ENTITY's HIPAA Privacy and/or Security Officer in writing, without unreasonable delay, and in no case later than two (2) business days following discovery of the impermissible use or disclosure of PHI, Security Incident, or Breach of Unsecured PHI.
 - (iii) The parties acknowledge the regular occurrence of Unsuccessful Security Incidents. This Agreement satisfies BUSINESS ASSOCIATE's obligation to provide COVERED ENTITY notice of the ongoing existence and occurrences of such Unsuccessful Security Incidents. If a concern is raised, BUSINESS ASSOCIATE shall bear the burden to show why the occurrence was deemed an Unsuccessful Security Incident.

¹⁴ 45 CFR §§164.310, 164.312.

¹⁵ 45 CFR §164.308(a)(5).

¹⁶ 45 CFR §§164.306 – 164.316, 164.504(e)(2)(ii)(B).

¹⁷ 45 CFR §§164.308(b), 164.314(a)(2), 164.502(e), 164.504(e)(2)(ii)(D).

¹⁸ 45 CFR §§164.314(a)(2), 164.410(a), 164.504(e)(2)(ii)(C).

- (iv) BUSINESS ASSOCIATE shall make additional information available upon request from COVERED ENTITY.
 - (v) A Breach of Unsecured PHI shall be treated as discovered by BUSINESS ASSOCIATE as of the first day on which such Breach is known to BUSINESS ASSOCIATE. BUSINESS ASSOCIATE shall be deemed to have knowledge of a Breach if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, Workforce member, or other agent of BUSINESS ASSOCIATE.¹⁹
- g. Take prompt corrective action to mitigate, to the extent practicable, any harmful effect that is known to BUSINESS ASSOCIATE of a Security Incident or a misuse or unauthorized disclosure of PHI by BUSINESS ASSOCIATE in violation of this Agreement, and any other action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. BUSINESS ASSOCIATE shall reasonably cooperate with COVERED ENTITY's efforts to seek appropriate injunctive relief or otherwise prevent or curtail potential or actual Breaches, or to recover its PHI, including complying with a reasonable corrective action plan.²⁰
 - h. Investigate such Breach and provide a written report of the investigation and resultant mitigation to COVERED ENTITY's HIPAA Privacy and/or Security Officer as soon as practicable, but no longer than thirty (30) calendar days of the discovery of the Breach.
 - i. Provide the following information with respect to a Breach of Unsecured PHI, to the extent possible, as the information becomes available, to COVERED ENTITY's HIPAA Privacy and/or Security Officer:
 - (i) The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by BUSINESS ASSOCIATE to have been accessed, acquired, used, or disclosed during the Breach; and
 - (ii) Any other available information that COVERED ENTITY is required to include in notification to the Individual under the HIPAA Rules, including, but not limited to the following:²¹
 - A. If known to BUSINESS ASSOCIATE, contact information for Individuals who were or who may have been impacted by the Breach (including but not limited to: first and last name, mailing address, street address, phone number, and email address);
 - B. A brief description of the circumstances of the Breach, including the date of the Breach and date of discovery, if known;
 - C. Description of the types of Unsecured PHI involved in the Breach (such as whether the full name, social security number,

¹⁹ 45 CFR §164.410(a)(2).

²⁰ 45 CFR §§164.308(a)(6), 164.530(f).

²¹ 45 CFR §§164.404(c)(1), 164.408, 164.410(c)(1) and (2).

date of birth, address, account number, diagnosis, diagnostic, disability and/or billing codes, or similar information was involved);

- D. A brief description of what BUSINESS ASSOCIATE has done or is doing to investigate the Breach, mitigate harm to the Individual(s) impacted by the Breach and protect against future Breaches; and
 - E. Contact information for BUSINESS ASSOCIATE's liaison responsible for investigating the Breach and communicating information relating to the Breach to COVERED ENTITY.
- j. Promptly report to COVERED ENTITY's HIPAA Privacy and/or Security Officer any Security Incident of which BUSINESS ASSOCIATE becomes aware with respect to EPHI that is in the custody of BUSINESS ASSOCIATE, including Breaches of Unsecured PHI as required by 45 CFR §164.410, by contacting the HIPAA Privacy and/or Security Officer.²²
 - k. Implement reasonable and appropriate measures to ensure compliance with the requirements of this Agreement by Workforce members who assist in the performance of functions or activities on behalf of COVERED ENTITY under this Agreement and use or disclose PHI, and discipline such Workforce members who intentionally violate any provisions of these special conditions, which may include termination of employment.²³
 - l. Make its internal policies, procedures, books, and records relating to the use and disclosure of PHI received from, created, or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY available to the U.S. Secretary of Health and Human Services (Secretary), or to COVERED ENTITY if necessary or required to assess BUSINESS ASSOCIATE's or COVERED ENTITY's compliance with the HIPAA Rules. BUSINESS ASSOCIATE shall promptly notify COVERED ENTITY of communications with the Secretary regarding PHI provided by or created on behalf of COVERED ENTITY and shall provide COVERED ENTITY with copies of any information BUSINESS ASSOCIATE has made available to the Secretary under this paragraph.²⁴
 - m. Upon notice from COVERED ENTITY, accommodate any restriction to the use or disclosure of PHI and any request for confidential communications to which COVERED ENTITY has agreed in accordance with the Privacy Rule.²⁵
 - n. Make available PHI held by BUSINESS ASSOCIATE, which COVERED ENTITY has determined to be part of its Designated Record Set, to COVERED ENTITY as necessary to satisfy COVERED ENTITY's obligations to provide an Individual with access to PHI under 45 CFR §164.524, in the time and manner designated by COVERED ENTITY.²⁶

²² 45 CFR §§164.314(a)(2), 164.410.

²³ 45 CFR §164.308(a).

²⁴ 45 CFR §164.504(e)(2)(ii)(I).

²⁵ 45 CFR §164.522.

²⁶ 45 CFR §§164.504(e)(2)(ii)(E), 164.524.

- o. Make available PHI held by BUSINESS ASSOCIATE, which COVERED ENTITY has determined to be part of its Designated Record Set, for amendment and incorporate any amendments to PHI that COVERED ENTITY directs or agrees to in accordance with 45 CFR §164.526, upon request of COVERED ENTITY or the Individual.
- p. Document disclosures of PHI made by BUSINESS ASSOCIATE, which are required to be accounted for under 45 CFR §164.528(a)(1), and make this information available as necessary to satisfy COVERED ENTITY's obligation to provide an accounting of disclosures to an Individual within two (2) business days' notice by COVERED ENTITY of a request by an Individual for an accounting of disclosures of PHI. If an Individual directly requests an accounting of disclosures of PHI from BUSINESS ASSOCIATE, BUSINESS ASSOCIATE shall notify COVERED ENTITY's HIPAA Privacy and/or Security Officer of the request within two (2) business days, and COVERED ENTITY shall either direct BUSINESS ASSOCIATE to provide the information directly to the Individual, or it shall direct that the information required for the accounting be forwarded to COVERED ENTITY for compilation and distribution to the Individual.²⁷
- q. Comply with any other requirements of the HIPAA Rules not expressly specified in this Agreement, as to the extent that such requirements apply to Business Associates under the HIPAA Rules, as the same may be amended from time to time.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

BUSINESS ASSOCIATE may, except as otherwise limited in this Agreement:

- a. General Use and Disclosure. Create, receive, maintain, or transmit PHI only for the purposes listed in the Contract and this Agreement, provided that the use or disclosure would not violate the HIPAA Rules if done by COVERED ENTITY or violate the Minimum Necessary requirements applicable to COVERED ENTITY.²⁸
- b. Limited Use of PHI for BUSINESS ASSOCIATE's Benefit. Use the PHI received by BUSINESS ASSOCIATE in its capacity as COVERED ENTITY's Business Associate, if necessary, for the proper management and administration of BUSINESS ASSOCIATE or to carry out the legal responsibilities of BUSINESS ASSOCIATE. BUSINESS ASSOCIATE's proper management and administration does not include the use or disclosure of PHI by BUSINESS ASSOCIATE for Marketing purposes or for Sale of PHI.²⁹
- c. Limited Disclosure of PHI for BUSINESS ASSOCIATE's Benefit. Disclose PHI for BUSINESS ASSOCIATE's proper management and administration or to carry out

²⁷ 45 CFR §§164.504(e)(2)(ii)(G) and (H), 164.528; HAR §2-71-11 through -20.

²⁸ 45 CFR §§164.502(a) and (b), 164.504(e)(2)(i).

²⁹ 45 CFR §§164.502(a)(5)(ii), 164.504(e)(2)(i)(A), 164.504(e)(4)(i), 164.508(a)(3) and (a)(4).

its legal responsibilities only if the disclosure is Required By Law,³⁰ or BUSINESS ASSOCIATE obtains reasonable assurances from the entity to whom PHI is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the entity, and the entity notifies BUSINESS ASSOCIATE of any instances of which it is aware in which the confidentiality of PHI has been Breached.³¹

- d. Minimum Necessary. BUSINESS ASSOCIATE shall only request, use, and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use, or disclosure.³²
- e. Data Aggregation. Use PHI to provide Data Aggregation services relating to COVERED ENTITY's Health Care Operations as permitted by 45 CFR §164.504(e)(2)(i)(B).
- f. Disclosures by Whistleblowers. Disclose PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR §164.502(j)(1).

4. COVERED ENTITY'S OBLIGATIONS.

- a. COVERED ENTITY shall not request BUSINESS ASSOCIATE to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by COVERED ENTITY.
- b. COVERED ENTITY shall not provide BUSINESS ASSOCIATE with more PHI than is minimally necessary for BUSINESS ASSOCIATE to provide the services under the Contract and this Agreement and COVERED ENTITY shall provide any PHI needed by BUSINESS ASSOCIATE to perform its obligations in accordance with the HIPAA Rules.

5. TERM AND TERMINATION.

- a. This Agreement shall be effective as of the date it is signed by BUSINESS ASSOCIATE, and shall terminate on the date COVERED ENTITY terminates this Agreement or when all PHI is destroyed or returned to COVERED ENTITY.
- b. In addition to any other remedies provided for by this Agreement, upon COVERED ENTITY's knowledge of a material breach by BUSINESS ASSOCIATE of this Agreement, BUSINESS ASSOCIATE authorizes COVERED ENTITY to do any one or more of the following, upon written notice to BUSINESS ASSOCIATE describing the violation and the action it intends to take:

³⁰ E.g., 45 CFR Parts 170 and 171; 42 CFR Part 2, etc.

³¹ 45 CFR §164.504(e)(4)(ii).

³² 45 CFR §164.502(b).

- (i) Exercise any of its rights to reports, access, and inspection under this Agreement;
- (ii) Require BUSINESS ASSOCIATE to submit a plan of monitoring and reporting, as COVERED ENTITY may determine necessary to maintain compliance with this Agreement;
- (iii) Provide BUSINESS ASSOCIATE with a reasonable period of time to cure the breach, given the nature and impact of the breach; or
- (iv) Immediately terminate this Agreement if BUSINESS ASSOCIATE has breached a material term of this Agreement and sufficient mitigation is not possible.³³

c. Effect of Termination.³⁴

- (i) Upon termination of this Agreement, until notified otherwise by COVERED ENTITY, BUSINESS ASSOCIATE shall extend all protections, limitations, requirements, and other provisions of this Agreement to all EPHI received from or on behalf of COVERED ENTITY or created or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY, and all EPHI created, received, maintained, or transmitted by BUSINESS ASSOCIATE on behalf of COVERED ENTITY.
- (ii) Except as otherwise provided in §5(c)(iii) below, upon termination of this Agreement for any reason, BUSINESS ASSOCIATE shall, at COVERED ENTITY's option, return or destroy all PHI received from COVERED ENTITY, or created or received by BUSINESS ASSOCIATE on behalf of COVERED ENTITY, that BUSINESS ASSOCIATE still maintains in any form, and BUSINESS ASSOCIATE shall retain no copies of the PHI. This provision shall also apply to PHI that is in the possession of subcontractors or agents of BUSINESS ASSOCIATE. BUSINESS ASSOCIATE shall notify COVERED ENTITY in writing of any and all conditions that make return or destruction of such information not feasible and shall provide COVERED ENTITY with any requested information related to COVERED ENTITY's determination as to whether the return or destruction of such information is feasible.
- (iii) If COVERED ENTITY determines that returning or destroying any or all PHI is not feasible or opts not to require the return or destruction of such PHI, the protections of this Agreement shall continue to apply to such PHI, and BUSINESS ASSOCIATE shall limit further uses and disclosures of PHI to those purposes that make the return or destruction infeasible, for so long as BUSINESS ASSOCIATE maintains such PHI. COVERED ENTITY hereby acknowledges and agrees that infeasibility includes BUSINESS ASSOCIATE's need to retain PHI for purposes of complying with its work product documentation standards.

³³ 45 CFR §164.504(e)(2)(iii).

³⁴ 45 CFR §164.504(e)(2)(ii)(J).

6. MISCELLANEOUS.

- a. Amendment. BUSINESS ASSOCIATE and COVERED ENTITY agree to take such action as is necessary to amend this Agreement from time to time for compliance with the requirements of the HIPAA Rules and any other applicable law.
- b. Interpretation. In the event that any terms of this Agreement are inconsistent with the terms of the Contract, then the terms of this Agreement shall control. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA Rules, as amended, the HIPAA Rules shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of this Agreement shall control. Any ambiguity in this Agreement shall be resolved to permit COVERED ENTITY to comply with the HIPAA Rules. Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to supersede any Federal or State law or regulation related to confidentiality of health information that is more stringent than the HIPAA Rules.
- c. Indemnification. BUSINESS ASSOCIATE shall defend, indemnify, and hold harmless COVERED ENTITY and COVERED ENTITY's officers, employees, agents, contractors, and subcontractors to the extent required under this Agreement and the Contract for incidents that are caused by or arise out of a Breach or failure to comply with any provision of this Agreement or the HIPAA Rules by BUSINESS ASSOCIATE or any of BUSINESS ASSOCIATE's officers, employees, agents, contractors, or subcontractors. This indemnification provision shall not apply to any BUSINESS ASSOCIATE that is another Hawaii government entity; however, BUSINESS ASSOCIATE shall seek indemnification for COVERED ENTITY from BUSINESS ASSOCIATE's agents, contractors, or subcontractors that are not Hawaii government entities.
- d. Costs Related to Breach. BUSINESS ASSOCIATE shall be responsible for any and all costs incurred by COVERED ENTITY as a result of any Breach of PHI by BUSINESS ASSOCIATE, its officers, directors, employees, contractors or agents, or by a third party to which BUSINESS ASSOCIATE disclosed PHI under this Agreement, including but not limited to notification of individuals or their representatives of a Breach of Unsecured PHI,³⁵ and the cost of mitigating any harmful effect of the Breach.³⁶ Ensuring notice to the individuals of a Breach will be the responsibility of COVERED ENTITY.
- e. Response to Subpoenas. In the event BUSINESS ASSOCIATE receives a subpoena or similar notice or request from any judicial, administrative or other party which would require the production of PHI received from, created or maintained for COVERED ENTITY, BUSINESS ASSOCIATE shall promptly forward a copy of such subpoena, notice, or request to COVERED ENTITY to afford COVERED ENTITY the opportunity to timely respond to the demand for its PHI as COVERED ENTITY determines appropriate according to its State and Federal obligations.

³⁵ 45 CFR Part 164, Subpart D.

³⁶ 45 CFR §164.530(f).

- f. Survival. The respective rights and obligations of COVERED ENTITY and BUSINESS ASSOCIATE under §5.c, Term and Termination, §6.c, Indemnification, and §6.d, Costs Related to Breach, shall survive the termination of this Agreement.
- g. Notices. Whenever written notice is required by one party to the other under this Agreement, it should be mailed, faxed and/or e-mailed to the appropriate address noted below. If notice is sent by e-mail, then a confirming written notice should be sent by mail and/or fax within two (2) business days after the date of the e-mail. The sender of any written notice required under this Agreement is responsible for confirming receipt by the recipient. Notice shall be sent to the telephone and fax numbers; mailing and email addresses, listed below.
- h. Breach Notification to COVERED ENTITY's Officers. Pursuant to §2(f) of this Agreement, should BUSINESS ASSOCIATE or its subcontractor(s) breach COVERED ENTITY's PHI, BUSINESS ASSOCIATE shall contact:

COVERED ENTITY HIPAA OFFICER:

DOH HIPAA Privacy Officer
 1250 Punchbowl Street, Room 250
 Honolulu, Hawaii 96813
 Fax: (808) 586-4115
 Email: doh.hipaaoffice@doh.hawaii.gov

BUSINESS ASSOCIATE HIPAA CONTACT:

BUSINESS ASSOCIATE

Date: _____

Signature: _____

Print Name: _____

Title: _____

COVERED ENTITY

Date: _____

Signature: _____

Print Name: _____

Title: _____

ATTACHMENT 2

GENERAL PROVISIONS

FOR

GOODS AND SERVICES

HAWAII REVISED STATUTES (HRS) CHAPTER 103D

Attached are the General Provisions, dated April 2013 which are made a part of all offers in response to the solicitation for goods and services. These provisions are in addition to the special provisions provided in the individual solicitations.

Offerors are cautioned to read and understand all the terms and conditions contained in the General Provisions as these provisions will also be made part of the contract for goods and services.

**GENERAL PROVISIONS
FOR
GOODS AND SERVICES**

TABLE OF CONTENTS

	PAGE NO.
1. DEFINITION OF TERMS	3-5
2. COMPETENCY OF OFFEROR.....	5
3. OFFER INCORPORATES SOLICITATION	6
4. PREPARATION OF OFFER.....	6
5. LATE OFFERS, LATE WITHDRAWALS, AND LATE MODIFICATIONS.....	6
6. DISQUALIFICATION OF OFFERORS	6-7
7. IRREGULAR OFFERS	7
8. STANDARDS OF CONDUCT	7
9. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS	7-8
10. ACCEPTANCE OF OFFER.....	8
11. EXECUTION OF CONTRACT.....	8-9
12. CONTRACT BOND.....	9
13. FAILURE TO EXECUTE CONTRACT	9
14. RETURN OF OFFER GUARANTIES	9

15. PAYMENT 9-10

16. DELIVERY EXTENSIONS 10

17. PERSONAL LIABILITY OF PUBLIC OFFICIALS 10

1. DEFINITIONS OF TERMS

Terms as used in these General Provisions, unless the context requires otherwise, shall have the following meaning:

a. BID

Bid means any offer submitted in competitive sealed bidding or in the second phase of multi-step bidding.

b. BID PROPOSAL GUARANTY OR SECURITY

The security when required, furnished by an offeror with his offer to ensure that the offeror will enter into the contract with the STATE and execute the required contract and payment bonds covering the work contemplated, if his offer is accepted.

c. CONTRACT

Contract means the combination of the solicitation, including the instructions to offerors, the specifications or scope of work, the special provisions, and the general terms and conditions; the offer and any best and final offers; and any amendments to the solicitation or to the contract; and any terms implied by law.

d. CONTRACT BOND

The approved form of security furnished by the CONTRACTOR and his surety or sureties or by the CONTRACTOR alone, to ensure completion and satisfactory performance of the contract in accordance with the terms of the contract and to guarantee full payment of all claims for labor, materials and supplies furnished, used or incorporated in the work.

e. CONTRACTOR

An individual, partnership, firm, corporation, joint venture or other legal entity undertaking the execution of work under the terms of the contract with the STATE and acting directly or through his, their or its agents, employees or sub-contractors.

f. DAYS

Days mean calendar days unless otherwise specified.

g. GENERAL CONDITIONS

General Conditions issued by the Department of the Attorney General of the State of Hawaii, referred to as Form AG-008, as revised, and included in solicitations by reference. The applicable revised Form AG-008, which is included by reference, is the form dated and in effect at the date the solicitation is issued.

h. GENERAL PROVISIONS

General Provisions are standard terms and conditions.

i. HAR

Hawaii Administrative Rules

j. HEAD OF THE PURCHASING AGENCY

The head of any agency with delegated procurement authority by law or from a chief procurement officer of this STATE to enter into and, administer contracts.

k. HRS

Hawaii Revised Statutes

l. IFB

Invitation for Bids

m. OFFER

An offer means a bid or proposal as defined in sections 1a and 1p, in response to any solicitation.

n. OFFEROR

Any individual, partnership, firm, corporation, joint venture or other legal entity, submitting directly or through a duly authorized representative or agent, an offer for the work or services contemplated in response to a solicitation as defined in 1s.

o. PROCUREMENT OFFICER

Procurement officer means the person with procurement delegation duly authorized to enter into and administer contracts and make written determinations with respect to the contract. The term includes an authorized representative acting within the limits of authority. The delegated authority is received from the chief procurement officer directly or through the head of a purchasing agency or designee to the procurement officer.

p. PROPOSAL

A proposal means any offer submitted in response to any solicitation, except a bid as defined in section 1a.

q. PURCHASING AGENCY

Purchasing agency means any governmental body which is authorized by law or rules, or by way of delegation to enter into contracts for procurement of goods, services, or construction.

r. RFQ

Request for Quotes

s. RFP

Request for Proposals

t. SOLICITATION

Solicitation means an invitation for bids ("IFB"), used in the competitive sealed bidding process, a request for quotes ("RFQ") used in the small purchases process, or a request for proposals ("RFP"), used in the competitive sealed

proposal process for the purpose of obtaining quotes, bids or proposals to perform a STATE contract.

u. SPECIAL PROVISIONS

The terms and conditions pertaining to the specific solicitation in which they are contained and in addition to these General Provisions; including but not limited to terms and conditions describing the preparation of solicitations, evaluation of offers, determination of award, plus those applicable to performance by the CONTRACTOR.

Additions or revisions to the General Provisions, which shall be considered a part of the General Provisions, setting forth conditions or requirements applicable to the particular project or contract under consideration shall be included in the Special Provisions. Should any Special Provisions conflict with these General Provisions, said Special Provisions shall govern.

v. SPECIFICATIONS

A description of what the purchasing agency requires and, consequently, what an offeror must offer to be considered for award.

w. STATE

STATE means the remaining departments of the executive branch and all governmental bodies administratively attached to it, excluding the judiciary, the legislature, the department of education, University of Hawaii, the division of community hospitals, and the office of Hawaiian affairs, except where specifically included in any particular solicitation.

x. SURETY

The individual, firm, partnership or corporation other than the CONTRACTOR, which executes a bond with and for the CONTRACTOR to ensure the CONTRACTOR's acceptable performance of the contract.

y. WORK

The furnishing by the CONTRACTOR of all labor, services, materials, equipment, and other incidentals necessary for the satisfactory performance of the contract.

2. COMPETENCY OF OFFEROR

Prospective offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any offeror who refuses to answer such inquiries will be considered non-responsive.

The purchasing agency reserves the right to visit an offeror's place of business to inspect its facilities and equipment and to observe its methods of operation in order to facilitate evaluation of performance capabilities.

3. OFFER INCORPORATES SOLICITATION

The solicitation, including the AG's General Conditions, Specifications, General Provisions and any Special Provisions, and other documents referenced in or attached to the solicitation shall be considered a part of the offer whether attached to the solicitation or not at the time of its submission. Such documents shall not be altered in any way when the proposal is submitted and any alterations so made by the offeror may be cause for rejection of the offer.

4. PREPARATION OF OFFER

An offeror may submit only one offer in response to a solicitation. If an offeror submits more than one offer in response to a solicitation, then all such offers shall be rejected. Similarly, an offeror may submit only one offer for each line item (if any) of a solicitation. If an offeror submits more than one offer per line item, then all offers for that line item shall be rejected.

Competing subsidiary or jointly-owned companies may submit bids or proposals and these may be accepted for evaluation and award if such companies submit with their bids or proposals a certificate of non-collusion, sworn to before a notary, which acknowledges that the offer is without collusion.

Unless otherwise specified in the solicitation, all prices shall include applicable Federal, state and local taxes. Any illegible or otherwise unrecognizable price offer shall cause automatic rejection of the offer.

Offers submitted in response to an IFB or RFP shall be signed in ink in the space provided on the bid or proposal page by (1) the owner of a sole proprietorship, (2) one or more members of a partnership, (3) one or more members or officers of each firm representing a joint venture, (4) one or more officers of a corporation, or (5) an agent of the offeror duly authorized to submit offers on the offeror's behalf.

5. LATE OFFERS, LATE WITHDRAWALS, AND LATE MODIFICATIONS

Any notice of withdrawal, notice of modification of an offer with the actual modification, or any offer received at the place designated for receipt and opening of an offer after the time and date set for receipt and opening of offers is late. A late offer, late modification, or late withdrawal shall not be considered late if received before contract award and would have been timely but for the action or inaction of personnel within the procurement activity. A late offer or late modification that will not be considered for award shall be returned to the bidder unopened as soon as practicable and accompanied by a letter from the procurement activity stating the reason for its return. A late withdrawal request shall be responded to with a statement of the reason for non-acceptance of the withdrawal.

6. DISQUALIFICATION OF OFFERORS

An offeror shall be disqualified and his offer automatically rejected for any one of the following reasons: proof of collusion, in which case, all offers involved in the collusive action will be rejected and any participant to such collusion will be barred from future solicitations until reinstated; or offeror's delivery of the offer after the deadline specified in the public notice calling for offers, or as amended, except as allowed in Section 3-122-29 (1), HAR.

An offeror may be disqualified and his offer rejected for any one or more of the following

reasons: offeror's lack of responsibility and cooperation as shown by past work or services; offeror's being in arrears on existing contracts with the STATE or having defaulted on previous contracts; offeror's lack of proper equipment and/or sufficient experience to perform the work contemplated; offeror does not possess proper license to cover the type of work contemplated, if required; or offeror's failure to pay, or satisfactorily settle, all bills overdue for labor and material on former STATE contracts at the time of issuance of solicitation.

7. IRREGULAR OFFERS

Offers will be considered irregular and shall be rejected for the following reasons including but not limited to the following: if the offer is unsigned by the offeror, unless otherwise specified in the solicitation; if the required offer guaranty received separately from the offer is not identifiable as guaranty for a specific offer, or is received after the date and time set for the opening; if the required offer guaranty is not in accordance with the solicitation; if the offeror or surety fails to sign the surety bond submitted as offer guaranty; if offeror fails to use the surety bond form furnished by the STATE or identical wording contained in the said form when submitting a surety bond as proposal guaranty; if the offer shows any non-compliance with applicable law or contains any unauthorized additions or deletions, conditioned, incomplete, or irregular or is in anyway making the proposal incomplete, indefinite, or ambiguous as to its meaning; or unbalanced offers in which the price for any item is obviously out of proportion to the prices for other items.

8. STANDARDS OF CONDUCT

All offerors should be certain that their offer is not in violation of HRS §84-15. This section provides as follows:

- a. A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, an employee, or a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$10,000 unless:
 - (1) The contract is awarded by competitive sealed bidding pursuant to section 103D-302;
 - (2) The contract is awarded by competitive sealed proposal pursuant to section 103D-303; or
 - (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.
- b. A state agency shall not enter into a contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned.

9. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

Unless otherwise specified in the solicitation, a legislative body has appropriated the funds for this contract.

Therefore, if awarded a contract in response to this solicitation, offeror agrees to comply

with Section 11-205.5, HRS, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body.

10. ACCEPTANCE OF OFFER

- a. Acceptance of offer, if any, will be made within sixty calendar days after the opening of offers, and the prices quoted by the offeror shall remain firm for the sixty-day period. Unless otherwise provided, each individual item or group of items will be awarded to the responsive and responsible offeror whose offer complies with all the solicitation requirements. In determining the responsive and responsible offeror, offers will be evaluated not only on the amounts thereof, but on all factors relating to the satisfactory performance of the contract. Products or servicing capabilities must be of a quality and nature that will meet the needs and purposes of the intended use and must conform to all requirements prescribed in the specifications. The offeror must have the ability to perform as called for in the contract terms. The STATE shall be the sole judge of product or vendor capability. The successful vendor will be notified by letter that the offer has been accepted and that the vendor is being awarded the contract.
- b. If the offer is rejected or if the vendor to whom the contract was awarded fails to enter into the contract and furnish satisfactory security, if applicable, the purchasing agency may, at their discretion, award the contract to the next lowest or remaining responsible offeror or may publish another call for offers; provided in the case of only one remaining responsible offeror, the head of a purchasing agency may negotiate with such bidder to reduce the scope of work, if available funds are exceeded, and to award the contract at a price which reflects the reduction in the scope of work.
- c. The head of a purchasing agency further reserves the right to cancel the contract award at any time prior to execution of said contract by all parties, without any liability to the awardee and to any other offeror.

11. EXECUTION OF CONTRACT

The following subsections shall not apply to any contract in which the total amount payable to the CONTRACTOR cannot be accurately estimated at the time the contract is to be awarded:

- a. In cases where the contract award equals or exceeds the dollar level specified in Section 103D-305, HRS, the STATE shall forward a formal contract to the successful offeror for execution. The contract shall be signed by the successful vendor and returned, together with a satisfactory contract bond if required, and other supporting documents, within ten days after receipt by the vendor or within such further time as the procurement officer may allow.
- b. No such contract shall be considered binding upon the STATE until the contract has been fully and properly executed by all the parties thereto and the State Comptroller has, in accordance with Section 103D-309, HRS, endorsed thereon a certificate that there is an appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; with the exception of a multi-term contract, whereby, the State Comptroller shall only be required to certify that there is an appropriation or balance of an appropriation over and above all outstanding contracts, that is sufficient to cover the amount required to be paid under the contract during the fiscal year or remaining portion of the fiscal year of each term of the multi-year contract.

- c. Pursuant to the Attorney General's General Conditions (AG-008, as revised), Section 18, in any contract involving not only STATE but supplemental funds from the Federal government, this section shall be applicable only to that portion of the contract price as is payable out of STATE. As to the portion of the contract price as is expressed in the contract to be payable out of Federal funds, the contract shall be construed to be an agreement to pay the portion to the CONTRACTOR, only out of Federal funds to be received from the Federal government. This subsection shall be liberally construed so as not to hinder or impede the STATE in contracting for any project involving financial aid from the Federal government.

12. CONTRACT BOND

- a. The requirement for contract performance and payment bonds, if any, shall be stated in the Special Provisions of the solicitation.
- b. When required by the Special Provisions, a performance bond and a payment bond shall be delivered by the CONTRACTOR to the STATE at the same time the executed contract is delivered. Each amount of the performance and payment bonds shall not exceed fifty per cent of the amount of the contract price; provided, for contracts where contract price cannot be determined at the time of award, the amounts of the bonds shall be as stated in the solicitation. ‘
- c. The acceptable performance and payment bonds are the same as the acceptable bid or proposal security deposit specified in Section 7. If a surety bond is submitted for either the performance or payment bond, in addition to the form prescribed, a power of attorney for the surety's attorney-in-fact executing the bond shall be provided.

13. FAILURE TO EXECUTE CONTRACT

If the offeror to whom a contract is awarded shall fail or neglect to enter into the contract, and to furnish satisfactory security as required by Section 30 within ten days after such award or within such further time as the procurement officer may allow, the purchasing agency shall pay the amount of offeror's proposal guaranty, as required under Section 7, into the State Treasury as a realization of the STATE. The procurement officer may thereupon award the contract to the next lowest responsible offeror or may call for new offers, whichever method he may deem is in the best interest of the STATE.

14. RETURN OF OFFER GUARANTIES

All offer guaranties submitted as required by subchapter 24, chapter 3-122, HAR, shall be retained until the successful offeror enters into contract and furnishes satisfactory security or if the contract is not awarded or entered into, until the procurement officer's determination is made to cancel the solicitation. At such time, all offer guaranties, except surety bonds, will be returned.

15. PAYMENT

Section 103-10, HRS, provides that the State shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest

payments greater than that allowed by §103-10, HRS, as amended.

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

16. DELIVERY EXTENSIONS

In the case of contracts for the purchase of goods, the delivery date or the maximum number of days for delivery will be specified by the STATE in its solicitation requirements, and all goods must be delivered with the time specified. However, the CONTRACTOR will not be held responsible for delay due to fire, flood, riot, labor disturbances, war, shortage of transportation, act of God or other reason beyond his control, provided that he notifies the STATE of such delay and the reason therefore as soon as practicable after its occurrence and requests extension prior to the specified date of delivery. Requests for extension of time shall be accompanied by documents such as the CONTRACTOR's purchase order, manufacturer's acknowledgement, shipping manifest, and any other documents substantiating that the causes for delay were beyond the control of the CONTRACTOR. The STATE shall be the sole judge of whether such delay is truly beyond the control of the CONTRACTOR and whether extension will be granted. The STATE reserves the right to terminate the contract or to assess liquidated damages, if provided for in the contract, for delays not covered by specific authorized extension.

17. PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out any of the provisions of the contract or in exercising any power or authority granted to them by the contract, there shall be no liability upon the procurement officer or his authorized representatives, either personally or as officials of the STATE, it being understood that in such matters, they act solely as agents and representatives of the STATE.