

State of Hawaii  
Department of Education  
Procurement and Contracts Branch  
94-275 Mokuola Street, #200  
Waipahu, HI 96797  
T: (808) 675-0130 F: (808) 675-0133

**Registration Form  
For Online Solicitations**

- The Procurement and Contracts Branch (PCB) is not notified when a particular solicitation is viewed or downloaded. Therefore, Offerors interested in responding to this solicitation must first register their participation by completing and submitting this Registration Form.
- The completed Registration Form must be e-mailed or faxed to the PCB Solicitation Contact Person listed below as soon as possible after downloading this solicitation, but in any case, prior to the deadline for offers.
- Only Offerors who are registered will be forwarded addenda and/or other notices related to this solicitation when issued, if any. Failure to register may result in the Offeror not receiving addenda and/or other solicitation related notices, and such offers may therefore be rejected, and not considered for award.
- Failure of the Offeror to receive any such addenda shall not relieve the Offeror of any obligation under this solicitation. It remains the responsibility of the Offeror to complete and submit its offer in accordance with the instructions contained in this solicitation, as well as subsequent interpretations and addenda, if any.

**Solicitation Information:**

Number:	RFP D18-109
Title:	To Provide a College Readiness Assessment System for the Hawaii Department of Education
Deadline:	2:00 p.m. Hawaii Standard Time, <b>April 5, 2018</b>
Contact Person:	Nicole Agena
Contact's e-mail Address:	nicole_agena@notes.k12.hi.us

**Offeror Information:**

Name of Company Registering:	
Mailing Address:	
Name of Contact Person:	
Contact's e-mail Address:	
Contact's Telephone/ Facsimile No.:	

DEPARTMENT OF EDUCATION  
PROCUREMENT AND CONTRACTS BRANCH

February 28, 2018

REQUEST FOR PROPOSALS

RFP D18-109

SEALED PROPOSALS

TO PROVIDE A COLLEGE READINESS ASSESSMENT SYSTEM  
FOR THE HAWAII DEPARTMENT OF EDUCATION

will be received up to 2:00 p.m. (HST)

on

April 5, 2018

at the HIDOE, Procurement and Contracts Branch, Waipahu Civic Center, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797.

Questions relating to this solicitation may be directed to Nicole Akena via telephone at (808) 675-0130, via facsimile at (808) 675-0133, or via email at [nicole\\_akena@notes.k12.hi.us](mailto:nicole_akena@notes.k12.hi.us).

## **1. OVERVIEW OF PROCUREMENT PROCESS**

### **1.1 RFP Organization**

This RFP is organized as follows:

- Section 1. Overview of Procurement Process. Provides Offerors with a general overview of the RFP process.
- Section 2. RFP Purpose and Overview. Provides Offerors with general information about the objectives of this project and RFP, and critical success factors.
- Section 3. Scope of Work; Project and Offeror Requirements. Provides Offerors with a general description of the tasks to be performed, and stipulates Offer qualifications.
- Section 4. Proposal. Describes the required format and content for the Offeror's submittal, and establishes requirements for the Price Proposal.
- Section 5. Proposal Evaluation. Describes how proposals will be evaluated by the HIDOE.
- Appendix A. Proposal Identification and Information Form
- Appendix B. Offeror Reference Form
- Appendix C. Price Proposal Form
- Appendix D. Contract Minimum and Special Conditions
- Appendix E. State's General Conditions

### **1.2 Procurement Authority**

This procurement is being conducted as a competitive sealed proposals procurement in accordance with the procedures set forth in §103D-303 of the Hawaii Revised Statutes (hereinafter "HRS") and Title 3, Subtitle 11, Chapter 122, Subchapter 6 of the Hawaii Administrative Rules (hereinafter "HAR"). The relevant provisions of §103D, HRS, and their associated HAR, are incorporated by reference and made a part of this RFP.

### **1.3 Issuing Office and Contact Person**

The following person from the issuing office listed below is the sole point of contact for this RFP. Communication with any other contact person from the date of release of this RFP until the selection of the successful Offeror(s) without approval, may result in disqualification.

RFP Point of Contact: Nicole Akena  
Email: nicole\_akena@notes.k12.hi.us  
Phone: (808) 675-0130  
Fax: (808) 675-0133

Issuing Office:  
State of Hawaii Department of Education (HIDOE)  
Procurement and Contracts Branch  
Waipahu Civic Center  
94-275 Mokuola Street, Room 200  
Waipahu, Hawaii 96797

#### 1.4 Procurement Timetable

Except as noted, the following schedule represents the HIDOE's best estimate. All times indicated are Hawaii Standard Time (HST). If any component of this schedule is delayed, the rest of the schedule will likely be amended by the same number of days, however the HIDOE reserves the right to amend or revise the timetable without prior written notice when such revision or amendment is in the HIDOE's best interest.

Public Notice announcing Request for Proposals (RFP)	February 28, 2018
Deadline for submission of written questions	On or before 4:00 p.m., March 13, 2018
HIDOE's responses to written questions	on or about March 20, 2018
<b>Proposals due at:</b> <b>HIDOE Procurement and Contracts Branch (PCB)</b> <b>Waipahu Civic Center</b> <b>94-275 Mokuola Street, Room 200</b> <b>Waipahu, Hawaii 96797</b> <b>THERE ARE NO EXCEPTIONS TO THIS PROPOSAL DUE</b> <b>DATE UNLESS THE DATE IS AMENDED IN WRITING BY THE</b> <b>PROCUREMENT AND CONTRACTS BRANCH.</b>	2:00 p.m., April 5, 2018
Evaluation of Proposals	April 6 - 13, 2018
Determination of Priority-Listed Offerors (if necessary)	TBD
Priority-listed Offerors discussions conducted and/or notified to schedule presentation to HIDOE (if necessary)	TBD
Best and Final Offers (if necessary)	TBD
Contract Award	on or about May/June 2018
Contract Commencement Date/Notice to Proceed	July/August 2018

#### 1.5 Cancellation of RFP; Rejection of Proposals

This RFP may be cancelled and any or all proposals may be rejected in whole or in part, when it is determined to be in the best interest of the HIDOE.

#### 1.6 Required Review/Written Questions

It is the Offeror's responsibility to carefully review this solicitation for defects and questionable or objectionable matter. Solicitation documents include this RFP, any attachments, plans referred to herein, and any other relevant documentation.

Comments concerning defects, discrepancies, omissions, questionable or objectionable matter, or questions related to this RFP must be made in writing to allow issuance of any necessary amendments to the RFP. It will also help prevent exposure of Offeror's proposal prepared in response to a defective or inaccurate solicitation upon which award could not be made.

Comments related to this solicitation shall be communicated in writing to the RFP contact person identified via fax or e-mail by the date and time established for submission of written questions to ensure an official response. The HIDOE will not respond to verbal or informal questions.

Such comments shall contain pertinent information to identify the prospective Offeror, its telephone number, e-mail address, the RFP number, as well as reference to the specific page, section, and/or paragraph as applicable.

The response to the prospective Offerors' written questions received by the scheduled date shall be compiled, shall omit reference to the source(s) of the questions, shall be issued as an addendum to the RFP, and shall become a part of the RFP. The HIDEOE will publish the questions as they are submitted including any background information provided with the question. The HIDEOE at its sole discretion may omit questions which may be combined or paraphrase questions and background content for clarity.

The HIDEOE's responses shall be communicated in writing via published addenda to this RFP. Offerors who have submitted an RFP Registration Form will receive notification of any addenda from the date the Registration Form is received. The HIDEOE is not responsible for delays or non-receipt of such responses or any communications by the prospective Offerors.

If an Offeror submits a question after the scheduled date, the HIDEOE may answer the question but does not guarantee that the answer will be provided prior to the Proposal due date.

### **1.7 RFP Addenda**

The HIDEOE reserves the right to amend this RFP at any time prior to the closing date for best and final offers. All addenda issued shall be incorporated into the resulting contract. Failure of any Offeror to complete and submit a RFP Registration Form or receive any such addenda or interpretations shall not relieve the Offeror of any obligation under this solicitation.

### **1.8 Notice of Intent to Offer (Letter of Intent)**

A notice of intent to submit a Proposal is NOT required.

### **1.9 Deadline for Proposals**

Proposals shall be received only until the hour and date set for the opening. Whether or not proposals are opened exactly at the established deadline, none will be received after that time. Proposals received after the deadline shall be rejected and returned unopened. Timely receipt of offers shall be evidenced by the date and time registered by the Procurement and Contracts Branch's time stamp clock.

### **1.10 Proposal Opening**

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and Offerors' proposals shall be open to public inspection upon posting of the award.

### **1.11 Disqualification of Offers**

The HIDEOE reserves the right to consider as acceptable only those proposals submitted in compliance with all the requirements set forth in this RFP and which demonstrate an understanding of the issues involved and the scope of work.

An Offeror shall be disqualified, and the Offeror's Proposal shall be rejected for any one or more of the following non-exclusive reasons as solely determined by the HIDEOE:

- 1.11.1 Proposal received after specified deadline.
- 1.11.2 Proposal not properly completed as required herein or containing any unauthorized additions or deletions, defects including but not limited to irregularities of any kind which may make the Proposal incomplete, indefinite, or ambiguous as to its meaning (e.g. un-initialed erasures, prices which are obviously unbalanced).
- 1.11.3 A Proposal which is incomplete or conditional proposals including but not limited to a Proposal which includes any other set of terms and conditions, or any terms or conditions contradictory to those included in this RFP.
- 1.11.4 A Proposal signed by other than an authorized individual, or a Proposal not containing an original signature in ink.
- 1.11.5 A faxed or electronically submitted proposal will not be accepted or acknowledged.
- 1.11.6 More than one Proposal from an individual, firm, corporation or joint venture under the same or different names (Offeror), whereby all proposals from the Offeror shall be rejected.
- 1.11.7 Evidence to the HIDEOE's sole satisfaction of collusion among Offerors, lack of responsibility and cooperation to HIDEOE requests during the RFP process or as shown by past work, being in arrears on existing contracts with the State of Hawaii, or defaulting on previous contract(s).
- 1.11.8 Failure to possess proper licenses, facilities, equipment or sufficient experience to provide the proposed solution or to perform the work contemplated.
- 1.11.9 Evidence of any noncompliance with any applicable law or rule.

## **1.12 Proposal Evaluation**

The HIDEOE will conduct a comprehensive, fair, and impartial evaluation of the proposals it receives in response to this RFP. Refer to Section 5 of this RFP for specific requirements and details of the process.

## **1.13 Proposal as Part of the Contract**

This RFP and part or all of the successful proposal may be incorporated into the contract.

## **1.14 Additional Terms and Conditions**

The HIDEOE reserves the right to add terms and conditions during discussions with offerors, if any. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

## **1.15 Offer Acceptance Period**

The HIDEOE's acceptance of a proposal, if any, will typically be made within ninety (90) calendar days after the opening of proposals. Prices quoted by the Offeror shall therefore remain firm for ninety (90) calendar days from the receipt of proposals.

## **1.16 Contract; Contract and Performance Period**

The CONTRACTOR receiving the award shall be required to enter into a formal written contract. Upon execution of contract, the HIDOE will issue a notice to proceed and a fully executed copy of the contract to the CONTRACTOR. No work will be undertaken by the CONTRACTOR prior to the commencement date specified on the contract as the HIDOE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to official starting date.

### **1.16.1 Contract Term**

The Contract shall commence upon full execution of the contract by the Superintendent of the Department of Education and shall end on June 30, 2021.

### **1.16.2 Contract Renewal**

The Contract may be extended for not more than three (3) additional twelve-month periods, i) upon mutual written agreement of the parties, ii) prior to expiration and iii) under the same terms and conditions of the original agreement or as negotiated between the HIDOE and the CONTRACTOR(s). Contract extension(s) shall be contingent upon i) the need for continued services and ii) funding availability beyond the current fiscal year. As each option(s) to extend is mutually agreed upon, the CONTRACTOR(s) shall be required to execute a supplement to the Contract for each additional period.

### **1.16.3 Performance Period**

The CONTRACTOR shall complete the work within the time limits specified herein. The time specified herein is the maximum time allowed.

## **1.17 Contract Award**

Award, if any, shall be made to the responsible Offeror with the highest number of points whose proposal the HIDOE deems most advantageous in accordance with the evaluation criteria specified.

## **1.18 Responsibility of Offerors; Hawaii Compliance Express**

The Offeror is advised that if awarded a contract under this RFP, offeror shall, upon award of contract, furnish proof of compliance with the requirements of HRS §103D-310 and HAR § 3-122-112 including:

- Chapter 237, General Excise Tax Law;
- Chapter 383, Hawaii Employment Security Law;
- Chapter 386, Workers' Compensation Law;
- Chapter 392, Temporary Disability Insurance;
- Chapter 393, Prepaid Health Care Act; and One of the following:
  1. Be registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business"); or
  2. Be registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

Offeror may demonstrate proof of compliance with the above-referenced requirements by submitting a *Certificate of Vendor Compliance* issued by the Hawaii Compliance Express (HCE) online system to the HIDOE, Procurement and Contracts Branch upon award of a contract. The HCE service allows vendors to register online through a simple wizard interface at <http://vendors.ehawaii.gov>. The *Certificate of Vendor Compliance* provides current compliance status as of the issuance date, satisfies requirements of

Chapter 103D-310(c), HRS, and is therefore acceptable for contracting purposes. Contractors that elect to use HCE services are required to pay an estimated annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC).

Due to the time required to obtain the HCE *Certificate of Vendor Compliance*, it is highly recommended that the interested Offeror begin the registration process immediately.

#### **1.19 Failure to Execute Contract; Timely Submission of Certificates**

At time of contract award, evidence of the above Responsibility of Offerors or *Certificate of Vendor Compliance* and any other documentation and certification shall be submitted to the HIDOE, Procurement and Contracts Branch as soon as possible or by the deadline established by HIDOE. If a valid certificate or non-compliant documentation is not submitted on a timely basis for award of a contract, award made to an Offeror otherwise responsible may be annulled.

Failure to execute a contract as required within ten (10) calendar days or such further time as the HIDOE may allow after the Awardee has received the contract for execution shall be just cause for the annulment of the award. HIDOE may award the contract to the next responsible Offeror or may resolicit, whichever is deemed to be in the best interest of the HIDOE.

#### **1.20 Notification of Award; Non-selected Offeror(s)**

Upon award to the successful Offeror, the HIDOE shall post publicly, a notice of award which may be viewed at the Hawaii Awards and Notices Data System (HANDS) website at <https://hands.ehawaii.gov/hands/awards>. Additionally, the HIDOE will provide written notification of the award to any unsuccessful Offeror. The HIDOE is not responsible for delays or non-receipt of such notification. Failure of any Offeror to receive any such notification shall not relieve the Offeror of any obligations or requirements herein.

#### **1.21 Debriefing**

The purpose of a debriefing is to inform unsuccessful Offerors of the basis for contract award. An Offeror(s) not selected for contract award shall submit a written request for a debriefing within three (3) working days after the posting of the contract award. The debriefing shall be held, to the maximum extent possible, within seven (7) working days after the posting of the award.

#### **1.22 Protest**

Pursuant to §103D-701, HRS and §3-126, HAR, a protest of the solicitation must be made prior to proposal opening, and a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract or within five (5) working days following a debriefing. The notice of award(s) resulting from this solicitation shall be posted on the Hawaii Awards and Noticed Data System (HANDS) website at <https://hands.ehawaii.gov/hands/awards>.

Any protest pursuant to §103D-701, HRS and §3-126, HAR shall be submitted in writing to the HIDOE's Chief Procurement Officer, c/o Procurement and Contracts Branch at the Waipahu Civic Center, 94-275 Mokuola Street, Room 200, Waipahu, Hawaii 96797.



## **2. RFP PURPOSE AND OVERVIEW**

### **2.1 Purpose and Introduction**

The Hawaii Department of Education (HIDOE) is soliciting proposals for the development and implementation of a College Readiness Assessment system (hereafter referred to as “CRA”) on a statewide basis.

This document is intended to serve as the basis for the solicitation of proposals from qualified firms to assist the HIDOE in its efforts to implement the CRA.

### **2.2 Program Goals and Objectives**

2.2.1 The goal of HIDOE's College Readiness Initiative is to have students who can successfully:

- 2.2.1.1 Achieve proficiency in essential content knowledge;
- 2.2.1.2 Master key learning skills and cognitive strategies;
- 2.2.1.3 Acquire practical knowledge enabling successful transitions from high school to college and career; and
- 2.2.1.4 Build strong foundations of identity through an ongoing process of wayfinding to engage in local, national, and global contexts.

2.2.2 This College Readiness Initiative is also included in the HIDOE's Strategic Plan *Goal 1 Student Success: All HIDOE students demonstrate they are on a path toward success in college, career and citizenship*. The HIDOE is in need of a grade 11 CRA as a metric to monitor and measure success and attainment of this goal in the areas of English, Reading, Mathematics and Science, with feedback on steps to improve performance, along with personalized interest and career option information for students to consider for post-high school. In addition, the assessment package must include a Writing component since writing is a key skill for post-secondary success. To that end, the HIDOE is seeking a Contractor who has a CRA and related supports that will provide:

- 2.2.2.1 School-, complex area-, and state-level data using a longitudinal nationally normed metric on college and career readiness for grade 11.
  - 2.2.2.1.1 Use the longitudinal nationally normed metric to monitor and measure success of the HIDOE Strategic Plan *Goal 1 Student Success: All HIDOE students demonstrate they are on a path toward success in college, career and citizenship*. Specifically, the metric should include a research-based benchmark that denotes whether the student is on track for success in both college and the workforce.
  - 2.2.2.1.2 Use the longitudinal nationally normed metric to provide all secondary schools (middle and high schools) with data that are aligned to the Common Core State Standards and College Readiness Standards. The data shall be used to monitor and measure student progress toward readiness for post-secondary plans.
  - 2.2.2.1.3 Use the longitudinal nationally normed metric to provide institutions of higher education with scores for student admission and/or placement in credit-bearing courses.
  - 2.2.2.1.4 Provide schools with group and individual student results to inform the effectiveness of their support in preparing students for post-secondary plans. Also provide students and their families with individual results that indicate their child's progress toward college and career readiness.

- 2.2.2.1.5 Support students, along with their parents, to consider course placements and requirements in order to reach their educational and career goals.
- 2.2.2.1.6 Support students, along with their parents, regarding admission, scholarships, and grants for college.
- 2.2.2.1.7 Satisfy college admission requirements.
- 2.2.2.2 Counselors and teachers with data to effectively guide students and advise the best course of study based on student plans.
  - 2.2.2.2.1 To assist students with planning for future education and/or careers based on their own skills, interests, and aspirations.
  - 2.2.2.2.2 To engage students directly in planning their futures.
  - 2.2.2.2.3 To make a smooth transition from secondary to post-secondary education or training.
- 2.2.2.3 Schools with an early intervention roster for students who do not plan to graduate or have immediate post-high school plans, and/or are achieving below their potential.
  - 2.2.2.3.1 To advise students to think about post-secondary plans and consider possible career options.
  - 2.2.2.3.2 To advise students on taking rigorous and challenging course work.
- 2.2.2.4 Schools and complex areas with documentation of success toward college and career readiness in the areas of Mathematics, Science, English, and Reading and Writing, and to use as an evaluation of specific program effectiveness

## **2.3 Implementation Timelines**

- 2.3.1 The Contractor must be able to begin administration of the CRA system for school year (SY) 2018-2019. (i.e., administer the instruments in Spring semester, 2019).
- 2.3.2 Possible Timeline for SY 2018-2019
  - September 2018 – implementation and communication plan completed
  - October 2018 to March 2019 – communication to schools, students, parents; training of CRA test coordinator
  - January/February 2019 – training of staff
  - March 2019 – distribution of assessments and materials
  - April 2019 – administer assessments for grade 11
  - May/June 2019 – provide reports at the student, school, complex area, and state levels
  - Similar Timelines for SYs 2019-20 and 2020-21

### **3. SCOPE OF WORK; PROJECT AND OFFEROR REQUIREMENTS**

Offeror shall provide a proposal describing how the following products and services will be delivered:

#### **3.1 Scope of Work**

Offeror shall describe their ability to meet the minimum requirements related to item and test development, test administration, scoring and reporting as part of a statewide assessment system designed to provide a score used for college admissions.

- 3.1.1 Item and Test Development: Ensure the items within the item banks align to both college and career readiness and to the state's content standards for English Language Arts (ELA) and Mathematics (Common Core State Standards).
  - 3.1.1.1 Test maps and item deployment specifications shall include, at a minimum:
    - 3.1.1.1.1 Item and test security
    - 3.1.1.1.2 Item specifications
    - 3.1.1.1.3 Test blueprints
    - 3.1.1.1.4 Test form construction, including the capacity to support at least one equivalent form to be used in the event of a breach of test
    - 3.1.1.1.5 Content reviews
    - 3.1.1.1.6 Bias, sensitivity, fairness, and accessibility reviews
    - 3.1.1.1.7 Range-finding and rubric validation
  - 3.1.1.2 Use of Universal Design for Learning in the overall test design and development. This should include, but is not limited to:
    - 3.1.1.2.1 A description of the development protocols for current items and tests
    - 3.1.1.2.2 A description of the development protocols for additional item and test development
- 3.1.2 Statewide Implementation Plan to administer the CRA tools for approximately 12,000 grade 11 students in 46 high schools.
- 3.1.3 Statewide Professional Development Plan to train complex area and school personnel to administer the CRA tools for grade 11 beginning in SY 2018-2019, interpret reports, analyze data, and provide specific strategies to impact instruction.
- 3.1.4 Statewide Communication Plan (including carrying out parts of the plan and development of related materials) to inform schools, parents, and students why the CRA is beneficial for students, what the CRA consists of, timeline for implementation, and supports to schools.
- 3.1.5 Administration of assessments at grade 11 beginning in Spring Semester of SY 2018-2019. English, Reading, Mathematics and Science will be scored by the Contractor. The administration of the Writing assessment will be incorporated into the testing to be as seamless as possible with the other assessments.
  - 3.1.5.1 Provide hard copy printed materials for training of complex area and school personnel who will be administering the assessments.
  - 3.1.5.2 Provide hard copy printed materials/ instructions for administration of the tests.
  - 3.1.5.3 Provide hard copy printed test materials for students.
  - 3.1.5.4 Provide for the cost of any postage fees.

- 3.1.5.5 May provide information on electronic administration of the assessment system for HIDOE's future consideration (optional).
- 3.1.6 Technical support for implementation, communication, and administration of the CRA tools at the state, complex area, and school levels via contact person from Contractor, help desk phone number, frequently asked questions and answers, and online support resources.
- 3.1.7 Easy to read, comprehensive reports at the state level, complex area level, school level, and individual levels for students and parents.
  - 3.1.7.1 Individual student reports (hardcopy) shall include one (1) easy to read report with an overall composite score that will predict success towards College and Career Readiness and benchmark scores to predict success in college coursework. The same report shall include composite and comparison scores (national and school) in Mathematics, Science, English, and Reading, with specific feedback on steps to improve performance, along with personalized interest and career option information for students to consider for post high school.
  - 3.1.7.2 Individual student report (hard copy) shall be provided for Writing.
  - 3.1.7.3 School, Complex Area, and State reports (hardcopy) shall mirror information on the individual student report.
- 3.1.8 Data analysis and results at the state, complex area, and school levels.
- 3.1.9 Electronic versions (in addition to hard copy) of student results shall be provided to the HIDOE to integrate into the state's existing student Longitudinal Data System.
  - 3.1.9.1 Student, School, Complex Area, and State reports shall be provided electronically in addition to hard copies.
  - 3.1.9.2 Electronic versions of student and school data shall be provided to the HIDOE for possible integration into the HIDOE growth model work currently underway.
- 3.1.10 Documentation that the offeror's CRA tools are aligned to Common Core State Standards.
- 3.1.11 Work Plan/Implementation Schedule Development
  - 3.1.11.1 The Contractor shall schedule a "contract kick-off" meeting in Honolulu, Hawaii, with HIDOE personnel and other designees as determined by the HIDOE to discuss the required services, review the Contractor's work plan and implementation schedule submitted in the Contractor's awarded proposal, and obtain specific information, data, criteria, and/or instructions necessary to finalize the logistics of the Contractor's work plan as submitted in the Contractor's awarded proposal.
  - 3.1.11.2 By no later than ten (10) calendar days following such meeting, the Contractor shall submit to the HIDOE a revised and detailed work plan and implementation schedule, pursuant to the logistical requirements of the HIDOE as specified during the initial meeting, and specific for the original contract period.
    - 3.1.11.2.1 If requested by the HIDOE, the Contractor shall provide modifications, changes, and/or additional elaboration to the Contractor's work plan and implementation schedule as deemed necessary to accomplish and fulfill the needs of the HIDOE. The Contractor shall agree and understand that the HIDOE shall have complete and total approval authority over the work plan and implementation schedule.

3.1.11.2.2 The Contractor shall implement, operate, and satisfy all requirements of the detailed work plan and implementation schedule, as approved by the HIDOE. The Contractor shall perform only those activities specifically identified in the work plan and implementation schedule approved by the HIDOE.

3.1.11.3 If requested by the HIDOE, the Contractor shall develop and submit a new or revised work plan and implementation schedule, or portion of the work plan and implementation schedule, at other times throughout the term of the Contract as well as for each extension period, if the contract is extended for additional periods. The Contractor shall prepare and submit all such future work plans and implementation schedules within a timeframe stipulated by the HIDOE.

### 3.1.12 English/Language Arts and Mathematics CRAs

3.1.12.1 The Contractor shall administer, score, and report on a technically-sound contractor-provided fixed form or digital-based assessment aligned to the *Standards for Educational Testing and Psychological Testing* (AERA, APA, NCME, 2014) as well as the *Every Student Succeeds Act* with an understanding that as close a match as possible between the proposed CRA system and the state content standards is vital for maximizing the content validity of the new assessments. The CRA may be a contractor-owned assessment or an existing assessment from another entity that the Contractor licenses or leases on Hawaii's behalf.

3.1.12.2 Independent Alignment Study - The Contractor shall provide for the materials and costs of an independent study documenting the degree to which the CRA is aligned to the content standards. Such study shall be completed by an entity other than the Contractor or the developer of the assessment for the purpose of objectively determining that the assessments adequately reflect the content and complexity of the content standards. The Alignment Study Report shall be submitted to the HIDOE prior to commencement of year 2 activities.

3.1.12.3 Following each operational administration of the English/Language Arts and Mathematics CRAs, the Contractor shall provide scoring and reporting in accordance with the requirements herein. The Contractor shall provide any applicable criterion-referenced scores as well as cut points and achievement levels relative to content standards that describe student progress toward "college and career ready."

3.1.12.4 Braille, Large Print, and Paper/Pencil Accommodations - For each administration, the Contractor shall provide Braille, Large Print, and a paper/pencil accommodation of each assessment in accordance with the requirements specified herein.

3.1.12.5 The Contractor shall ensure that each assessment meets or exceeds the content and technical standards established by *The Standards for Educational and Psychological Testing*, published jointly in 2014 by the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education, and any subsequent revisions.

3.1.12.6 HIDOE may elect to administer fewer assessments or to discontinue some assessments (e.g., Writing) if necessary due to budget constraints. In the event of the discontinuation of assessments, HIDOE shall issue an amendment which identifies the discontinued assessment(s). The contract payments shall be reduced in accordance with the prices applicable to such discontinued assessment(s).

### 3.1.13 Precoding

3.1.13.1 For all operational assessments, the Contractor shall provide a precode system for the HIDOE to supply information about all students to be tested at the state level.

- 3.1.13.1.1 The HIDOE will provide the Contractor with a precode file by February 1<sup>st</sup> for the Spring test administration.
- 3.1.13.1.2 The Contractor shall allow schools the opportunity to precode after the final precode deadline upon school request and at the school's expense. The process for precoding after the deadline shall run through the HIDOE's established precode selection process, and the HIDOE shall submit the final precode file to the Contractor.
- 3.1.13.1.3 The Contractor's precode system shall create a unique file for each student tested, to be identified by student information system ID, complex area and complex code, building code, and test content area.
- 3.1.13.2 The Contractor's precode systems shall provide the HIDOE with the ability to generate precode rosters sorted by complex area, complex, school, grade level, or classroom teacher.
- 3.1.13.3 At a minimum, the Contractor's precode system shall accommodate data disaggregated for the following subgroups:
  - 3.1.13.3.1 Gender
  - 3.1.13.3.2 Race/ethnicity
  - 3.1.13.3.3 English Language Learner
  - 3.1.13.3.4 Economically disadvantaged (free/reduced meals)
  - 3.1.13.3.5 Students with disabilities/Individual Education Program (IEP)
  - 3.1.13.3.6 Specific testing accommodations
  - 3.1.13.3.7 Migrant students
  - 3.1.13.3.8 Homeless students
- 3.1.13.4 If necessary to meet state or federal requirements, the Contractor shall provide the HIDOE with the ability to add additional subgroups for disaggregation, at no additional cost to the HIDOE.
- 3.1.14 Web-Based Enrollment and Order Collection System
  - 3.1.14.1 For each student tested, the Contractor shall collect demographic data and other pertinent information. The Contractor shall collect data via a web-based enrollment and order collection system that meets the requirements of the HIDOE's Technical Requirements document as described herein.
  - 3.1.14.2 The Contractor's enrollment and order collection system shall provide the following:
    - 3.1.14.2.1 School and state access via a secure login ID and password with an industry-standard web browser.
    - 3.1.14.2.2 Ability for schools and state to submit anticipated testing dates.
    - 3.1.14.2.3 Industry-standard secure data transmission, storage, and retrieval.
    - 3.1.14.2.4 Ability for schools to submit and update the following data for each test administration:
      - Contact information for school staff
      - Critical school calendar dates
      - Anticipated testing start and end dates
      - Shipping address for testing materials
      - Mailing address for reports and student data
      - Billing address and process for complex areas to submit purchase orders
    - 3.1.14.2.5 Ability for schools to verify and/or update their previously entered participation data up to one month prior to testing.
    - 3.1.14.2.6 Ability for HIDOE personnel to securely access (view, query, and export) all data entered by schools through the enrollment collection periods.

- 3.1.14.2.7 Ability to interface with packing and shipping programs and systems used for shipping and distribution of Braille and Large Print testing materials.
- 3.1.14.2.8 Ability for schools to enroll students until time of testing at no additional cost.

### 3.1.15 Technology Readiness

3.1.15.1 Minimum technology requirements for the Contractor's online administration platform shall be consistent with the minimum technology requirements established by the HIDOE, specified herein. Individual schools shall be responsible for ensuring that they have the technological capacity to administer assessments online. The Contractor shall provide tool(s) for schools to use in verifying the capacity of their technological infrastructure for conducting online assessments. Such tool(s) must function within Windows-based, Mac OS-based, and Linux-based hardware and operating systems, and must, at a minimum, address the following:

- 3.1.15.1.1 Proper configurations of network devices to ensure network connectivity from within the school/building to Internet locations required for testing.
- 3.1.15.1.2 Capacity of hardware for use in online testing (minimum workstation specifications, minimum bandwidth requirements, percent of bandwidth utilization at school/complex area levels).
- 3.1.15.1.3 Evaluation of the maximum number of concurrent assessment to be administered at each school.

3.1.15.2 In cooperation with the HIDOE, the Contractor shall develop guidelines for schools to access and use the provided tool(s) using sample data at times during the school day that will closely replicate the operational testing environment. In addition, the Contractor shall provide a methodology for validating that schools have completed the necessary steps for ensuring technological readiness to administer the assessments.

3.1.15.3 By September 1<sup>st</sup> for all CRAs, the Contractor shall provide a tutorial with the purpose of familiarizing teachers and students with the online environment. For online assessments including performance items, the online practice shall include opportunities for students to use all online tools necessary for completing operational items. The Contractor's online practice opportunity shall assist schools in troubleshooting and identifying specific needs for successful assessment administration.

3.1.16 User Management System – The Contractor's system must include a secure user management component that tracks state, complex area, school, and classroom level users and students, and the relationships among them. All aspects of the user management system must be secured by password-protected logins for access and encryption for transmission security.

3.1.16.1 State, Complex Area, and School Staff - The user management system must allow for the creation of state, complex area, school, and classroom level users and allow authorized users at the state, complex area, and school level to control user access and permissions within the Contractor's system. Permissions include the ability to create user accounts for users associated with the user's institution at a lower level of access, view student information, view and edit student test settings and accommodations, set up and administer test sessions through the test delivery component of the system, view student test data through the reporting component of the system, and allow authorized users to create and administer diagnostic assessments for students associated with the user's level of access.

3.1.16.2 Students - The user management system must be able to integrate the student extract from the HIDOE's student information system and synchronize the student data with the test delivery and reporting components of the Contractor's system. The user management system must also be able to transfer student test data back to the HIDOE. The user management system must allow authorized users at the state, complex area, school, and

classroom level to view student information and view and edit test settings for students associated with the user's level of access.

- 3.1.16.3 Student Information - The user management system must allow HIDOE-authorized users to view student information based on the student data extracted from the HIDOE's Student Information System including, for students with disabilities, any individual appropriate accommodations necessary to measure the child's performance on the assessment(s) stated in their IEP. The user management system must use this student information to control student eligibility to access certain assessments by grade and content area within the System. The system must allow access to assessment(s) based on a match between accommodations stated on the IEP and information contained within the user management system to ensure equity of assessment administration for students with disabilities.

Information to be displayed to users must include:

- 3.1.16.3.1 Student Name
- 3.1.16.3.2 State Student ID
- 3.1.16.3.3 Date of Birth,
- 3.1.16.3.4 Grade of Enrollment
- 3.1.16.3.5 Accommodations (if applicable)

### 3.1.17 System Security

- 3.1.17.1 The online test delivery system shall provide sufficient security for both test content and student data. General security requirements shall include:

- 3.1.17.1.1 Test access control to include student authentication generated through a secure administrative system.
- 3.1.17.1.2 Administrative access control including administrative authentication to gain access to administer tests, view/maintain student data, and access student performance reports.
- 3.1.17.1.3 System checks that evaluate each user's access privileges at log-in and automatically disable or enable client functions based upon the user's profile.
- 3.1.17.1.4 Security of test content and student data:
  - Security of test content shall be device specific and device appropriate.
  - Only valid authentication information may enable test content to be decrypted to a viewable format.
  - Test content accessed via valid authentication information must be displayed only while the student is taking the test. Upon completing the test, any decrypted test content must automatically be removed from any systems outside of the host systems.
  - Must ensure any cached content is secured, managed, and purged.
  - All transmissions of student data must occur over secure network connections that utilize authentication and encryption technologies.
- 3.1.17.1.5 Desktop Security During Testing - If tests are administered using desktop computer workstations, decrypted test content must be protected through control of the desktop computer while students are testing. Access to other applications or web sites must be disabled or disallowed while a test is being accessed. Strict controls must be maintained over operating system functionality, printing, copying and pasting, screen captures, keyboard shortcuts, right-mouse clicks, or other functionality that could compromise test content.

### 3.1.18 Test Delivery System

- 3.1.18.1 The inter-component communication of the delivery system must use current standards



(SIF, IMS, etc.). The online test delivery system must be as flexible as possible to accommodate the varying technological capabilities that exist in Hawaii schools. Additionally, the online test delivery system should accommodate virtual networks and/or thin client environments. Hawaii schools will possess, at a minimum, the following technological capacity. The online administration platform must accommodate the following minimum system requirements:

#### 3.1.18.1.1 Windows

- Operating System - Windows 7 or higher
- Internet Browser - Internet Explorer, Mozilla Firefox, and/or Google Chrome
- Processor
- Pentium 233 MHz or higher
- RAM – 128 MB or higher
- Hard Drive – 52 MB or higher
- Display Resolution - 1024 x 768 or higher
- Internet Connection - High Speed Broadband Connection

#### 3.1.18.1.2 MAC

- Operating System - OS 10.4 or higher
- Internet Browser - Safari, Google Chrome and/or Firefox
- Processor – Intel x86 or Power PC G3, G4, G5
- RAM – 128 MB or higher
- Hard Drive – 200 MB or higher
- Display Resolution - 1024 x 768 or higher
- Internet Connection - High Speed Broadband Connection

#### 3.1.18.1.3 Linux

- Ubuntu 9-10, Fedora 6 or higher
- Internet Browser
- Processor – Pentium II or AMD K-6-III 233 MHz or higher
- RAM – 64 MB or higher
- Hard Drive – 52 MB or higher
- Display Resolution – 1024 x 768 or higher
- Internet Connection – High Speed Broadband Connection

### 3.1.18.2 The test delivery system must meet the following minimum requirements:

#### 3.1.18.2.1 With regard to data management:

- Ability for administrative users to view and edit student demographic information entered as part of the pre-code process.
- Ability for administrative users to hand-enter student records prior to or at the time of testing.
- Capability to maintain both student-specific data fields and test-specific data fields.
- Capability for the test administrator to complete an electronic Group Information Sheet to determine how student results will be returned to the school (by class, school, complex area).

#### 3.1.18.2.2 With regard to test management:

- Ability to be configured with various form distribution plans that result in schools automatically receiving the appropriate assignment of test forms for given test administrations.
- Ability to randomly assign spiraled sets of test forms to students.
- Ability for administrative users with appropriate access to schedule

students for online tests and generate necessary student login information prior to testing.

- Ability for administrative users with appropriate access to assign specific test forms (e.g., large print test forms) to individual students.
- Ability for select authorized users to view aggregate test information by course or grade level/content area such as number of tests scheduled (by date), number of tests being administered (real-time), number of tests completed, number of scoreable tests completed, etc.
- Ability to assign unique login credentials for each test session.
- Independent scrolling capability for items which include a stimulus and response options or response area displayed side-by-side.

### 3.1.19 User Interface Elements

3.1.19.1 The online test delivery system must be adequately robust and reliable to meet Hawaii's needs for CRAs. The system must be able to accommodate up to 5,000 simultaneous test administrations. The Contractor shall be responsible for ensuring the online test delivery system is adequately safeguarded against catastrophic events. The online test delivery system must be available to Hawaii schools during the entire testing window, and the precode and enrollment windows as mutually agreed upon by the Contractor and the HIDOE. The online test delivery system shall be adequately structured to allow schools to accommodate the needs of individual students as well as small groups of students with unique testing needs. Upon HIDOE request, the Contractor shall reopen a school's identified content testing window at any time during the statewide window without additional charge to the school or the HIDOE.

3.1.19.2 The user interface, with which students will interact when completing an online assessment, must include and maintain the following:

- 3.1.19.2.1 Industry standard interfaces (e.g., menus, function keys, mouse, user definable screen patterns, context-sensitive on-line help, GUI, etc.).
- 3.1.19.2.2 Adaptable tools such as tables, user definable codes, user exits with documentation, etc.
- 3.1.19.2.3 Active tables in a manner that maximizes availability of real-time data (e.g., effective dates, calculation capabilities, logical or qualitative value communication between tables, link of tables, etc.).
- 3.1.19.2.4 All security requirements over tables.
- 3.1.19.2.5 Online help functions to the user.

3.1.19.3 The online test delivery system should provide options to support common test-taking strategies including:

- 3.1.19.3.1 Visually eliminating one or more distractors.
- 3.1.19.3.2 Highlighting and/or underlining key words or graphics.
- 3.1.19.3.3 Flagging items as incomplete or in need of review prior to completing the test.
- 3.1.19.3.4 Indicators of which items have been answered/unanswered.
- 3.1.19.3.5 Using online "scratch paper" with text and drawing capability.

3.1.19.4 The online test delivery system should include accessibility features including, but not limited to:

- 3.1.19.4.1 Text to Speech
- 3.1.19.4.2 Translation Glossaries
- 3.1.19.4.3 Language Translations, including, at a minimum, Spanish
- 3.1.19.4.4 Closed captioning for any items requiring audio
- 3.1.19.4.5 ASL videos
- 3.1.19.4.6 Permission enabled browser to allow assistive technology access

- 3.1.19.4.7 Calculator
- 3.1.19.4.8 Spell check
- 3.1.19.4.9 Graphing tools
- 3.1.19.4.10 Dictionary
- 3.1.19.4.11 Thesaurus
- 3.1.19.4.12 Measurement tools
- 3.1.19.4.13 Electronic annotation
- 3.1.19.4.14 Formula charts
- 3.1.19.4.15 paper with text and drawing capability
- 3.1.19.4.16 Highlighting
- 3.1.19.4.17 Mark for Review
- 3.1.19.4.18 Indicators of which items have been answered/unanswered
- 3.1.19.4.19 Digital Notepad
- 3.1.19.4.20 Writing Tools (e.g., bold, italic, underline, cut, copy, paste)

3.1.19.5 The Contractor shall upgrade and enhance the online test delivery system as new technology for test delivery becomes available, and as operating systems evolve, at no cost to the HIDOE. The HIDOE shall have the opportunity to review and approve all planned changes to the online test delivery system.

### 3.1.20 Practice and Training Tests

3.1.20.1 Ability to offer students practice and training tests on the same platform as the summative assessment that include, but are not limited to:

- 3.1.20.1.1 How schools and the HIDOE can verify that students understand the testing program interface and software.
- 3.1.20.1.2 Process to ensure schools and the HIDOE are provided ample time and tools to stress test their networks and confirm that their operating systems can effectively access and deploy the summative assessments.
- 3.1.20.1.3 Students will have access prior to operational test administration to features that will allow schools and the HIDOE to verify that embedded accommodations, tools and supports are working properly, including, but not limited to:
  - Text to Speech
  - Translation Glossaries
  - Language Translations, including, at a minimum, Spanish
  - Closed captioning for any items requiring audio
  - ASL videos
  - Permission enabled browser to allow assistive technology access
  - Calculator
  - Spell check
  - Graphing tools
  - Dictionary
  - Thesaurus
  - Measurement tools
  - Electronic annotation
  - Formula charts
  - paper with text and drawing capability
  - Highlighting
  - Mark for Review
  - Indicators of which items have been answered/unanswered
  - Digital Notepad
  - Writing Tools (e.g., bold, italic, underline, cut, copy, paste)
- 3.1.20.1.4 Students and guests can log in to access the practice and training tests.

### 3.1.21 Information Technology Accessibility Compliance

- 3.1.21.1 The System must be in compliance with Section 508 and should be compliant with the Web Content Accessibility Guidelines 2.0. The substantive content (e.g., items) must be associated with meta-data that describes any changes that will be made to the content, display, or input method necessary to provide appropriate accommodations support to the student. In addition, the overall approach must leverage the use of computer-based accessibility tools, driven by an item-tagging system that will control and ensure appropriate application of those tools.
- 3.1.21.2 The Contractor shall promptly respond to any complaint brought to its attention regarding accessibility of the products provided hereunder that were specified in the Contractor's awarded proposal. The Contractor shall resolve such complaints by bringing the product into compliance with the applicable Section 508 and Web Content Accessibility Guidelines 2.0 at no additional cost to the HIDOE.

### 3.1.22 Scoring

- 3.1.22.1 Selected Response Items - The Contractor shall provide electronic scoring of selected-response items on all assessments. The Contractor's process for scoring selected-response items must incorporate adequate quality assurance checks to ensure accuracy of student scores.
- 3.1.22.2 For all Contractor-provided assessments, the Contractor shall anticipate the need for hand-scoring and/or automated electronic scoring based upon the approved test blueprint and specifications. The Contractor shall identify all scoring materials (anchor, training, and qualifying sets) and shall provide the HIDOE the opportunity to review and approve all scoring materials at least two (2) months prior to the beginning of scoring. The Contractor shall select replacement scoring materials at no additional cost to the HIDOE if requested.
- 3.1.22.3 The scoring process for all assessments shall incorporate the HIDOE's established Technical Requirements document as described herein to ensure accuracy of data. Should any questions regarding the scoring of student responses develop during the scoring process, the HIDOE shall review the unexpected student response with the Contractor.
- 3.1.22.4 Throughout all scoring processes, the Contractor shall provide necessary security measures to ensure protection of individual student data and integrity of the performance items and scoring materials. In addition, the Contractor's electronic data collection, storage, and transmittal systems and any electronic systems used in scoring must be sufficiently protected from natural disaster.
- 3.1.22.5 The Contractor shall complete the scoring of all assessments administered online (including both selected response items and performance items) to accommodate a ten-business-day turnaround for electronic reporting of individual student results to schools as described herein.
- 3.1.22.6 For all assessments including performance items (hand-scored and/or scored electronically using an automated engine), the Contractor's scoring processes shall allow for identification of "alert" papers according to HIDOE specifications. The Contractor shall provide a secure File Transfer Protocol (FTP) site or other means of providing an electronic file of the student's response to the HIDOE. The Contractor shall provide the HIDOE with a weekly update of posted "alert" papers via email. Each "alert" response must be saved to the secure site as a unique file with appropriate identifying information.

- 3.1.22.7 The Contractor's scoring processes shall allow the HIDOE to remotely access and run reports at any time during the scoring process, and/or participate in scoring, and/or monitor scorers if necessary. The HIDOE shall also have the right to visit the Contractor's scoring facilities and attend all training sessions for scorers and scoring sessions.

### 3.1.23 Reporting

- 3.1.23.1 The Contractor shall provide the HIDOE with the opportunity to review and provide approval regarding all ancillary materials, data formats, reports, and communication prior to printing and/or distribution within a mutually agreed upon timeframe. The Contractor's review schedule shall allow the HIDOE a minimum of five (5) business days to review and approve assessment items, materials, data, reports and communication. The Contractor shall ensure the production of error-free assessment items, testing materials, ancillary materials, data, reporting documents, and technical reports.

- 3.1.23.2 The Contractor shall provide electronic individual student reports to convey student performance for all assessments. For all assessments, the individual student reports shall include scale scores, achievement levels, achievement level descriptors, any applicable norm-referenced data, and a standard error of measurement around scale scores. By no later than March 1<sup>st</sup>, the Contractor must provide mock-ups of the individual student reports for all assessments to the HIDOE for review. The Contractor shall modify the mock-ups as deemed necessary by the HIDOE.

- 3.1.23.3 For each CRA, the Contractor shall return electronic individual student reports to schools within ten (10) business days of the school's completion of testing and submission of student responses for that grade-level. In addition, for all CRAs, the Contractor shall return two (2) print copies of individual student labels including the student's identifying information, scale score, and achievement level to schools within ten (10) business days of the Contractor's delivery of electronic individual student reports to the schools.

#### 3.1.23.4 Reporting User Access and Interface

- 3.1.23.4.1 Performance reports must be accessible through the system portal and support both static report displays and dynamic customized reports based on contractor-provided data-mining tools.
- 3.1.23.4.2 The system must allow the creation of reports that contain interactive roll-up, drill-down, group, sort, and filter settings, and allow data to be shown in multiple data display formats (e.g., pie chart, cross-tab).
- 3.1.23.4.3 The reports generated by the system must be tailored to each major user group and allow for varying degrees of customization, depending on the needs of the particular user group.
- 3.1.23.4.4 Test results must be provided online and ready to print.
- 3.1.23.4.5 The system must be able to deliver reports via multiple secure delivery mechanisms and in multiple formats (e.g., Excel, PDF, HTML), to authorized users.

#### 3.1.23.5 Summative Assessment Reports

- 3.1.23.5.1 The system must provide summative assessment reports for all CRAs.
- 3.1.23.5.2 Summative assessment reporting must include snapshot and participation reports.

#### 3.1.23.6 Score Reports

- 3.1.23.6.1 The Contractor shall provide and deliver all paper individual student reports after each test administration that occurs during the contract period. The Contractor shall produce the appropriate data files for the annual release of

aggregate results to the public for the contract period. All aspects of reporting test results must adhere to the most recent version of the *Standards for Educational and Psychological Testing*. This section of the technical proposal must acknowledge the Contractor's commitment to completing all of the requirements specified below and must describe the process by which the Contractor will accomplish all of the associated subtasks and activities.

- 3.1.23.6.2 Specific reporting dates that meet the guidelines for each administration will be agreed upon prior to July 1<sup>st</sup> of the preceding year to facilitate contract planning through the establishment of intermediate milestones that include, but are not limited to, a) the completion of scoring and processing, b) the development, review, and approval of reporting specifications, c) the review and approval of equating procedures and analyses, d) the delivery, review, and approval of preliminary data files, and e) the delivery, review, and approval of sample reports. Penalties for failing to meet final reporting dates and intermediate milestones will be negotiated in the contract.
- 3.1.23.6.3 The Contractor shall deliver student score reports to schools no later than ten (10) days before the beginning of the next school year. The Contractor shall assist the HIDOE to protect the confidentiality of individual student results as set forth by the Family Educational Rights and Privacy Act (FERPA).
- 3.1.23.6.4 Permission to print: The HIDOE shall review examples of the paper reports that the Contractor will print and distribute to the schools and the HIDOE. The Contractor will provide one complex area's printed reports along with data files necessary for the HIDOE to verify the correct printing of complex area, school, class and student reports. The HIDOE shall be able to review and verify the correct "roll up" of individual student results to class reports, school grade-level reports, and complex area reports. The Contractor shall not print or distribute printed reports until having received approval to print from the HIDOE.
- 3.1.23.6.5 Interpretation materials - The Contractor shall develop and distribute to schools interpretation materials for score reports including all aggregate reports. Also, interpretation guidelines for score reports shall be produced. The guidelines shall be clear and easily understood by students, parents, administrators, and teachers. The guidelines shall be made available in hard copy and electronic formats.
- 3.1.23.7 Forensic Reports - The system shall be able to provide forensic reports designed to detect testing improprieties for each subject covered by a summative assessment.

#### 3.1.24 General Research File and Demographic File

- 3.1.24.1 The Contractor shall provide the HIDOE with a General Research File (GRF) within ten (10) business days of the end of the testing window. The Contractor shall provide final GRFs by June 30<sup>th</sup> (or preceding business day if June 30<sup>th</sup> falls on a weekend). Data shall be in a fixed record length text file or comma separated value (CSV) file. Data shall be provided in accordance with the HIDOE's approved Technical Requirements document as described herein.
  - 3.1.24.2 In addition to the GRF, annually by June 1<sup>st</sup> (or the preceding business day if June 1<sup>st</sup> falls on a weekend), the Contractor shall provide a demographic file for the entire administration year.
- 3.1.25 Appeals Process - The Contractor shall provide a process for allowing schools to appeal assessment results within two (2) weeks of the schools' receipt of individual student results. The Contractor shall provide schools the opportunity to appeal individual student scores, achievement

level designations, and/or Level Not Determined designations following the test administration window. The Contractor shall determine the results of appeals and return the results of appeals to the school and the HIDOE within fourteen (14) days of the Contractor's receipt of the appeal request.

- 3.1.26 Technical Requirements Document - For all assessments, the Contractor shall complete precoding procedures, enrollment processes, scoring, and reporting in accordance with the HIDOE's established Technical Requirements document. In the initial contract period, the Contractor shall, with input from the HIDOE, develop an updated Technical Requirements document, by April 1, 2019. Following a five-business-day review period, the Contractor shall incorporate revisions requested by the HIDOE and produce a final Technical Requirements document by May 1, 2019. The Contractor shall update the Technical Requirements document annually thereafter. If the contract is extended beyond the initial contract period, the Contractor shall update the Technical Requirements document annually on a similar timeline.
- 3.1.27 Accommodations and Accessibility - The Contractor shall provide a detailed description of all accessibility options, supports, tools and resources, both locally provided and embedded into the platform, for both online and paper-pencil test administration. Assessments must comply with the provisions of the Americans with Disabilities Act (ADA). Assessments must include accommodations and enhancements to individual students and meet as many as possible of the accessibility features outlined by the HIDOE. Accommodations must be set through an upload process in advance of student testing. Contractor shall identify all accommodations available with the system and allow for online monitoring/tracking of accommodations by approved HIDOE and school personnel. Proposals shall include a discussion of the impact of the proposed accommodations on the validity of the tests and a method for "flagging" students' scores resulting from nonstandard test administrations or those that result in invalid scores.
- 3.1.27.1 Universal Design - The Contractor shall ensure that assessments are as accessible as possible by all students, including those with disabilities and those for whom English is not their primary language. When possible, item directions should be worded to allow for alternate response methods. Item stems should be worded in a direct and succinct manner.
- 3.1.27.1.1 The Contractor shall incorporate all necessary accommodations, as specified in accommodation codes, to ensure that the entire population of HIDOE students, including students with disabilities, students with special needs, and English Language Learners, are able to access the assessments.
- 3.1.27.1.2 The Contractor shall add accommodation codes as requested by the HIDOE to meet the needs of HIDOE students and/or to comply with any changes in federal regulations.
- 3.1.27.2 Braille and Large Print Test Forms - For each operational assessment, the Contractor shall produce and administer a Braille and Large Print form of the assessment as requested by schools in accordance with students' IEP requirements. If the Contractor provides a digitally-based CRA in English/Language Arts and Mathematics, the Contractor must provide a fixed form Braille and Large Print test form. The Contractor may also provide on-demand Braille and/or Large Print access.
- 3.1.27.2.1 The Contractor shall provide detailed explanation of how the HIDOE would be allowed to maintain its computer-based testing with the current assistive technology used in schools for student with visual impairments and/or blindness, including, but not limited to:
- JAWS Screen Reader version 17 and higher as more versions become available;
  - Duxbury Braille Translator 11.1 SR 4 or above;
  - Refreshable Braille Device (40 character minimum); and,
  - Tiger Max Embosser and ViewPlus Desktop Embosser Driver.

3.1.27.2.2 Production of Braille and Large Print Testing Materials

- For each test administration window, the Contractor shall produce sufficient Braille and Large Print materials for operational administration.
- Based upon the 2016-2017 testing, the HIDOE estimates, but in no way guarantees, that schools will order the following annual quantities of Braille and Large Print testing materials:

Estimated Braille and Large Print Testing Quantities

Grade Level Assessment	Estimated Annual Braille Orders	Estimated Annual Large Print Orders
11	1	5

3.1.27.2.3 Distribution and Scoring of Braille and Large Print Testing Materials

- For all fixed form assessments, the Contractor shall provide a process for schools to order Braille and Large Print testing materials and shall distribute all such testing materials in a Braille/Large Print kit to the schools.
- The Contractor's Braille/Large Print kit shall include Braille response documents for Braille assessments and appropriate response documents for Large Print assessments. Students being administered a Large Print assessment will respond directly on the Large Print test document, unless the student's IEP specifies a scribing accommodation. School personnel will transcribe student response to Braille and Large Print test forms directly into the online administration system and the Contractor shall score the assessments concurrent with general assessments from the school.
- The Contractor shall provide for the secure return of Braille and Large Print testing materials to the Contractor. The Contractor's Braille/Large Print kit shall include all materials (boxes, envelopes, and prepaid return shipping labels) for the schools to use to return testing materials.

3.1.27.2.4 The Contractor shall provide a detailed explanation of how the following assistive technology to students who are deaf/hard of hearing, including but not limited to, will be provided:

- Audio that is captioned
- Human reader (for hard of hearing)
- Embedded ASL

3.1.27.3 Assistive Technology – In the initial contract period, the Contractor shall work with the HIDOE to explore the feasibility of supporting additional assistive technology including, but not necessarily limited to, screen reader and text-to-speech software, screen enlargement, and alternative input devices and software. If the HIDOE requests assistive technology, the Contractor shall provide, or arrange for the provision of, any of the aforementioned assistive technologies. The Contractor shall not be responsible for the provision of hardware (such as refreshable Braille devices) for Hawaii schools or the HIDOE.

3.1.28 Ancillary Materials Production - The Contractor shall annually develop and distribute the following ancillary materials for each CRA in conjunction with test administration.

3.1.28.1 Test Administration Manual (TAM) - The Contractor shall develop and electronically distribute TAMs that clearly explain all procedures relative to test administration. Within each TAM, each content/grade-level assessment must be clearly identifiable by section.



- 3.1.28.1.1 The content of each TAM shall include but not be limited to:
    - Specific instructions for the administration of the applicable assessment;
    - Timing information (as appropriate); and
    - Script for administration of each assessment to ensure consistent and appropriate instructions are given to students.
  - 3.1.28.1.2 No less than 60 days prior to the beginning of each administration window, the Contractor shall make the TAM for each assessment available electronically in Adobe PDF format for HIDOE review. No less than thirty (30) days prior to each administration window, the final TAM for each assessment must be available electronically in Adobe PDF format for the HIDOE to provide training in administering and interpreting results of assessments, and must be appropriate for posting on the HIDOE's website, as well as the Contractor's administration platform for assessments administered in an online format. The HIDOE shall have authority to approve all language, content, and format of the TAMs.
  - 3.1.28.1.3 The Contractor shall provide the TAM for each assessment in printable Adobe PDF format. Upon the request by a school, the Contractor shall provide a print copy of the TAM to the school at the school's expense. For schools requesting print copies of the TAM, the Contractor shall invoice schools for the cost of the TAM. The Contractor shall provide print copies according to the schools' orders, but no less than fourteen (14) days prior to each administration window.
- 3.1.28.2 Accessibility features and special accommodations shall meet industry standards, including, but not limited to:
- 3.1.28.2.1 The program or web-based content is compliant with Sections 504 and 508 of the Rehabilitation Act of 1973 as amended in 1998 (29 U.S.C. 794(d)) and the United States Access Board Standards for Electronic and Information Technology (EIT).
  - 3.1.28.2.2 The program or web-based content is compliant with Web Content Accessibility Guidelines (WCAG) - 2.0 AA.
- 3.1.28.3 Test Coordinators (TC) Manual - The Contractor shall develop and electronically distribute a TC Manual that explains all procedures relative to the organization of school-level testing. The Contractor may develop a separate TC Manual for each content area or a single TC Manual.
- 3.1.28.3.1 The TC Manual shall include:
    - Appropriate processes for returning Braille and Large Print testing materials.
    - Appropriate processes for handling accommodations requiring a paper/pencil test accommodation.
    - Appropriate measures for protecting test security at the school level.
    - Suggested or required times for test sections and suggestions for school level test scheduling.
    - Appropriate processes for including special populations of students in testing.
    - Important dates leading up to, during, and after the testing window(s).
    - How to handle student absences and other unique testing situations (e.g., testing of homebound students, students moving into and/or out of the school during the testing window, etc.).
  - 3.1.28.3.2 The TC Manual(s) must be available electronically in Adobe PDF format for HIDOE review by January 1<sup>st</sup>, prior to the spring test administration window. The final TC Manual(s) must be available electronically in Adobe PDF printable format for the HIDOE's local training purposes by February 15<sup>th</sup>. The

- Contractor shall provide a final version of the TC Manual at least one (1) month prior to the beginning of the testing window and shall electronically post the TC Manual for schools to access.
- 3.1.28.3.3 If the TC Manual contains proprietary information, the Contractor shall make a non-proprietary version of the TC Manual available for posting on the HIDOE's website.
  - 3.1.28.3.4 The HIDOE shall have the authority to approve all language, content, and format of the TC Manual. The Contractor shall revise the TC Manual(s) for each administration year annually. If the contract is extended beyond the initial contract period, the Contractor shall continue to revise the TC Manual(s) annually.
- 3.1.28.4 Interpretive Guide for Student Reports - The Contractor shall develop or provide a separate Interpretive Guide for Student Reports for CRAs to assist educators and other stakeholders in understanding the meaning of scores and to help them use data to inform curriculum and instruction. The Interpretive Guide for Student Reports shall explain the assessments and the results and reports and describe how data should be used to improve programs and services to students. For all assessments:
- 3.1.28.4.1 The Contractor must submit a draft of the Interpretive Guide for Student Reports to the HIDOE for review by March 1<sup>st</sup>. If requested by the HIDOE, the Contractor shall make revisions to the draft of the Interpretive Guide for Student Reports to ensure a comprehensive and thoroughly written document. The HIDOE shall have authority to approve all language, content, and format of the Interpretive Guide for Student Reports.
  - 3.1.28.4.2 Upon HIDOE approval of the Interpretive Guide for Student Reports, the Contractor shall post the final Interpretive Guide for Student Reports on the HIDOE's website in printable Adobe PDF format no later than July 1<sup>st</sup>.
  - 3.1.28.4.3 The Contractor shall revise the Interpretive Guide for Student Reports for each administration year annually if the contract is extended beyond the initial contract period.
- 3.1.29 Operations Support (Tiered Help Desk)
- 3.1.29.1 The Contractor shall provide ongoing "Help Desk" support to the schools with real-time assistance to state, complex area, and school-level users as determined by the HIDOE.
  - 3.1.29.2 Response time for all requests submitted to the Help Desk shall not exceed four (4) business hours. The Contractor shall identify the procedure by which it will alert HIDOE staff of any questions submitted to the Help Desk that take more than one (1) business day (24 hours) to resolve. The Contractor shall present a detailed procedure and contact form for incident tracking and communication with HIDOE. This procedure must include a tracking System with incident numbers (case or ticket) for communication with caller, complex area, and HIDOE staff.
  - 3.1.29.3 The Contractor shall collaborate with the HIDOE to determine the degree of direct contact with complex areas and schools, and which inquiries will be directed to the HIDOE to address. Contractor's Tier 1 Help Desk will address inquiries specific to administration processes as included in the associated manuals and ancillary materials. The Contractor shall provide a detailed description of Tier 1 Help Desk Support.
  - 3.1.29.4 Tier 1 Help Desk shall address issues regarding technical questions with respect to the test engine and other technology supporting the assessment. The Contractor is expected to provide Tier 2 level support which will receive technical questions with respect to the test engine and any other technical support to address inquiries involving the various technology behind the computer-based testing interface. Response times, reports and metric expectations, along with inquiries specific to administration processes included in

the associated manuals and ancillary materials. The Contractor shall provide a detailed description of Tier 2 Help Desk Support.

- 3.1.29.5 The Contractor is expected to provide Tier 3 level support which will receive program development issues and technical questions with respect to the test engine and any other level technical support to address inquiries involving the various technology behind the computer-based testing interface. The Contractor shall provide a detailed description of Tier 3 Help Desk Support.

### 3.1.30 Psychometric Services and Technical Documentation

- 3.1.30.1 The Contractor shall provide all psychometric leadership and support necessary to complete any required item reviews, field testing, test form selection, scoring, and reporting as required herein. In addition to the psychometric services required herein, the Contractor shall provide the following specific research services:
  - 3.1.30.1.1 If the Contractor provides an augmented CRA, the Contractor shall develop and implement a linking design which will provide equated test forms of each grade level, including Braille and Large Print versions for HIDOE approval. The Contractor shall present such linking design to the HIDOE and the State's Technical Advisory Committee.
  - 3.1.30.1.2 If the Contractor provides an augmented CRA, the Contractor shall develop and implement a field test design which will result in robust data and an adequate number of items to develop the required number of operational assessment forms for HIDOE approval. The Contractor shall present such field test design to the HIDOE and the State's Technical Advisory Committee.
  - 3.1.30.1.3 The Contractor shall provide evidence of validity of any allowable accommodations.
  - 3.1.30.1.4 If the Contractor provides an augmented CRA, the Contractor shall conduct internal content and item bias reviews, reliability and validity studies, and other technical studies as necessary to support the augmented assessment as required by the U.S. Department of Education's Peer Review process for state's standards and assessments and provide study results to the HIDOE.
  - 3.1.30.1.5 The Contractor shall provide reliability assurances and documentation on content validity of the assessments.
  - 3.1.30.1.6 The Contractor shall provide technical documentation that interim benchmark assessments are predictive of student performance on statewide summative assessments.

### 3.1.31 Technical Reporting

- 3.1.31.1 The Contractor shall provide a standard technical report, as well as an addendum detailing HIDOE assessment participation data and procedures for determining any scores that are customized for HIDOE's assessment system (e.g., achievement level cut points). If the Contractor provides an augmented CRA, the Contractor shall provide a complete technical report for each year of test selection, administration, and scoring that presents classical and Item Response Theory (IRT) item statistics, as well as data from equating and scaling, content and bias reviews, reliability and validity studies, and other pertinent information for the assessment. The technical report must include a narrative description of test selection (where applicable), administration and scoring procedures, as well as data to support the technical integrity of the assessments. If the Contractor licenses or leases an assessment from another organization on behalf of the HIDOE, the Contractor shall provide the assessment developer's technical report for that assessment with an addendum detailing HIDOE's assessment participation data and procedures for determining any scores that are customized for HIDOE's assessment system.

3.1.31.2 Technical Report - The Contractor shall provide a report documenting the technical adequacy of the contractor-provided assessments. The technical report shall include:

- 3.1.31.2.1 Test blueprint and specifications;
- 3.1.31.2.2 Item development and assessment construction processes;
- 3.1.31.2.3 Field testing procedures, sampling methodologies, and resulting data;
- 3.1.31.2.4 Scaling and equating methodologies;
- 3.1.31.2.5 Information pertaining to content and bias reviews;
- 3.1.31.2.6 Item statistics;
- 3.1.31.2.7 Reliability and validity measures;
- 3.1.31.2.8 Quantitative and qualitative readability indices;
- 3.1.31.2.9 Determination that decisions based on the results of the assessments are consistent with the purposes for which they were designed;
- 3.1.31.2.10 Determination that item interrelationships are consistent with the test's framework;
- 3.1.31.2.11 Determination that the test and item scores are related to internal or external variables as intended;
- 3.1.31.2.12 Documentation of consistent conditional standard error of measurement and student classification at each achievement level;
- 3.1.31.2.13 Evidence of generalizability for all relevant sources, including variability of groups, internal consistency of item responses, variability among schools, consistency from test form to test form, and inter-rater consistency in scoring;
- 3.1.31.2.14 Documentation that accommodations for students with disabilities yield valid and reliable scores;
- 3.1.31.2.15 Documentation that accommodations for English Language Learners yield valid and reliable scores;
- 3.1.31.2.16 Documentation of steps to ensure fairness in development of assessments (to include bias review, differential item functioning analysis, and impact statistics) relative to all subgroups;
- 3.1.31.2.17 Documentation of consistency of test forms over time;
- 3.1.31.2.18 Documentation of consistency in scoring of assessment items;
- 3.1.31.2.19 Technical support for combining scores of students with disabilities who have been administered assessments with accommodations with those of students who have taken the assessments under standard conditions; and
- 3.1.31.2.20 Technical support for combining scores of English Language Learners who have been administered assessments with accommodations with those of students who have taken the assessments under standard conditions.

3.1.31.3 By December 1<sup>st</sup>, the Contractor shall provide the technical report electronically in Adobe PDF format.

3.1.32 Data Forensics - If requested by the HIDOE, following each administration window, the Contractor shall conduct an analysis of response patterns at the classroom, school, and state levels to identify possible testing irregularities

3.1.33 Program Management Requirements/Internal Controls

3.1.33.1 Project Manager

- 3.1.33.1.1 At a minimum, the Contractor must provide one (1) staff member to serve as the Project Manager to coordinate the tasks for this project and be the key point of contact with the HIDOE's Project Coordinator. All oral and/or written communications between the HIDOE and the Contractor will be through the HIDOE Project Coordinator and the Project Manager. The Contractor must establish a toll-free number(s) that the HIDOE can use to call the Contractor and the Project Manager.

- 3.1.33.1.2 The proposed Project Manager must be at a level in the organization to manage the decision making and priorities across all areas involved in the Hawaii project, and this person should have previous experience managing K-12 educational assessment contracts. The proposed Program Manager must have the authority necessary to coordinate and establish work priorities on behalf of Contractor, for all assigned personnel, including those of any sub-contractors, associated with tasks on the assessment program.
    - 3.1.33.1.3 The HIDOE reserves the right to approve the proposed Program Manager. The Program Manager will also serve as Contractor's designated customer service representative, ensuring that schools receive quick and accurate responses to questions, requests, or concerns.
  - 3.1.33.2 The HIDOE, throughout this contract, reserves the right to approve the Contractor's assignment/selection of personnel who work directly with the HIDOE. When staffing changes occur, the Contractor will offer staff at equal or higher levels of seniority within the organization.
  - 3.1.33.3 If Contractor secures subcontractors to perform any work related to developing, administering, scoring, or reporting of assessments, Contractor shall provide an effective supervisory structure for overseeing the quality of the subcontractor's work and shall ensure that all deliverables are completed in accordance with the requirements of the contract and the approved Implementation Schedule.
  - 3.1.33.4 Contractor will provide a structure for escalating unresolved issues if Contractor's program management team is unable to address them to the satisfaction of the state.
  - 3.1.33.5 Contractor will assign sufficient program personnel to provide accurate, efficient customer service to both HIDOE personnel and school personnel. Contractor will provide a toll-free number and e-mail address through which school personnel may direct questions, comments, or requests, especially immediately prior to and during the testing windows. Contractor will ensure that the toll-free customer service number is dedicated to the HIDOE and is available and staffed from 6:00 a.m. to 5:00 p.m. (applicable to the time zone of the state) one (1) month before and during all testing windows. The Contractor shall provide the HIDOE with a monthly log of calls to the customer service line, issues, and resolutions. Contractor shall also provide a password protected FTP site or virtual "conversation room" to allow HIDOE personnel and Contractor a secure forum for interaction and exchange of materials.
  - 3.1.33.6 By June 1<sup>st</sup> of each year, Contractor shall provide the HIDOE with a year-long calendar (Implementation Schedule) including all deliverables, milestones, review dates, and responsible parties for the upcoming school-year administration activities. Contractor shall update the calendar upon HIDOE request and as needed to accommodate schedule revisions.
  - 3.1.33.7 Contractor shall designate appropriate personnel to participate in weekly conference calls with HIDOE. Contractor's Program Manager and HIDOE will collaborate to develop a mutually agreed upon agenda for the conference calls. Contractor shall be responsible for scheduling and setting up the conference calls, and any costs associated with the conference call.
  - 3.1.33.8 Except for Contractor's initial meeting with the HIDOE following the effective date of the contract and the regularly scheduled weekly conference calls, the HIDOE will make requests to Contractor for other meetings and conference calls between the Contractor and HIDOE, and any other individuals such as third-party consultants or constituents. Contractor shall coordinate the meetings and shall be responsible for all expenses, including travel expenses, incurred by to attend or participate in such meetings or conference calls.

## **3.2 Offeror Qualifications**

The purpose of the Offeror Qualifications section is to provide HIDOE the ability to verify the experience and knowledge claims made in the proposal by the Offeror and to assess the Offeror's prior record in providing services to other organizations.

Failure on the Offeror's part to meet the requirements herein may result in a determination of non-responsiveness and subsequent disqualification of Proposal. These requirements shall remain in effect throughout the entire contact period. Failure to maintain these requirements may result in cancellation of award or early or partial termination of a contract.

Minimum qualifications of the Offeror are as follows:

- 3.2.1 Established nationally normed college and career readiness assessment tools that comprise a system for grades 8, 9, 10, and 11.
- 3.2.2 Established credible history of successful implementation of college and career readiness assessment tools as a system for grades 8, 9, 10 and 11 on a statewide and/or large State Education Agency.
- 3.2.3 Documentation showing history of success, specifically:
  - 3.2.3.1 Number of years of credible and proven success with names of states and state educational agencies where CRA tools were implemented system wide. Ideally, letters will be provided from states and/or state educational agencies where CRA tools were implemented system wide.
  - 3.2.3.2 Research that documents credibility of CRA tools and systems for Career and College Readiness standards.
- 3.2.4 Permits, Certifications, and Licenses
  - 3.2.4.1 Obtain and pay for all permits, certificates, and licenses required and necessary for the performance of the work specified herein, shall post all notices required by law, and shall comply with all laws, ordinances, and regulations bearing on the conduct of the work specified.
  - 3.2.4.2 Comply with all business registration requirements prior to commencing work under the contract.

## **4. PROPOSAL**

### **4.1 General Requirements**

- 4.1.1 Any and all costs incurred by an Offeror in preparing and submitting a Proposal and conducting discussions, if any, shall be at the Offeror's sole expense and are the Offeror's sole responsibility. This includes the cost of any visits to client references, and HIDEOE locations by an Offeror, but does not include any costs incurred by the HIDEOE or its representatives for Offeror demonstrations or site visits.
- 4.1.2 Before submitting a proposal, each Offeror must examine the solicitation documents thoroughly. Solicitation documents include this RFP, any attachments, and any other relevant documentation.
- 4.1.3 Offerors are charged with presumptive knowledge of all requirements of all cited authorities. Offeror must become familiar with state, local, and federal laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work before submitting a proposal. Submission of a valid executed proposal by any prospective Offeror shall constitute admission of knowledge on the part of such Offeror.
- 4.1.4 The Scope of Work, Minimum Contract Provisions, General Conditions and other documents referenced in or attached to the proposal shall be considered a part of the proposal submitted, whether or not attached to the proposal at the time of submission. Such documents shall not be altered in any way; any alterations so made by the Offeror may result in rejection of the proposal.
- 4.1.5 Submission of a proposal shall constitute an incontrovertible representation by the Offeror of understanding, acceptance, and compliance with every requirement of this RFP, and that the RFP documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work.
- 4.1.6 Any proposal may be withdrawn at any time prior to but not after the hour fixed by public notice as the deadline for receipt of offers, provided that a request in writing, executed by the Offeror or the duly authorized representative, and is filed with the Procurement and Contracts Branch. The withdrawal of a proposal shall not prejudice the right of an Offeror to submit a new proposal, but any such new proposal must still be received before the stated deadline.
- 4.1.7 A proposal that contains any omission, erasure, addition not called for, conditional offer or irregularity of any kind may be rejected. Corrections, if necessary, shall be made by lining out the materials to be corrected and by inserting the correction as close to the line-out as possible. Every such correction must be initialed by authorized individual signing the Proposal Identification and Information Form.

### **4.2 Confidential Information in Proposal**

The contents of any proposal shall not be disclosed during the review, evaluation, or discussion process. Once the notice of the award is posted, all proposals (both successful and unsuccessful) become available for public inspection.

If an Offeror believes that any portion of the proposal contains information that should be withheld as confidential, then the Procurement and Contracts Branch should be so advised in writing. Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the Proposal, be clearly marked, and shall be readily separable from the Proposal in order to facilitate eventual public inspection of the non-confidential portion of the Proposal. Whether those parts shall remain confidential will be determined under § 3-122-58(b), HAR and Chapter 92F, HRS. Pursuant to Section 3-122-58, HAR, if a person requests to inspect the portions of a proposal designated as confidential, the head of the purchasing agency or designee shall consult with the Attorney

General and make a written determination in accordance with Chapter 92F, Hawaii Revised Statutes (HRS). If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with Section 92F-42(1), HRS.

### **4.3 Proposal Preparation**

One of the objectives of this RFP is to make proposal preparation easy and efficient, giving offerors ample opportunity to highlight their proposals. The evaluation process must also be manageable and effective. When an offeror submits a proposal, it shall be considered a complete plan for accomplishing the tasks described in this RFP and any supplemental tasks the offeror has identified as necessary to successfully meet the obligations outlined in this RFP.

The proposal shall describe in detail the offeror's ability and availability of services to meet the primary project goal of this RFP as stated herein. Proposals shall be prepared in a straightforward and concise manner, in a format that is reasonably consistent and appropriate to the purpose of this RFP. Emphasis shall be on completeness and clarity of content. If any additional information is required by the HIDOE regarding any aspect of an offeror's proposal, such information shall be provided within two (2) business days of the HIDOE's request unless otherwise stated or directed by HIDOE.

### **4.4 Proposal Security**

A Bond is not required if submitting a Proposal.

### **4.5 Proposal Submission and Format**

This section prescribes the standard format for a proposal submitted in response to this RFP.

Offeror shall submit a Proposal using the exact forms or reproductions of such forms as provided and as otherwise instructed by this RFP. Failure to comply may result in a determination that the proposal is non-responsive.

The standard format will facilitate the HIDOE's review, comparison, evaluation of proposals, and verification as to whether the minimum requirements are met by each Offeror and the Offeror's Proposal. The format is not intended to limit the content of a proposal in any way. The offeror may include any additional data or information that is deemed pertinent to this RFP.

Unless otherwise noted, proposal shall be submitted as follows:

4.5.1 Copies. Offeror shall submit one (1) original and three (3) hard copies.

4.5.2 Offeror shall submit the signed proposal in a sealed envelope, package or container, together with the required offer security, if any. The envelope, package or container shall be clearly identified with the RFP number and the name and address of the Offeror.

### **4.6 Proposal Organization and Content**

Sections of the proposal shall be separated using index dividers. Proposals shall be organized in this order:



Table of Contents:	The table of contents shall clearly identify the material by section and by page number.
Section 1:	Proposal Identification and Information Form (Appendix A)
Section 2:	Executive Summary
Section 3:	Offeror Qualifications, including subsections: Offeror History and Background/Relevant Project Experience, Program Management Requirements/Internal Controls, Project Team Structure/Staffing, and Offeror References (Appendix B)
Section 4:	Subcontractors (if any)
Section 5:	Offer of Services (Proposal Narrative)
Section 6:	Price Proposal (Appendix C)
Attachment A:	Proof of Compliance Documents

Additional information about specific requirements of each section follow.

#### 4.6.1 Proposal Identification and Information Form (Appendix A)

Offeror shall submit the Proposal under the company's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable, and shall indicate exact legal name in the appropriate space on the Proposal Identification and Information Form. Failure to do so may result in rejection of the proposal or delay proper execution of a resulting contract, if any.

The authorized signature on the Proposal Identification and Information Form shall be an original signature in ink. If unsigned or if the affixed signature is other than an original signature (such as a facsimile or a photocopy), the proposal shall be automatically rejected unless accompanied by other material containing an original authorized signature, indicating the Offeror's intent to be bound.

#### 4.6.2 Executive Summary

The executive summary shall summarize the contents of the Proposal in a way that gives readers a broad understanding of the entire Proposal and must also contain the following:

- 4.6.2.1 Terms and Conditions - A statement that the Offeror understands and shall comply with all terms and conditions of the RFP (including the General Conditions). If an Offeror does not plan to comply with one or more of the terms or conditions of the RFP, this must be stated; all exceptions must be listed and fully described.
- 4.6.2.2 Assumptions or Constraints - A statement on whether the Proposal contains any assumptions or constraints and must also identify and describe each such assumption and constraint. If neither assumptions nor constraints are included in the Proposal, a statement to that effect must be made.
- 4.6.2.3 Deviations - If the Proposal deviates from the specifications or requirements of the RFP, a statement must be included identifying and describing each such deviation. If no deviations are included in Offeror's Proposal, a statement to that effect must be made.
- 4.6.2.4 Subcontracting - A statement that the products and services of the proposed solution shall be provided solely by the Offeror or whether a subcontractor(s) shall assist. The Offeror's use of subcontractor(s) requires the prior written approval of the HIDEOE.
- 4.6.2.5 Taxable Transaction - Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and vendors are advised that they may be liable for payment of the Hawaii General Excise Tax (GET). If 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.

- 4.6.2.6 Pending Litigation - The Offeror shall disclose any pending litigation to which they are a party, including the disclosure of any outstanding judgment. If applicable, please explain how litigation may materially impact the Offeror or the Offeror's ability to fully perform and complete the contract.
- 4.6.2.7 Other Notable Items - The Offeror shall disclose any other items of note that may have material impact the Offeror or the Offeror's ability to fully perform and complete the contract.

#### 4.6.3 Offeror Qualifications

This section of the Proposal shall include the following:

- 4.6.3.1 Offeror History and Background/Relevant Project Experience. The Offeror shall describe its corporate background and experience including its size and resources, details of corporate experience relevant to the project and a list of other current or recent related projects by providing the following:
- 4.6.3.1.1 General information about the Offeror's organization.
- 4.6.3.1.2 Experience of the Contractor - Include relevant experience that indicates the qualifications of the Contractor, and any subcontractors, for the performance of the potential contract.
- 4.6.3.1.3 Established credible history of successful implementation of college readiness assessment on a statewide basis and/or for a State Education Agency.
- 4.6.3.1.4 Documentation showing history of success, specifically:
- Number of years of credible and proven success with names of states and state educational agencies where CRA tools were implemented system wide. Ideally, letters will be provided from states and/or state educational agencies where CRA tools were implemented system wide.
  - Research that documents credibility of CRA tools and systems for College Readiness standards.
- 4.6.3.2 Program Management Requirements/Internal Controls.
- 4.6.3.2.1 Offeror shall provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.
- 4.6.3.2.2 Proposed Program Manager (PM) will be empowered to authorize and execute change orders, make decisions, engage additional resources and execute on creative solutions to unusual or unforeseen problems.
- The HIDOE reserves the right to approve the proposed Program Manager. The Program Manager shall serve as the primary liaison between Contractor and the HIDOE. The Program Manager will also serve as Contractor's designated customer service representative, ensuring that schools receive quick and accurate responses to questions, requests, or concerns.

- The proposed Program Manager must have the authority necessary to coordinate and establish work priorities on behalf of Contractor, for all assigned personnel, including those of any sub-contractors, associated with tasks on the assessment program.

- 4.6.3.2.3 If Contractor secures subcontractors to perform any work related to developing, administering, scoring, or reporting of assessments, Contractor shall provide an effective supervisory structure for overseeing the quality of the subcontractor's work and shall ensure that all deliverables are completed in accordance with the requirements of the contract and the approved Implementation Schedule.
- 4.6.3.2.4 Contractor will provide a structure for escalating unresolved issues if Contractor's program management team is unable to address them to the satisfaction of the HIDOE.
- 4.6.3.2.5 Contractor will assign sufficient program personnel to provide accurate, efficient customer service to both HIDOE personnel and school personnel. Contractor will provide a toll-free number and e-mail address through which school personnel may direct questions, comments, or requests, especially immediately prior to and during the testing windows. Contractor will ensure that the toll-free customer service number is dedicated to the state and is available and staffed from 6:00 a.m. to 5:00 p.m. (applicable to the time zone of the state) one month before and during all testing windows. The contractor shall provide the state with a monthly log of calls to the customer service line, issues, and resolutions. Contractor shall also provide a password protected FTP site or virtual "conversation room" to allow state personnel and Contractor a secure forum for interaction and exchange of materials.
- 4.6.3.2.6 By June 1 of each year, Contractor shall provide the state with a year-long calendar (Implementation Schedule) including all deliverables, milestones, review dates, and responsible parties for the upcoming school-year administration activities. Contractor will update the calendar upon state request and as needed to accommodate schedule revisions.
- 4.6.3.2.7 Contractor will designate appropriate personnel to participate in weekly conference calls with state personnel. Contractor's Program Manager and state personnel will collaborate to develop a mutually agreed upon agenda for the conference calls. Contractor will be responsible for scheduling and setting up the conference calls and any costs associated with the conference call.
- 4.6.3.2.8 Except for Contractor's initial meeting with the HIDOE following the effective date of the contract and the regularly scheduled weekly conference calls, the HIDOE will make requests to Contractor for other meetings and conference calls between the contractor and HIDOE, and any other individuals such as third-party consultants or constituents. Contractor will coordinate the meetings and will be responsible for all expenses, including travel expenses, incurred by to attend or participate in such meetings or conference calls.

#### 4.6.3.3 Project Team Structure/Staffing

- 4.6.3.3.1 The Offeror shall include specific information regarding the role and function of its assigned staff to support implementation, training, reporting, and maintenance efforts.

- 4.6.3.3.2 The Offeror shall also provide resume/vita for all staff who will be specifically assigned to the contract and provide a narrative description of their roles, experience, and qualifications, including education and training in the development, administration, and scoring of large scale statewide assessments. If the Offeror's solution involves use of subcontractors in an amount greater than 10% of the project's budget, resumes of any subcontractors shall also be included.
- 4.6.3.3.3 Personnel Expertise - The Offeror should at a minimum provide information for the proposed Program Manager, Test Development Specialist, Content Specialist, Psychometrician, Information Technology Specialist, Performance Scoring Supervisor, Customer Service Supervisor, and all other key personnel proposed to provide the services required herein. If additional personnel resources are available, the Offeror may provide information for such personnel.
- 4.6.3.3.4 The information provided should be structured to emphasize relevant qualifications and experience of the personnel in completing contracts/performing services of a similar size and scope to the requirements of this RFP.
- 4.6.3.3.5 The information submitted should clearly identify previous experience of the person in performing similar services and should include beginning and ending dates, a description of the role of the person in such performances, results of the services performed, and whether the person is proposed for the same services for this project.
- 4.6.3.3.6 If personnel are not yet hired, the Offeror should provide detailed descriptions of the required employment qualifications; and detailed job descriptions of the position to be filled, including the type of person proposed to be hired.
- 4.6.3.4 Offeror References (Appendix B) - Offeror's References (Appendix B: Offeror Reference Form) of the Proposal shall include at least three (3) recent client references. These are to include the name of the client organization; name, title, email address and telephone number of the contact person; date, duration and brief description of work performed for the client. The Offeror grants the HIDOE authorization to contact any of the Offeror's previous clients, including but not limited to these client references, to evaluate the Offeror and its work.

#### 4.6.4 Subcontractors

The Offeror may propose to fulfill any of the responsibilities outlined herein by entering into a sub-contract with an individual, organization, or other entity that possesses the requisite expertise to fulfill the requirements of the RFP. The Offeror shall retain sole responsibility for the completion of all tasks. The use of sub-contractors shall not place additional burdens or demands on the HIDOE (e.g., coordinating with staff from multiple Contractors).

For any item listed herein to be fulfilled by a sub-contractor, the Offeror shall provide a description of the proposed partner and the sub-contractor's capability to meet the demands of the RFP. In the event the Offeror elects to engage the participation of a sub-contractor, the HIDOE retains the right to approve the selection of the sub-contractor and the proposed role that the Offeror shall fulfill under this contract.

If a proposal involves the use of any subcontractor, the subcontractor shall also comply with the Offeror qualifications requirements identified in the following sections:

Offeror History and Background/Relevant Project Experience  
Program Management Requirements/Internal Controls  
Project Team Structure/Staffing  
Offeror References

#### 4.6.5 Offer of Services (Proposal Narrative)

The Offer of Services must address tasks described in the Scope of Work, and any other tasks necessary to complete the work described, and shall be prepared as follows:

##### 4.6.5.1 Technical Proposal

The Technical Proposal must contain a comprehensive description of service deliverables while incorporating information responsive to the following five (5) elements into the overall proposal:

The Offeror is required to format the Technical Proposal such that the original RFP language provisions and numbering are directly quoted and included in the proposal, followed respectively by the Offeror's response to each provision in formatting which makes the original language and Offeror's response easy to distinguish and read.

4.6.5.1.1 Project Approach/Methodology – Include a complete description of the Offeror's proposed approach and methodology for the project. This section should convey Offeror's understanding of the proposed project.

4.6.5.1.2 Work Plan – Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the Technical Proposal must contain sufficient detail to convey to members of the evaluation team the Offeror's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of corresponding HIDOE staff.

4.6.5.1.3 Project Schedule – Include a project schedule indicating when the elements of the work will be completed and when deliverables, if any, will be provided.

4.6.5.1.4 Deliverables – Fully describe deliverables to be submitted under the proposed contract.

4.6.5.1.5 Risks – Define risks you identify as being significant to the success of the project. Include how you would propose to effectively monitor and manage these risks, including reporting of risks to the HIDOE's Project Coordinator.

Please Note: Mere repetition of the Scope of Work will not be considered responsive.

#### 4.6.6 Price Proposal (Appendix C)

The price proposal shall be inclusive of all costs, direct or indirect, and all applicable taxes, as required for the fulfillment of the contract. Appendix C shall be used by the Offeror to provide the necessary pricing data for the proposal evaluation.

4.6.6.1 The price proposal shall include a per pupil CRA and Writing Option cost for years 1, 2 and 3 of the anticipated contract period. Additional cost items may be identified, but must be itemized.

4.6.6.2 The price proposal for implementation shall include all other tasks described in the scope of work, and any other tasks necessary to be incurred within the contract period. Where cost items are not fixed, the Offeror shall estimate the proposed cost and

provide an explanation regarding the methodology used to reach the cost estimate. The costs in the proposal shall be based on equivalent market prices, and have been arrived at independently without consultation, communication, as to any matter related to such prices with any other Offeror for this RFP. In the event the Offeror intends to enter into a partnership with a sub-contractor or a technical assistance provider, Offeror shall provide all necessary cost information regarding the subcontracted task.

- 4.6.7 Proof of Compliance Documents - Offeror is advised that if awarded a Contract under this RFP, Offeror shall, upon award of Contract, furnish the required certificates and documentation (refer to RFP section regarding Responsibility of Offerors). In order to expedite contract execution, if any, it is highly recommended that the certificates be submitted with the Offeror's Proposal as follows, one (1) original only:

4.6.7.1 Certificate of Compliance as issued by the Hawaii Compliance Express online system

4.6.7.2 Certificate of Insurance

- 4.6.8 Certification of Independent Cost Determination

By submitting a proposal in response to this solicitation, Offeror certifies as follows:

- 4.6.8.1 The costs in this RFP 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.
- 4.6.8.2 Unless otherwise required by law, the costs which have been quoted in this RFP 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.
- 4.6.8.3 No other attempt has been made or will be made by the Offeror to indicate any other person or firm to submit or not to submit for the purpose of restricting competition.

## 5. PROPOSAL EVALUATION

The HIDEOE reserves the right to reject any or all Proposals, and waive any defects if the HIDEOE believes the rejection or waiver to be in the best interest of the HIDEOE.

The evaluation will be based solely on the evaluation criteria detailed in this RFP, and shall be performed by the selected members of the Evaluation Committee consisting of at least three (3) governmental employees with sufficient qualifications and experience in this area.

Evaluation criteria and the associated points are listed below. Quantitative scoring techniques will be utilized to maximize the objectivity of the evaluation.

A contract may be awarded on the basis of initial Proposals received, without discussion. Therefore, each initial proposal shall contain the Offeror's best terms from a technical and cost/price standpoint.

Proposals may be classified initially as acceptable, potentially acceptable, or unacceptable. Discussions may be conducted with Offerors who submit proposals determined to be acceptable or potentially acceptable of being selected for award, but proposals may be accepted without such discussions.

The final selection of a Successful Offeror, if any, will be made in accordance with the evaluation criteria as specified herein.

### 5.1 Evaluation Process Overview

The Evaluation Committee will apply a numerical rubric to evaluate the proposals. The following sections describe the evaluation process in more detail.

- Phase 1: Preliminary Evaluation of Proposals
- Phase 2: Rating and Determination of Priority Listed Offerors
- Phase 3: Discussion with Priority-Listed Offerors (at HIDEOE's option)
- Phase 4: Best and Final Offers (at HIDEOE's option)
- Phase 5: Selection and Award

### 5.2 Evaluation Criteria

Scoring under this RFP shall be based on a total of 200 points. Proposers must score a minimum of 100 points to be considered for award. Proposals that score less than 100 points will be rejected and shall not be considered for award.

For evaluation purposes, pursuant to §103D-1008, HRS, a tax-exempt proposal submitted in response to a solicitation shall be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

Offerors shall be evaluated on the following criteria provided below, in the relative order of importance.

The following points will be assigned to the proposals for evaluation purposes:

Technical Proposal – 50%		100 points
Conformance with terms of the RFP	30 points (maximum)	
Project Approach/Methodology	20 points (maximum)	
Quality of Work Plan	20 points (maximum)	
Project Schedule	10 points (maximum)	
Deliverables	10 points (maximum)	
Description of Risks	10 points (maximum)	

Offeror Qualifications – 37.5%		75 points
Offeror History and Background/Relevant Project Experience	20 points (maximum)	
Program Management Requirements/Internal Controls	20 points (maximum)	
Project Team Structure/Staffing	20 points (maximum)	
Offeror References (Appendix B)	15 points (maximum)	
Price Proposal (Appendix C) – 12.5%		25 points
A total of 25 points will be awarded to the lowest of the submitted price proposals. Proposals with higher costs will receive a fraction of 25 points; the number of points assigned to higher proposals will be determined by the following formula:		
$[\text{Lowest Price Proposal} \times 25 \text{ points (maximum)}] \div \text{Offeror's Price Proposal} = \text{Points}$		
<u>Example:</u> Lowest acceptable cost was \$500,000 and receives 25 points. The next lowest acceptable cost proposal was \$750,000 and would receive 16.7 points $\{(\text{Low Bid} \div \text{High Bid}) \times 25\}$ .		
Note: The fractional value of points to be assigned will be rounded to one decimal place.		
Subtotal		200 points
Oral Presentation via Webinar (may be required for Priority Listed Offerors)		10 points
GRAND TOTAL FOR PROPOSAL		210 points

### 5.3 Preliminary Evaluation

A preliminary evaluation shall determine whether each proposal is considered responsive, thus justifying further evaluation. In its preliminary evaluation, the HIDOE will examine the completeness of each proposal, and its compliance with the instructions, terms and conditions in this RFP. Subsequent review and evaluation will be based on the criteria stated in the following sections. Any proposals that are incomplete or that do not comply with the instructions or terms and conditions shall be rejected by the HIDOE and excluded from further consideration.

Responsive proposals must meet all submittal requirements and the minimum eligibility requirements described in the RFP.

### 5.4 Priority-List of Offerors

Before conducting discussions, a priority list shall be generated by the Evaluation Committee. In order to generate a priority list, proposals shall be initially classified as acceptable, potentially acceptable or unacceptable.

All responsive Offerors who submit acceptable proposals or potentially acceptable proposals are eligible for the prioritized listing.

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



## **5.5 Discussions with Priority Listed Offerors**

Discussions may be conducted with Priority Listed Offerors if deemed advantageous by the HIDOEE. Discussions will be limited to only "priority-listed" offerors and are held 1) to promote understanding of the HIDOEE requirements and the priority-listed offerors' proposals; and 2) to facilitate arriving at a contract that will provide the best value to the HIDOEE, taking into consideration the evaluation factors set forth in the RFP.

Discussions may include Offeror presentation of its proposal, review of offeror's proposed exceptions and deviations, interviews with Offeror's key personnel, demonstrations, site visits, or teleconferences. Any discussions shall be conducted in an organized and consistent manner established by the HIDOEE, and in accordance with the following:

- 5.5.1. Priority-listed offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals.
- 5.5.2. Any substantial oral clarification of a proposal shall be reduced to writing by the priority-listed Offeror.
- 5.5.3. If during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate the clarification or change. Addenda to the RFP shall be distributed only to the priority-listed offerors.
- 5.5.4. Priority-listed offerors may be permitted to amend proposals already submitted, limited to the discussions conducted.
- 5.5.5. If in the opinion of the Evaluation Committee a contemplated amendment will significantly change the nature of the procurement, the RFP shall be canceled and a new RFP will be issued.
- 5.5.6. The contents of any proposal shall not be disclosed so as to be available to competing offerors during the discussion process.

## **5.6 Best and Final Offers (at HIDOEE's Option)**

Following discussions between the Evaluation Committee and the Priority-listed Offerors, each Priority-listed Offeror may be asked to provide their best and final offer. In that event, the procedure as listed below shall apply.

- 5.6.1. The Evaluation Committee will establish a date, time and procedure (if different from original) for submission of best of final offers.
- 5.6.2. Offerors may be afforded the opportunity to revise their proposals, including price, during the best and final offer phase.
- 5.6.3. If an Offeror does not submit a notice of withdrawal or a best and final offer, the Offeror's immediate previous proposal will be construed as their best and final offer.
- 5.6.4. After best and final offers are received, final evaluations will be conducted for an award.
- 5.6.5. Best and final offers shall be submitted only once, unless the Head of the Purchasing Agency determines that it is in the HIDOEE's best interest to conduct additional discussions or change the HIDOEE's requirements by an addendum distributed only to priority-listed offerors and require another submission of best and final offers. Otherwise, no discussion of or change in the best and final offers shall be allowed prior to award.

**APPENDICES:**

Appendix A: Proposal Identification and Information Form

Appendix B: Offeror Reference Form

Appendix C: Price Proposal Form

Appendix D: Contract Minimum and Special Conditions

Appendix E: State's General Conditions

**Appendix A**  
PROPOSAL IDENTIFICATION AND INFORMATION FORM

Exact Legal Name of Offeror, including "dba" or "division" of a corporation (furnish the exact legal name of the entity under which an awarded contract, if any, will be executed):	
Principal Place of Business (may not be a P.O. Box):	
Mailing Address (only if different):	
Offerors Primary Contact Person:	Name/Title: _____ Telephone/Fax No.s: _____ e-mail address: _____
Federal Tax Identification Number:	
State of Hawaii General Excise Tax License Number:	
Type of Business Entity (check one):	<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Other _____
If other than a Sole Proprietorship:	Offeror is either:  <input type="checkbox"/> A <b>Hawaii business</b> incorporated or organized under the laws of the State of Hawaii; <b>OR</b>  <input type="checkbox"/> A <b>Compliant Non-Hawaii business</b> incorporated or organized under the laws of the State of _____, and registered with the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawaii.  Date of incorporation/organization: _____  All state(s) where Offeror is authorized to transact business: _____ _____ Names of all Offeror's parent, affiliate and subsidiary organizations: _____ _____ _____

The undersigned certifies that the information provided above is to the best of his/her knowledge true and correct, has carefully read and understands the terms and conditions specified herein and hereby submits the following proposal to perform the work specified herein, all in accordance with the true intent and meaning thereof, and further that the Offeror shall comply with all terms, conditions and requirements of the RFP. 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, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

\_\_\_\_\_  
Authorized (Original in ink) Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Appendix B**  
**OFFEROR REFERENCE FORM**

**Directions:**

- Please provide information regarding recent projects and the names of up to three (3) clients/references who may be contacted for whom services were rendered.
- Any supplemental information related to this project although not required, should be attached to the respective Appendix B, Offeror Reference Form.

<b>Name of Your Company:</b>	
<i>Name of Client:</i>	
<i>Name of Client Contact Person:</i>	
<i>Client's Phone Number:</i>	
<i>Date or period of project/service:</i>	
<i>Description of project/services rendered:</i>	
<i>Other Information or comments:</i>	
<input type="checkbox"/> <i>check here if supplemental information related to this project is attached.</i>	

## Appendix C PRICE PROPOSAL

The price proposal shall be inclusive of all costs, direct or indirect, and all applicable taxes, as required for the fulfillment of the contract. Appendix C shall be used by the Offeror to provide the necessary pricing data for the proposal evaluation.

Price proposal for Implementation shall include all other tasks described in the scope of work, and any other tasks and costs necessary to be incurred within the contract period. Where cost items are not fixed, the Offeror shall estimate the proposed cost and provide an explanation regarding the methodology used to reach the cost estimate. This shall include a break-out by contract time/hours as one underlying rationale for the cost estimate (if applicable). The costs in the proposal shall be based on equivalent market prices, and have been arrived at independently without consultation, communication, as to any matter related to such prices with any other Offeror for this RFP. In the event the Offeror intends to enter into a partnership with a sub-contractor or a technical assistance provider, Offeror shall provide all necessary cost information regarding the subcontracted task.

### CRA (Grade 11)

Item No.	Description	Unit Type	Estimated Quantity (a)	Year 1		Year 2		Year 3		Total Years 1-3
				Rate Per Unit (b1)	Estimated Sum (a)*(b1)	Rate Per Unit (b2)	Estimated Sum (a)*(b2)	Rate Per Unit (b3)	Estimated Sum (a)*(b3)	
1	CRA - Paper/Pencil	per student	10,000	\$	\$	\$	\$	\$	\$	\$
2	CRA - Online	per student	2,000	\$	\$	\$	\$	\$	\$	\$
3	Implementation/Deliverables				\$		\$		\$	\$
TOTAL Items 1-3					\$		\$		\$	\$

Item No.	Description	Unit Type	Estimated Quantity (a)	Year 1		Year 2		Year 3		Total Years 1-3	
				Rate Per Unit (b1)	Estimated Sum (a)*(b1)	Rate Per Unit (b2)	Estimated Sum (a)*(b2)	Rate Per Unit (b3)	Estimated Sum (a)*(b3)		
4	Writing Option (Paper/Pencil)	per student	10,000	\$	\$	\$	\$	\$	\$	\$	
5	Writing Option (Online)	per student	2,000	\$	\$	\$	\$	\$	\$	\$	
6	Implementation/Deliverables				\$		\$		\$	\$	
TOTAL Items 4-6					\$		\$		\$	\$	
TOTAL SUM (ITEMS 1-6)											\$

## **Appendix D**

### **CONTRACT MINIMUM AND SPECIAL CONDITIONS**

#### **1.1 Contract Administrator**

For purposes of this contract, the person named below or his/her duly authorized representative or successor in office is designated Contract Administrator (CA). The CA may be contacted as follows:

Contract Administrator: Brian Reiter  
Telephone Number: (808) 733-4100  
E-mail Address: brian\_reiter@notes.k12.hi.us

The CA is responsible for:

- 1.1.1 The terms, conditions, quantities, specifications, scope of services, other contract terms, and all decisions relating to the contract;
- 1.1.2 Monitoring the CONTRACTOR's work, documenting that CONTRACTOR maintains the required insurance coverage (if applicable), resolving contract disputes and discrepancies, evaluating the work of the CONTRACTOR, assuring the services or goods are delivered as required in the contract, and processing payment for services rendered; and
- 1.1.3 Notifying the Procurement and Contracts Branch in the event of change in scope of work, change in the performance period, increase or decrease in total compensation, and/or changes in any other contract terms.

Notwithstanding the responsibilities set forth hereinabove, any coordination of services falling outside those articulated above shall remain with the head of the purchasing agency, as set forth in the attached General Conditions (see General Conditions, paragraph 1, entitled "Coordination of Services by the STATE.").

#### **1.2 HIDEOE's Point of Contact**

The CA has designated the following person as Point-of-Contact (POC) for this contract. As such, the POC should be the initial contact on all matters related to this contract. The POC can be contacted as follows:

POC: Bruce Hirotsu  
Telephone Number: (808) 733-4100  
E-mail Address: bruce\_hirotsu@notes.k12.hi.us

#### **1.3 Verification of CONTRACTOR Employees**

In accordance with State rules and regulations, CONTRACTOR shall conduct mandatory criminal background checks at no cost to the STATE, on any employee or sub-contractor working directly with students.

CONTRACTOR shall notify the STATE, verbally within twenty-four (24) hours, upon learning of the occurrence of any of the events indicated below:

- 1.3.1 Any employee, agent or volunteer's license required to perform services under this Contract is or has been suspended, conditioned, revoked, expired, or terminated;
- 1.3.2 Any employee, agent or volunteer becomes or has been the subject of any disciplinary proceeding or action before any federal or state agency or Board;
- 1.3.3 Any employee, agent or volunteer is or has been convicted of a fraud or felony;
- 1.3.4 Any claim, judgment or settlement in which the CONTRACTOR or any of its employees, agents or volunteers is or has been named a defendant;
- 1.3.5 CONTRACTOR shall maintain the background check records, and shall make the records available for review upon request. Upon review of these records, the STATE reserves the right to request additional background information.

#### 1.4 Liability Insurance and Certificates

The CONTRACTOR shall maintain in full force and effect, during the life of this contract, liability and property damage insurance. This insurance shall protect the CONTRACTOR and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by a 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(ies) 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>
<b>General Liability</b> , Commercial (Occurrence Form)	\$2,000,000 aggregate \$1,000,000 combined single limit per occurrence for bodily injury and property damage
<b>Automobile Liability</b> Combined Single Limit	\$1,000,000 per accident

General liability and automobile liability policies required by this contract, including a subcontractor's policy, shall contain the following clauses:

- 1) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."
- 2) "The State of Hawaii is added as an additional insured as respects 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 supplemental agreements. Each insurance policy shall be written by 1) an insurance company licensed to do business in the State of Hawaii, or 2) if not licensed by the State of Hawaii, an insurance company which meets §431:8-301, Hawaii Revised Statutes.

Upon execution of the contract, the CONTRACTOR agrees to deposit with the HIDOE certificate(s) of insurance necessary to satisfy the HIDOE 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

HIDOE during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the HIDOE, CONTRACTOR shall be responsible for furnishing a copy of the policy(ies).

Failure of the CONTRACTOR to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the HIDOE to exercise any or all of the remedies provided herein.

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 this contract. Notwithstanding said policy(ies) of insurance, CONTRACTOR shall be obligated for the full and total amount of any damage, injury, or loss caused by the CONTRACTOR, its employees, officers, or agents, in connection with this Contract.

CONTRACTOR shall notify the STATE, via written notice within twenty-four (24) hours should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

## **1.5 Invoicing**

1.5.1 CONTRACTOR shall send an original invoice and one (1) copy to:

Department of Education  
Assessment Section  
641 18<sup>th</sup> Avenue, V-102  
Honolulu, HI 96816  
Attn: Anne Hyde

1.5.2 Invoices shall reference the contract number and must have the following information identified: invoice number, date of invoice, CONTRACTOR's name and remittance address, service period covered, and total amount due.

1.5.3 If a copy is submitted as the original, such invoice must bear an original signature certifying that the invoice is being submitted as the original.

## **1.6 Payment**

Section 103-10, HRS, provides that the HIDOE shall have thirty (30) calendar days after receipt of an accepted invoice and satisfactory delivery of goods or performance of the services, to make payment. For this reason, the HIDOE shall reject any Proposal submitted with a condition requiring payment within a shorter period. Further, the HIDOE shall reject any Proposal submitted with a condition requiring interest payments greater than that allowed by section 103-10, HRS. The HIDOE will not recognize any requirements established by the Offeror and communicated to the HIDOE after award of the contract, which requires payment within a shorter period or interest payment not in conformance with section 103-10, HRS.

## **1.7 Final Payment**

The **final payment** on the contract shall be for services rendered during the billing period just prior to the contract expiration date. In addition to the requirements in the General Conditions, the following shall accompany the final payment invoice:

A tax clearance certificate, not over two months old and with an original green "certified copy" stamp, must accompany the invoice for final payment. In addition to the tax clearance certificate, the "Certification of Compliance for Final Payment" (DOE Form-22) with an original signature will be required for final payment.



In lieu of the above, CONTRACTOR may also submit an original CERTIFICATE OF VENDOR COMPLIANCE as issued by the State Procurement Office via an online system, also referred to as "Hawaii Compliance Express". Details regarding this online application process can be viewed at: <http://vendors.ehawaii.gov/hce/>.

All required certificate(s) for the CONTRACTOR and all subcontractors, must accompany the invoice for final payment on the Contract.

## **1.8 Availability of Funds**

This contract is subject to the availability of funds. Pursuant to Section 103D-309, HRS, except in certain instances, no contract entered into between the STATE and the CONTRACTOR shall be binding or of any force unless the Chief Financial Officer (CFO) certifies that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the amount required by the contract.

If the contract calls for performance or payment in more than one fiscal year (July 1 to June 30), the CFO may certify only that portion of the total funds allocated to satisfy the STATE's obligations for payments in the current fiscal year. In that event, the STATE will not be liable for the unpaid balance beyond the end of the current fiscal year, and availability of funds in excess of the amount certified shall be contingent upon future appropriations or special fund revenues. All partially-funded contracts shall be enforceable only to the extent that funds are certified as available. The STATE agrees to notify the CONTRACTOR of such non-allocation at the earliest possible time. The STATE shall not be penalized in the event this provision is exercised. This provision is not meant to permit the STATE to terminate the contract in order to acquire similar equipment or services from a third party.

## **1.9 Subcontracting**

Prior to award of the contract, no work or services shall be subcontracted or assigned without the prior written approval of the CA. After award of the contract, no work or services shall be subcontracted or assigned without the prior written approval of the CA. No subcontract shall under any circumstances relieve the CONTRACTOR of its obligations and liability under its Contract with the HIDOE. All persons engaged in performing the work covered by the Contract shall be considered employees of the CONTRACTOR.

## **1.10 Contract Staffing Requirements**

Personnel, whose names and resumes are submitted in the Proposal, shall not be removed from the project without prior approval of the CA. Substitute or additional personnel shall not be used for the project until a resume is received and approved by the CA. The HIDOE shall have the right, and the CONTRACTOR shall comply with any request, to remove and replace any personnel from all work on the project effective immediately upon notification by the HIDOE. Personnel changes that are not approved by the CA may be grounds for Contract termination.

## **1.11 Exclusion of Specific Workers**

The STATE reserves the right to require the CONTRACTOR to remove an employee, agent, subcontractor or volunteer (Worker) from performing work under this contract. The Contract Administrator shall notify the CONTRACTOR in writing and this exclusion of a specific Worker(s) shall take effect as indicated on the notice. The CONTRACTOR may appeal this decision to the Contract Administrator, in writing within ten (10) working days of receipt of the notice. Removal of the employee, agent, subcontractor or volunteer shall remain in effect pending the outcome of the appeal. This provision shall

not infringe upon the right of the CONTRACTOR to employ the removed individual, but shall apply to any work requiring interaction with the HIDOE, its employees or students.

### **1.12 Inspection and Procedural Changes; Relief Available to State**

All work is subject to inspection, evaluation, and approval by the CA. The HIDOE may employ all reasonable means to ensure that the work is being performed in compliance with the contract. Should the CA determine that corrections or changes are necessary in order to accomplish the intent or purpose of the contract, the CA may direct the CONTRACTOR to make such changes.

Failure of the CONTRACTOR to perform any provisions of the Contract (based on the identified portion of unacceptable work received) the HIDOE may determine CONTRACTOR is in non-compliance with Contract requirements and may:

- 1.12.1 Suspend Payments – Temporarily withhold or disallow all or part of the billing cost/payments pending correction of a deficiency or a non-submission of a required deliverable by the CONTRACTOR;
- 1.12.2 Seek Reimbursement – Seek reimbursement from the CONTRACTOR or withhold future payments for any funds paid to the CONTRACTOR subsequent to a determination that such was unauthorized, fraudulently obtained, or inappropriately billed; and
- 1.12.3 Seek Market Value – In the event the CONTRACTOR fails, refuses or neglects to perform the services in accordance with the requirements of these Special Conditions, the Scope of Services or the General Conditions, the STATE reserves the right to purchase, in the open market, a corresponding quantity of the services specified herein and to deduct from any monies due or that may thereafter become due to the CONTRACTOR, the difference between the price named in the contract and the actual cost to the STATE. In case any money due the CONTRACTOR is insufficient for said purpose, the CONTRACTOR shall pay the difference upon demand from the STATE. The STATE may also utilize all other remedies provided by law.

### **1.13 Confidentiality**

The following serves to supplement provision 24 of the General Condition, entitled "Confidentiality of Material" and provision 42, entitled "Confidentiality of Personal Information":

General Confidentiality Obligations. While performing under this Agreement, the CONTRACTOR may receive, be exposed to or acquire confidential information. Such information may include names, addresses, telephone numbers, birthdates, social security numbers, medical information, and other educational, student, or personal employment information. The information may be in written or oral form, fixed in hard copy or contained in a computer data base or computer readable form. Hereinafter, such language shall be collectively referred to as "Confidential Information."

The CONTRACTOR, including its employees, agents, representatives, and assigns shall abide by the following with regards to Confidential Information:

- (i) They shall not disclose to any unauthorized party any Confidential Information, except as specifically permitted by the HIDOE and subject to the STATE's limitations on confidentiality of information and relevant legal requirements of the State to include, but not limited to the Family Educational Rights and Privacy Act ("FERPA"). Permission will be granted through a formal written agreement concerning the disclosure of personally identifiable information (PII) from student education records, signed by HIDOE and the CONTRACTOR, and must be provided as an attachment to this contract;

- (ii) They shall only permit access to Confidential Information to employees, agents, representatives, and assigns having a specific need to know in connection with performance under this Agreement; and
- (iii) They shall advise each of their employees, agents, representatives, and assigns of their obligations to keep such Confidential Information confidential in compliance with all relevant state and federal laws.

CONTRACTOR, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The CONTRACTOR shall provide the HIDEOE with a list of individuals (by name and position) who are authorized to handle the Confidential Information (hereinafter referred to as "Authorized Handlers"). Authorized Handlers shall ensure the security of the Confidential Information. Only Authorized Handlers shall have access to the Confidential Information, which will be kept on password protected computers with the hard copy documents kept in a locked file cabinet. CONTRACTOR shall ensure that procedures exist to prohibit access to the Confidential Information by anyone other than an Authorized Handler.

CONTRACTOR will be responsible for safeguarding the confidentiality of all Confidential Information it receives from the HIDEOE and shall safeguard and protect such documents from unauthorized use, handling, or viewing. CONTRACTOR shall be liable to the HIDEOE and to any person whose records the CONTRACTOR receives custody of under this Contract for records protection for any unpermitted release, viewing, or loss of such records. CONTRACTOR shall assume liability responsibility for records protection and for the inappropriate or unlawful release of Confidential Information. CONTRACTOR shall return all documents containing Confidential Information upon completion of the services Contractor is contracted to provide under this Agreement.

- 1.13.1 Prior Written Approval: CONTRACTOR may not i) share Confidential Information or any other data received under this contract, ii) publish, or iii) distribute such information without the prior written approval of the STATE.
- 1.13.2 In the event of termination of this contract, CONTRACTOR shall return to STATE all student information received under this Contract and further agrees to destroy any and all copies of, or references to, any student information shared by STATE as a result of this contract.

## **1.14 Approvals**

Any agreement arising out of this RFP may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

**Appendix E**  
**STATE'S GENERAL CONDITIONS**

The General Conditions are contained in "AG-008 103D GENERAL CONDITIONS" and are attached.

## GENERAL CONDITIONS

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## GENERAL CONDITIONS

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

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

3. Personnel Requirements.

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

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

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

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

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

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

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

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

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



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

- (1) Cancel the stop performance order; or
  - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
  - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

### 13. Termination for Default.

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

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

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

14. Termination for Convenience.

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

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

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

- d. Compensation.

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

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

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

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

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

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

- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.

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

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

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

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

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

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

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

17. Payment Procedures; Final Payment; Tax Clearance.

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

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

19. Modifications of Contract.

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

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

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

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

21. Price Adjustment.

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

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

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

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

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



28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:
- a. The cost or pricing data, and
  - b. A state contract, including subcontracts, other than a firm fixed-price contract.
29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.
- If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.
30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.
31. Records Retention.
- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
  - (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.
32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

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

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

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

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

b. Confidentiality of Material.

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

c. Security Awareness Training and Confidentiality Agreements.

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

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

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

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

e. Records Retention.

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