

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 D19-034
Title:	Comprehensive Assistance, Training, and Educational Resources and Services (CATERS) for Leeward District Schools and Offices
Deadline:	2:00 p.m. Hawaii Standard Time, March 12, 2019
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.:	
<input type="checkbox"/> Check here if an electronic/fillable copies of the Attachments are requested. The Attachments will be emailed to the email address provided.	

DEPARTMENT OF EDUCATION
PROCUREMENT AND CONTRACTS BRANCH

November 29, 2018

REQUEST FOR PROPOSALS

RFP D19-034

SEALED PROPOSALS

COMPREHENSIVE ASSISTANCE, TRAINING, AND EDUCATIONAL RESOURCES AND
SERVICES (CATERS)
FOR LEEWARD DISTRICT SCHOOLS AND OFFICES

will be received up to 2:00 p.m.

on

March 12, 2019

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

Interested Offerors are invited to participate in the Pre-Proposal Telephone Conference to be held on December 12, 2018, 9:00 a.m. HST. Attendance shall be voluntary but interested Offerors are encouraged to participate to gain an understanding of the breadth and scope of work involved under this RFP.

Request(s) to participate in the Pre-Proposal Telephone Conference shall be emailed to nicole_agena@notes.k12.hi.us no later than December 11, 2018.

Questions relating to this solicitation may be directed to Nicole Agena via telephone at (808) 675-0130, via facsimile at (808) 675-0133, or via email at nicole_agena@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 and Requirements. Provides Offerors with a general description of the tasks to be performed, delineates HIDOE and Contractor's responsibilities, stipulates Offeror qualifications, and defines deliverables.
- 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.

Attachment A: Proposal Section 1 – Proposal Identification and Information Form

Attachment B: Proposal Section 2 – Executive Summary

Attachment C: Proposal Section 3 – Offeror Qualifications

Attachment D: Proposal Section 4 – Subcontractors

Attachment E: Proposal Section 5 – Summary Menu of Services and Pricing

Attachment F: Proposal Section 6 – Data Sharing and Exchange Information Sheet

Attachment G: Proposal Section 7 – Sample Invoice

Attachment H: Proposal Section 8 – Optional Information
(brochures, catalogs, materials, and any additional information)

Attachment I: Proposal Section 9 – Proof of Compliance Documents (optional)

Appendix 1: HIDOE Data Sharing Agreement

Appendix 2: Contract Minimum and Special Conditions

Appendix 3: State's General Conditions

Exhibit 1: Sample Price List Order Form & Authorization for Services and Payment (PLOF)

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 Agena
Email: nicole_agena@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)	November 29, 2018
Conference Call	December 12, 2018, 9:00 a.m.
Deadline for submission of written questions	On or before 4:00 p.m., December 19, 2018
HIDOE's responses to written questions	on or about December 21, 2018
Proposals due at: HIDOE Procurement and Contracts Branch (PCB) Waipahu Civic Center 94-275 Mokuola Street, Room 200 Waipahu, Hawaii 96797 THERE ARE NO EXCEPTIONS TO THIS PROPOSAL DUE DATE UNLESS THE DATE IS AMENDED IN WRITING BY THE PROCUREMENT AND CONTRACTS BRANCH.	2:00 p.m., March 12, 2019
Evaluation of Proposals	March 12, 2019 – March 15, 2019
Determination of Priority-Listed Offerors (if necessary)	TBD
Best and Final Offers (if necessary)	TBD
Contractor(s) Selected	On or about March 31, 2019
Contract Award	On or about March 31, 2019
Contract Commencement Date/Notice to Proceed	July 1, 2019

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 HIDOE will publish the questions as they are submitted including any background information provided with the question. The HIDOE at its sole discretion may omit questions which may be combined or paraphrase questions and background content for clarity.

The HIDOE'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 HIDOE 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 HIDOE 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 HIDOE 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 an 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 Pre-Proposal Conference

Interested Offerors are invited to participate in the Pre-Proposal Telephone Conference to be held on December 12, 2018, 9:00 a.m. HST. Attendance shall be voluntary but interested Offerors are encouraged to participate to gain an understanding of the breadth and scope of work involved under this RFP. It is the intent of the HIDOE to address questions concerning this RFP at this conference. Responses to any questions and those resulting in revisions to the original terms will be issued in writing as an addendum to this RFP.

Request(s) to participate in the Pre-Proposal Telephone Conference shall be emailed to nicole_agena@notes.k12.hi.us no later than December 11, 2018.

1.10 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.

1.11 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.

1.12 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:

- 1.12.1 Proposal received after specified deadline.
- 1.12.2 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).
- 1.12.3 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.
- 1.12.4 A Proposal signed by other than an authorized individual, or a Proposal not containing an original signature in ink.
- 1.12.5 A faxed or electronically submitted proposal will not be accepted or acknowledged.
- 1.12.6 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.
- 1.12.7 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).
- 1.12.8 Failure to possess proper licenses, facilities, equipment or sufficient experience to provide the proposed solution or to perform the work contemplated.
- 1.12.9 Evidence of any noncompliance with any applicable law or rule.

1.13 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.

1.14 Proposal as Part of the Contract

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

1.15 Additional Terms and Conditions

The HIDOE reserves the right to add terms and conditions during contract negotiations, if any. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

1.16 Offer Acceptance Period

The HIDOE'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.

1.17 Contract and Contract Performance Period

Formal written contracts will not be required for awards made in response to this solicitation. Successful Offerors will receive "Notice of Award by Price/Vendor List" letters to which will be attached the Price/Vendor List indicating awarded Offerors. This method of award does not waive compliance with the Scope of Work, Special Conditions, and General Conditions, Form AG-008 (as revised).

1.17.1 Price/Vendor List

A HIDOE Price/Vendor List will be issued as a result of any awards made against this solicitation. This Price/Vendor list will be made available to schools and offices for use throughout the contract period. The actual purchases will depend on the needs of the HIDOE and availability of funds.

HIDOE Schools and offices are not required to purchase from the resultant vendor list issued by the HIDOE PCB. Schools and offices are allowed to purchase outside of the vendor list, utilizing the applicable procurement method and its procedures.

1.17.2 Contract Period

Contract award shall commence on July 1, 2019 and shall end on June 30, 2020.

No work shall be undertaken by the successful Offeror(s) prior to the commencement date specified on the agreement. The HIDOE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to the official starting date.

1.17.3 Contract Renewal

The Contract may be extended for not more than two (2) 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. Contract extension(s) shall be contingent upon i) the need for continued services, ii) funding availability beyond the current fiscal year, and iii) satisfactory evaluation of performance and program management. As each option(s) to extend is mutually agreed upon, the CONTRACTOR shall be required to execute a supplement to the agreement for each additional period.

1.17.4 Performance Period

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

1.18 Contract Award

Award, if any, shall be made on a multiple-vendor basis to the responsible Offeror(s) with a minimum evaluation score of twenty-five (25) points and whose proposal the HIDEOE deems most advantageous in accordance with the evaluation criteria specified.

1.19 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 HIDEOE, 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.

1.20 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 HIDEOE, Procurement and Contracts Branch as soon as possible or by the deadline established by HIDEOE. 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 HIDEOE may allow after the Awardee has received the contract for execution shall be just cause for the annulment of the award. HIDEOE may award the contract to the next responsible Offeror or may resolicit, whichever is deemed to be in the best interest of the HIDEOE.

1.21 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.

1.22 Debriefing

The purpose of a debriefing is to inform the non-selected Offerors of the basis for the source selection decision and 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.

1.23 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

2.1.1 Background – Current Environment

HIDOE's vision for success, strategic plan, Strive HI System for tracking school progress, as well as status of the HIDOE's Every Student Succeeds Act (ESSA) plans can be found at:

<http://www.hawaiipublicschools.org>

2.1.2 Organization

The Hawaii Department of Education is a statewide school system of more than 250 school sites and is administered by a series of state, complex area, and complex-level teams and leaders. HIDOE is organized into 7 local school districts on 6 islands, further divided into 15 complex areas. Each complex area is comprised of two to four school complexes, consisting of a high school and the elementary and middle/intermediate schools that feed into it. Details of the HIDOE's organizational structure can be found at:

<http://www.hawaiipublicschools.org/ConnectWithUs/Organization/Pages/home.aspx>

The Leeward District (LD) is located on the island of Oahu, and is comprised of 43 schools organized into Complex Areas as follows:

Campbell-Kapolei Complex Area	Nanakuli-Waianae Complex Area	Pearl City-Waipahu Complex Area
CAMPBELL COMPLEX <ol style="list-style-type: none">1. Campbell High2. Ilima Intermediate3. Ewa Makai Middle4. Ewa Elementary5. Ewa Beach Elementary6. Holomua Elementary7. Iroquois Point Elementary8. Kaimiloa Elementary9. Keoneula Elementary10. Pohakea Elementary KAPOLEI COMPLEX <ol style="list-style-type: none">1. Kapolei High2. Kapolei Middle3. Barbers Point4. Ho'okele Elementary5. Kapolei Elementary6. Makakilo Elementary7. Mauka Lani Elementary8. Kapolei Middle II (opening approximately SY2020)	NANAKULI COMPLEX <ol style="list-style-type: none">1. Nanakuli High & Intermediate2. Nanaikapono Elementary3. Nanakuli Elementary WAIANAE COMPLEX <ol style="list-style-type: none">1. Waianae High2. Waianae Intermediate3. Leihoku Elementary4. Maili Elementary5. Makaha Elementary6. Waianae Elementary	PEARL CITY COMPLEX <ol style="list-style-type: none">1. Pearl City High2. Highlands Intermediate3. Kanoelani Elementary4. Lehua Elementary5. Manana Elementary6. Momilani Elementary7. Palisades Elementary8. Pearl City Elementary9. Pearl City Highlands Elementary10. Waiau Elementary WAIPAHU COMPLEX <ol style="list-style-type: none">1. Waipahu High2. Waipahu Intermediate3. August Ahrens Elementary4. Honowai Elementary5. Kaleiopuu Elementary6. Waikele Elementary7. Waipahu Elementary

2.1.3 Objectives and Outcome

The primary objective of the LD is to empower schools and provide access to various resources, tools, supports and assistance focused on the HIDOE Na Hopena A'o Goals:

Goal 1: Student Success;

Goal 2: Staff Success; and

Goal 3: Successful Systems of Support.

To accomplish this objective, LD anticipates the need for various supporting educational services and assistance from External Service Partners (Contractors) in implementing systems, practices, programs, and protocols (collectively Services) that are evidence based. These Services must often be customized to meet the specific and unique needs of each school. Services should be designed and delivered to identify improvement areas and develop and implement successful strategies that build school sustainability and reflect student achievement.

Through this process LD will be identifying high quality Contractors who possess the skillset, knowledge and experience in content, systems and programs that are necessary for school to support student, staff, and systems of success and achievement.

3. SCOPE OF WORK; PROJECT AND OFFEROR REQUIREMENTS

3.1 Scope of Work

The desired Services are an integral part of classroom learning, and support students through implementation of the HIDOE's strategic plan by creating 21st century learning environments to ensure that all students are college and career ready.

The LD is cognizant of the importance of building the internal capacity of schools to sustain the progress in student achievement at the same time implementing a data driven approach that addresses systemic changes in school culture, organization and management.

The successful Offeror (Contractor) will be expected to partner with LD and complex area superintendents, complex and school administrators, and school leadership teams to implement targeted actions and strategies described in the Offeror's proposal to address the specific needs identified in the academic plans for each complex and school.

In addition, the Contractor must be able to develop relationships and connections to school personnel in the delivery of Services to maximize the likelihood of success and buy-in. The Offeror must be able provide evidence that its services have achieved significant results with similar populations of students comparable to LD schools. The Contractor should explain how progress will be assessed or measured.

The scope of work expected from Contractors includes, but is not limited to:

- Planning sessions with complex/school personnel prior to the delivery of professional development sessions(s) to make certain that the Professional Development (PD) meets the specific needs of the school/ complex, delivery of the agreed upon PD, and post/debrief sessions after the PD session to reflect on effectiveness of PD, and determine follow up next steps to ensure future success
- Implementing best teaching practices
- Closing the achievement gap
- Institute whole school reforms based on best practices
- Implementing and supporting consistency, common core, inclusive practices, Response To Intervention (RTI) and Differentiated Instruction (DI), school design and innovative practices
- Leadership strategies for new or developing administrators
- Provide instructional coaching and training to teachers on standards-based teaching and learning
- How to conduct a Comprehensive Needs Assessment (CNA)
- How to conduct data analysis and school improvement planning
- How to train professional learning communities in the cycle of school improvement
- How to address the shifts in standards based instruction for English Language Arts (ELA) and Science, Technology, Engineering, and Math (STEM)
- How to develop instructional systems and comprehensive systems of support for all students, including the underserved, disaggregated, high achieving, disadvantaged and Social Emotional Learner
- How to develop rubrics for assessment and evaluation of teaching and learning
- How to integrate the Data Teams Cycle into curriculum planning and formative instruction.
- Developing and sustaining a learning environment that prepares all students to be college and career ready, including STEM programs
- Programs that may assist with data collection, management, and monitoring school success and support data driven decisions at all levels
- Programs that provide teaching and learning tools and resources for school administrators, teachers, staff and/or students
- Understanding school culture and environment and its impact on student learning
- Programs that include strategies and resources which allow students to direct their own learning and support student voice

Contractors may be required to work at school sites to address their needs, but may also provide services remotely, such as through video conferencing, or through electronic programs and databases as appropriate. Services may be delivered to a varied audiences and role groups including school administrators, leadership teams, teachers and support staff.

3.2 Offeror Qualifications

The purpose of the Offeror Qualifications section is to provide HDOE 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 contract period. Failure to maintain these requirements may result in cancellation of award or early, partial or termination of a contract.

Minimum Qualifications of the Offeror are as follows:

- 3.2.1 No less than two (2) consecutive years in business, demonstrating experience in successfully providing and delivering services to various school locations similar to the size and scope of this RFP.
- 3.2.2 Must have the capacity to manage and monitor administrative contract requirements.
- 3.2.3 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 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(12), 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 HDOE regarding any aspect of an offeror's proposal, such information shall be provided within two (2) business days of the HDOE's request unless otherwise stated or directed by HDOE.

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 HDOE'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 two (2) hard copies. In addition to hardcopies, a copy of the proposal shall be provided on a media stick, DVD, or CD, in PDF, or Microsoft Word, or compatible format.
- 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 Offeror's proposal shall be separated, preferably with index dividers. Proposals sections shall be organized in this order:

Proposal Table of Contents:	The table of contents shall clearly identify the material by section and by page number.	Required Template/Form:
Section 1:	Proposal Identification and Information Form	ATTACHMENT A
Section 2:	Executive Summary	ATTACHMENT B
Section 3:	Offeror Qualifications (including subsections: Offeror History and Background, Customer References, Project Team Organization and Project Team Staffing)	ATTACHMENT C
Section 4:	Subcontractors (if any, if none, include a statement to this effect)	ATTACHMENT D
Section 5:	Summary Menu of Services and Pricing	ATTACHMENT E
Section 6:	Data Sharing and Exchange Information Sheet	ATTACHMENT F
Section 7:	Sample Invoice	ATTACHMENT G
Section 8:	Optional Information	ATTACHMENT H
Section 9:	Proof of Compliance Documents	ATTACHMENT I

A fillable, electronic copy of the Attachments may be requested from the HIDOE RFP point of contact person named in Section 1 of this RFP.

Additional information describing specific requirements of each section follow.

4.7 Proposal Section 1: Proposal Identification and Information Form (ATTACHMENT 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.

4.8 Proposal Section 2: Executive Summary (ATTACHMENT B)

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:

4.8.1 Terms and Conditions - A statement that the Offeror understands and shall comply with all terms and conditions of the RFP (including the General Conditions.

Offeror shall not submit their organization's terms and conditions, standard contracts, or other agreements. General references to such items or attempts at complete substitution of such items may result in disqualification of Offeror's proposal.

4.8.2 Assumptions or Constraints in Performance of Services - A statement on whether the Proposal contains any assumptions or constraints present that limit or impact satisfactory fulfillment, performance and delivery of Services. Offeror shall identify and describe each such assumption and constraint and its effect upon Contractor's performance of Services.

4.8.3 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 HIDOE.

- 4.8.4 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.
- 4.8.5 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.
- 4.8.6 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.

4.9 Proposal Section 3: Offeror Qualifications and Staffing (ATTACHMENT C)

This section of the Proposal shall include the following:

- 4.9.1 Offeror History and Background. 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:
- General information about the Offeror's organization.
 - Information about Offeror's Corporate, and if any, additional locations, addresses, telephone numbers and website address as applicable.
 - Number of consecutive years of experience in successfully providing services.
 - A description of Offeror's operations and structure that demonstrates the Offeror's ability to service multiple requests for Services similar in size and scope of this RFP successfully.
- 4.9.2 Project Team Organization. The Offeror shall present an organizational chart of staff who will be assigned to work on the contract. This shall include the Offeror's and HIDEOE provided resources as defined to provide HIDEOE an understanding as to how the Offeror envisions utilizing its and HIDEOE's resources. Descriptive information for personnel, indicating their titles, major areas of responsibility and location, with proposed estimates of the staff-hours to be provided by each individual. A description of Offeror's ability to deliver services to the geographic area it proposes to service in relation to project team staffing available, should be clearly summarized.
- 4.9.3 Project Team Staffing. The Offeror shall include specific information regarding the role and function of its assigned staff. Offeror shall identify and provide brief documentation of staff expertise – list only staff with a track record of success in having worked with schools. The Offeror shall also provide resume or curriculum vitae for all staff who will be specifically assigned to the contract and provide a narrative description of their roles.

Resumes of key personnel shall highlight experiences on specific projects that may be relevant to this project. Resumes should contain information relating to each person's experience, education, and skills. This should include, but is not necessarily limited to, specific degrees, dates, names of employers, position titles, and educational institutions attended. 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.

- 4.9.4 Client References (up to two (2)). Offeror shall include at least one (1) but no more than two (2) recent client reference letters for whom the Offeror has successfully provided Services similar to the size and scope of this project. The reference must be able to attest to the quality level and reliability of all aspects of Offeror's work and services. The letters should be on the Client's letterhead and may include such information as a brief description of work performed for the client, and satisfaction level.

- 4.9.5 Project History List (three (3) projects). Offeror shall provide a listing of three (3) representative completed projects. The listing is to include the name, address, current telephone number and name of the Clients' employee most familiar with the project, as well as a brief description of the project, time period over which each project was completed, relevance to the proposed Service and any successful outcome.

4.10 Proposal Section 4: Subcontractors (ATTACHMENT D)

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 HIDEOE (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 HIDEOE 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
- Customer References
- Project Team Organization
- Project Team Staffing

4.11 Proposal Section 5: Summary Menu of Services and Pricing (ATTACHMENT E)

The Summary Menu of Services and Pricing shall include a description for each service, topic area or program the Offeror is interested in providing. Each service area or bundled service (combined package) shall be presented separately in narrative format to describe the process or approach used in working with complex areas or individual schools.

The Summary Menu of Services and Pricing must address tasks described in the scope of work, and any other tasks necessary, and specify all costs to be incurred within the contract period. 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 contract with a sub-contractor, the Offeror shall provide all necessary cost information regarding the subcontracted task.

If awarded a contract under this RFP, Attachment E, Summary Menu of Services and Pricing may be utilized to make the Contractor's information available for viewing by the interested state offices and complex area support staff and schools. Therefore, careful consideration should be given to the amount, type and presentation of the information Offerors include in the summary.

The Summary Menu of Services and Pricing shall follow the following sequence:

4.11.1 Contact Information Sheet/POC

The Contact Information Sheet must identify at least one (1) employee who will act as the HIDEOE's primary point-of-contact (POC) for this contract. This individual shall be capable of answering questions, resolving problems, and providing sales, ordering, and follow-up assistance. The POC shall be available to receive calls from the HIDEOE during regular business hours, Monday through Friday, excluding holidays.

4.11.2 Vision and Mission of Offeror's Approach

In this section Offeror describes the beliefs and values that drive its framework (approach) used in working with schools and in its ongoing conduct of business operations as well as any distinguishing, unique or innovative areas of focus or characteristics that set the Offeror apart. This section should reflect what core values and beliefs are shared with that of HIDOE and HIDOE's vision of success. An understanding of HIDOE's goals, objectives and areas of highest need should be evident. Offeror may also include descriptions of national education observations and trends that relate to Services provided and potential impact to HIDOE and Services delivered to HIDOE.

4.11.3 Service Details

Offeror should describe the services provided that will assist and enable HIDOE meet its goals of student success, staff success, and successful systems of support and outcome of preparing students to be college and career ready; Offeror need not limit the described services to those listed in Section 3.1 of this RFP.

Offeror should provide a concise summary description for each type of service, program, etc. offered rather than replicating the same description for each category of Service. Descriptions should include details, as applicable, including but not limited to: Service features, an explanation of how needs will be assessed, how recommendations for Services will be developed and designed, delivery/deployment methodology, general implementation timelines, or any other relevant factors or criteria that will help HIDOE understand the Service offered.

4.11.4 Value and Success

Offeror should describe the benefits, value, or expected outcomes of listed Services that HIDOE would realize or may expect as a result of engaging delivery or implementation of the Offeror's program. Offeror may consider identifying the goal of the Service or how the Service will address a cause or issue or solution. This description should include details of how success would be measured and evaluated.

4.11.5 Investment

Describe the resources, time, personnel and commitment, HIDOE should expect to invest if engaging the Service to fully realize its benefits.

4.11.6 Focus

Offeror should describe all role groups, participants, or the audience that the Service is designed for or benefit from, including a description of specific benefits to the individual, if applicable.

4.11.7 Sustainability

Offeror should describe how may be able to sustain results after Service implementation. This description may include but is not limited to an explanation of requirements HIDOE would need to meet to embed programs, protocols or practices into school routines, impact to HIDOE personnel and resources, transition methodologies and general timelines, as applicable.

4.11.8 Responsiveness

Offeror should describe responsiveness of Services in relation to school specific needs or issues. This includes but is not limited to a summary description of the extent customization of Services is possible, impact to HIDOE personnel and resources, process, and cautions and considerations of doing so.

4.11.9 Customer Support and Satisfaction

Offeror should describe access to supports that HDOE might expect. This may include type of supports made available such as for Service implementation, technical, or customer service. A description of all formats supports are made available (in person, website, help line, chat, etc.), how support is request, arranged, delivered, and hours of access should be included. A description of Offeror's customer satisfaction policy, and description of inquiry/dispute resolution procedures should be included.

4.11.10 Evidence of Effectiveness

The Offeror must present evidence of a successful track record of providing the described Services. Please provide summary evidence of effectiveness of Services described. A representative sampling of data that describe the achievement and success results of various districts or schools similar or comparable to LD schools in student population, needs, or requirements is also acceptable. There should be documentation based on formative and summative data, on the effectiveness of the approach with unique or identified focus areas or populations (e.g. high poverty, English Language Learners, Special Education, etc.). This may include such information as the number of schools or districts where positive impact was made, or documented strengths of the process, programs, or services provided. Evidence should also include externally validated data, as well as other available data sources.

4.11.11 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.

Summary Menu of Services and Pricing shall include separate pricing for each area of service available to be provided. Pricing should be presented in terms of the cost per day, which should be inclusive of consultant fee, air and ground travel and per diem, all costs (direct or indirect), and all applicable taxes, if applicable. Refer to Attachment E, Proposal Section 5, Summary Menu of Services and Pricing. If there are additional costs for materials, that should be stated separately and explained. Include options to customize services where a school can either request for fewer days or add additional days, and state the cost of each additional day of service. The summary description and pricing will be used to submit the request to purchase services to the School or Office Administrator on the PLOF (attached as Exhibit 1; see Appendix 2, Contract Minimum and Special Conditions for detailed process), document and must be approved for authorization to begin the services and a later approval for payment of services upon completion of the training.

4.12 **Proposal Section 6: Data Sharing and Exchange Information Sheet (ATTACHMENT F)**

The Data Sharing and Exchange Information Sheet, Attachment F, must be completed and included in this Proposal section. Offeror is advised that if awarded a Contract under this RFP, Offeror is required to comply with the corresponding terms and conditions of the Data Sharing Agreement, Appendix 1.

4.13 **Proposal Section 7: Sample Invoice (ATTACHMENT G)**

Offeror shall provide a sample of Offeror's usual and customary invoice. The invoice should be clear, legible, and in a generally accepted invoice format. The invoice must include at minimum the following information or fields:

4.13.1 Name of payee (vendor name);

4.13.2 Remittance address;

4.13.3 Invoice number field;

- 4.13.4 Customer bill to address field;
- 4.13.5 Description of the goods/services provided; and
- 4.13.6 Amount of payment requested for the described goods/services.

4.14 Proposal Section 8: Optional Information (ATTACHMENT H)

Offeror may include any brochures, catalogs, materials, standard pricing sheets, or any additional information deemed relevant to Services proposed. This optional information will not be considered for evaluation.

4.15 Proposal Section 9: Proof of Compliance Documents (ATTACHMENT I)

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:

- 4.15.1 Certificate of Compliance as issued by the Hawaii Compliance Express online system
- 4.15.2 Certificate of Insurance

4.16 Certification of Independent Cost Determination

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

- 4.16.1 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.
- 4.16.2 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.
- 4.16.3 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 58 points. Proposers must score a minimum of 25 points to be considered for award. Proposals that score less than 25 points will be rejected and shall not be considered for award.

Each question may receive a score of up to 2 points based on the following scale:

2 – the response or documentation fully meets or exceeds the stated requirement or criteria

1 – the stated requirement or criteria is partially met

0 – the requirement or criteria is not met

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.

Criteria	Points Possible:
	58
1. RFP Conformance	4
a. Offeror has completed and submitted all Offer Forms (Attachments), as applicable	2
b. Offeror's Proposal is organized by sections as required	2

2. Offeror Qualifications	6
a. Offeror describes its corporate experience including a minimum of two (2) consecutive years in business, and demonstrates successful delivery of Services to organizations similar to HIDOE	2
b. Offeror describes its corporate structure including office locations that may be made accessible to HIDOE in support of contracted Services	2
c. There are no material events (such as pending litigation or censure) or other factors that may adversely affect the Offeror's ability to perform the contracted Services	2
3. References (no more than 2 letters)	4
a. Recent (within 3 years), previous and/or current client's satisfaction with Proposer's Services demonstrated by strong referrals offering testimonial information on the positive impact of Services	2
b. References indicates a responsiveness to client	2
4. Project List	4
a. Offeror has provided a list describing three (3) representative projects completed successfully	2
b. Projects are relevant, and demonstrate sufficient performance history and company stability	2
5. Staffing	8
a. An organizational chart or other similar information is provided which describes the Offerors Project Team (including subcontractors, if any) structure and key staff designated for HIDOE contract Services	2
b. Resumes of key Project Team staff members indicate Team members possess the specialized skills, experience, and expertise relative to the proposed Services	2
c. Offeror's has identified at least one individual that will act as HIDOE's primary point-of-contact (POC) for this Contract	2
d. Project Team reflects adequate staffing resources are available to support and deliver the proposed Services	2
6. Vision and Mission of Offeror's Program Implementation and Approach	8
a. Approach/framework is described in a concise and succinct manner	2
b. Offerors description of its core values and beliefs demonstrate an understanding of HIDOE's goals, objectives, outcomes and needs and how Offeror's Services may complement or provide HIDOE with solutions	2
c. Offeror demonstrates an understanding of education trends and national observations that may have impact to HIDOE's implementation plans and Offeror's Services	2
d. Offeror describes and understanding of how school culture and the environment for learning impact student learning	2
7. Programs and Services	18
a. Offeror describes a methodology of how a schools needs including contributing causes or root causes of issues and problems will be identified and assessed	2
b. Offeror describes how proposed Services will benefit HIDOE and assist with attaining its goals, outcomes, or objectives at a realistic and achievable level	2
c. Services can be implemented within a reasonable period of time	2
d. Support is responsive, made available during school business hours, and is easily accessed	2
e. Offeror describes is customer service and satisfaction policies and procedures	2

f. Offeror describes Services that address rigor and relevance in classrooms that allow students to be creative and direct their own learning	2
g. Offeror describes evidence based Services	2
h. Offeror describes and understanding of how school culture and the environment for learning impact student learning	2
i. Offeror describes a methodology for school's sustainability of Services after initial implementation	2
8. Evidence of Effectiveness	6
a. Evidence includes externally validated data that documents success with various student populations and school levels	2
b. Evidence supports successful delivery and implementation of Services at organizations similar to HIDEOE	2
c. Evidence documents sustainability of progress over time	2

5.3 Preliminary Evaluation

A preliminary evaluation shall determine whether each proposal is considered responsive, thus justifying further evaluation. In its preliminary evaluation, the HIDEOE 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 HIDEOE 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 the three (3) highest ranked proposals.

5.5 Discussions with Priority-Listed Offerors

Discussions may be conducted with Priority Listed Offerors if deemed advantageous by the HIDEOE. Discussions will be limited to only "priority-listed" offerors and are held 1) to promote understanding of the HIDEOE requirements and the priority-listed offeror's proposals and 2) to facilitate arriving at a contract that will provide the best value to the HIDEOE, taking into consideration the evaluation criteria 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 HIDEOE, 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 HIDEOE'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 and 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, the Evaluation Committee will need to be re-convened and 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 HIDEOE's best interest to conduct additional discussions or change the HIDEOE's requirements by 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.

ATTACHMENTS, APPENDICES AND EXHIBITS:

Attachment A: Proposal Section 1 – Proposal Identification and Information Form

Attachment B: Proposal Section 2 – Executive Summary

Attachment C: Proposal Section 3 – Offeror Qualifications

Attachment D: Proposal Section 4 – Subcontractors

Attachment E: Proposal Section 5 – Summary Menu of Services and Pricing

Attachment F: Proposal Section 6 – Data Sharing and Exchange Information Sheet

Attachment G: Proposal Section 7 – Sample Invoice

Attachment H: Proposal Section 8 – Optional Information (brochures, catalogs, materials, and any additional information)

Attachment I: Proposal Section 9 – Proof of Compliance Documents (optional)

Appendix 1: HIDEOE Data Sharing Agreement

Appendix 2: Contract Minimum and Special Conditions

Appendix 3: State's General Conditions

Exhibit 1: Sample Price List Order Form & Authorization for Services and Payment (PLOF)

ATTACHMENT A, Proposal Section 1

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS) for Leeward District Schools and Offices RFP D19-034

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 Hawaii business incorporated or organized under the laws of the State of Hawaii; OR <input type="checkbox"/> A Compliant Non-Hawaii business 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

ATTACHMENT B, Proposal Section 2

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

EXECUTIVE SUMMARY

Instructions:

Complete this form in accordance with instructions provided in Section 4.8 of the RFP solicitation document. A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

ATTACHMENT C, Proposal Section 3

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

OFFEROR QUALIFICATIONS

Instructions:

Complete this form in accordance with instructions provided in Section 4.9 of the RFP solicitation document. A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

I. Offeror History and Background

II. Project Team Organization(☐check if chart follows this Attachment)

III. Project Team Staffing

IV. Client References (☐check if letters follow this Attachment)

V. Project History List

Name of Client#1:

Name of Client#1's
Contact Person:

Client#1's Phone Number:

*Date or period of
project/service:*

*Description of
project/services rendered:*

*Other Information or
comments:*

ATTACHMENT C, Proposal Section 3

Name of Client#2:	
Name of Client#2's Contact Person:	
Client#2's Phone Number:	
<i>Date or period of project/service:</i>	
<i>Description of project/services rendered:</i>	
<i>Other Information or comments:</i>	
Name of Client#3:	
Name of Client#3's Contact Person:	
Client#3's Phone Number:	
<i>Date or period of project/service:</i>	
<i>Description of project/services rendered:</i>	
<i>Other Information or comments:</i>	

ATTACHMENT D, Proposal Section 4

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

SUBCONTRACTORS

Instructions:

Complete this form in accordance with instructions provided in Section 4.10 of the RFP solicitation document. A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

ATTACHMENT E, Proposal Section 5

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

Summary Menu of Services and Pricing
Contact Information Sheet

Instructions:
Complete this form in accordance with instructions provided in Section 4.11 of the RFP solicitation document. This form may not be modified and reformatted.

A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

Company/Organization Name:	
Geographic Areas Served (check all that apply):	<input type="checkbox"/> Oahu <input type="checkbox"/> Kauai <input type="checkbox"/> Maui <input type="checkbox"/> Hawaii Island <input type="checkbox"/> All Islands <input type="checkbox"/> Other (specify):
Name of Primary Representative (eg Service Coordinator, Sales Representative):	
Title:	
Mailing Address:	
Phone Number:	
email address:	
Name of Alternate Representative (if any):	
Title:	
Mailing Address:	
Phone Number:	
email address:	
Required Components/Attachments (in the following order): <input type="checkbox"/> Detailed Narrative <input type="checkbox"/> Price Proposal	

Company/Organization Name:

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

Summary Menu of Services and Pricing
Detailed Narrative

Instructions:

- Complete this form in accordance with instructions provided in Section 4.11 of the RFP solicitation document.
- This form may not be modified and reformatted.
- Although there is no word or page limit to these sections, a concise and succinct narrative description is recommended.

I. Vision/Mission

II. Service Details

Description may be comprehensive of all series listed on the following Price Proposal Sheet. Reference line item number on the following Price Proposal Sheet if necessary.

III. Value and Success

IV. Investment

V. Focus

VI. Sustainability

Company/Organization Name:

VII. Customer Satisfaction and Support

VIII. Evidence of Effectiveness

Company/Organization Name:

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

Summary Menu of Services and Pricing
Price Proposal

Instructions:

Complete this form in accordance with instructions provided in Section 4.11 of the RFP solicitation document. This form may not be modified and reformatted.

*Unit rate/cost must be all inclusive of all costs, including taxes if applicable. Travel costs should be included only if applicable, must be reasonable, and limited to one round-trip airfare, car rental, lodging and per diem expenses for business travel segments. Daily rates should be based on a half-day period (at least 3.5 hours) or a full day period (at least 7 hours).

Line#	Service Title or Reference#	BRIEF Service Description (optional):	Unit rate/cost (must be all inclusive)*	Indicate per day, module, service, attendee, or other (specify if other)
Example	#TRN001, Education Training Day 1	Introductory Educational session targeted at implementing program for Administrators	\$3,000	day
	#TRN002, Education Training Subsequent Day	Subsequent Day Educational session targeted at implementing program for Administrators	\$2,000	day
A.				
B.				
C.				
D.				
E.				
F.				
G.				
H.				
I.				
J.				

Insert additional lines/pages as needed.

ATTACHMENT F, Proposal Section 6

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

Data Sharing and Exchange Information Sheet

Instructions: Complete this form in accordance with instructions provided in Section 4.12 of the RFP solicitation document. This form may not be modified and reformatted.
A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

1. In performance of this contract, will Personally Identifiable Information (PII) will be collected by your organization?

☐ No, stop here.

☐ Yes*, continue with questions 2-6. *Successful Offeror shall comply with all aspects of HIDOE's Data Sharing Agreement included in Exhibit 2, attached and incorporated into this RFP.

2. If yes, list all data items that will be collected (e.g. surveys responses [provide survey], interviews [provide interview questions or topics], student first name, student last name, student's assigned HIDOE identification number):

2a. Will data to be requested from HIDOE records/data systems (e.g. Student Information System: student ethnicity, 11th grade ACT scores, attendance data)?

Note: File/data format for data requested from HIDOE data systems will be determined by HIDOE.

2c. Role and Responsibility of HIDOE personnel, if any: (e.g. teachers will distribute and collect assent/consent forms and input data):

3. What is the reason, purpose and use of data requested? (e.g., data sharing/research/data collection activities, delivery of program/service/professional development)

3a. What are the desired outcomes of data sharing activities? How will this data sharing benefit you and your organization, HIDOE, and the larger field of study?

3b. Is there a final work product and deliverable? If yes, describe.

4. Where is that data secured, maintained, and stored?

ATTACHMENT F, Proposal Section 6

5. Who will have access to the information/data? <i>(list all individuals who will be accessing/viewing/analyzing HIDEOE data, adding rows as needed):</i>		
Individual's Name	Organization (if different)	Role(s) <i>(e.g. Evaluator, Data Analyst, systems maintenance)</i>

6. Describe your data protection plan. How will you ensure the security and privacy of both the data transfer/retrieval and data storage? <i>Note: File/data format for data requested from HIDEOE data systems will be determined by HIDEOE.</i>

ATTACHMENT G, Proposal Section 7

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

SAMPLE INVOICE

Instructions:

Use this Attachment as a divider or cover sheet. See requirements and instructions provided in Section 4.13 of the RFP solicitation document. A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

ATTACHMENT H, Proposal Section 8

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

Summary Menu of Services and Pricing
Optional Information

Use this Attachment as a cover sheet or divider.
Brochures, catalogs, materials and product price sheets, and any additional information as described in
Section 4.14 of the solicitation document may be attached.

This optional information will not be considered for evaluation.

ATTACHMENT I, Proposal Section 9

Comprehensive Assistance, Training, and Educational Resources and Services (CATERS)
for Leeward District Schools and Offices
RFP D19-034

PROOF OF COMPLIANCE DOCUMENTS

Instructions:

Use this Attachment as a divider or cover sheet. See requirements and instructions provided in Section 4.15 of the RFP solicitation document. A Microsoft Word version of this form may be requested from the RFP Point of Contact listed in Section 1 of this RFP solicitation document.

APPENDIX 1

Data Sharing Agreement

between

CONTRACTOR

and

Hawaii Department of Education

This data sharing agreement allows the Hawaii Department of Education (HIDOE) to share individual student or staff data and/or personally identifiable student information (hereafter “PII”) from education records to CONTRACTOR for the following purpose(s):

- Reference Request for Proposals No. RFP D19-034

This agreement authorizes the CONTRACTOR access to the data in accordance with the Family Educational Rights and Privacy Act (FERPA), 34 CFR §99.31, in order to conduct a research project on behalf of HIDOE. Disclosing data/information from education records to the CONTRACTOR in no way assigns the CONTRACTOR ownership of the data/information or records; therefore, the data/information and/or records may be re-disclosed only with written permission from HIDOE or otherwise in compliance with FERPA and its regulations.

Other related documents will be kept on file by HIDOE for reference, review and in the course of an audit, including certificates of completion from the project lead(s)/principal investigator(s) listed in the attached work plan for the online training “FERPA 101: For Local Education Agencies,” available at <https://studentprivacy.ed.gov/>.

1. Names and positions of non-HIDOE personnel authorized to access the data:
 - Reference Request for Proposals No. RFP D19-034, Attachment F, Data Sharing and Exchange Information Sheet.

Should staff change over the course of the project, the CONTRACTOR must inform HIDOE of any changes to the list above by requesting a modification to the Contract. Upon entering into the project, a new project team member will be required to adhere to the terms set forth in this data sharing agreement.

2. Specific data authorized for sharing:

HIDOE will share the following data with the CONTRACTOR under the study or evaluation exception in FERPA, 34 CFR §99.31(a)(6)(i):

- Reference Request for Proposals No. RFP D19-034, Attachment F, Data Sharing and Exchange Information Sheet.

3. Limitations to the use and release of the data:

The CONTRACTOR is authorized by way of this agreement to access the specified data and use said data only to meet the purpose(s) of this agreement. If the data, as a whole, that are presented to the CONTRACTOR contain PII, the entire data set is considered PII and should be handled as

such, and is protected under FERPA and this agreement. HIDOE maintains the right to conduct audits or other monitoring activities of the CONTRACTOR policies, procedures and systems. In the event that a violation occurs, the CONTRACTOR may be ineligible to receive PII data for a minimum of five years. HIDOE also reserves the right to pursue legal redress related to the violation. HIDOE has final decision-making authority for all disputes related to this agreement. In the event the agreement is terminated, all data and information derived by the data will be destroyed upon notification of the termination and the authorized representative shall send written verification of the destruction to HIDOE.

4. Data destruction protocols employed by the CONTRACTOR :

The CONTRACTOR agrees to destroy the data within 30 days after the end date of this agreement. This requirement does not apply to signed consent forms, which, in accordance with 45 CFR §46.115(b) “IRB Records,” may be retained for three years after completion of the research.

5. Data protection plan:

- Reference Request for Proposals No. RFP D19-034, Attachment F, Data Sharing and Exchange Information Sheet.

6. Description of disciplinary policy for FERPA violation:

The CONTRACTOR will fully comply with FERPA by protecting the privacy of student records and the confidentiality of all data in their possession. Should an unintentional violation arise, the CONTRACTOR will report it immediately to HIDOE and take the necessary steps to come into compliance as well as deal with violators within CONTRACTOR’s applicable personnel policies and procedures. In the event the CONTRACTOR learns of a security breach involving the data, the CONTRACTOR must report it immediately to HIDOE as outlined in the guidance document, “Guidelines for Notification of Security Breaches of Personal Information” (available at bit.ly/SecBreachGuide) so that breach notification can occur as required by Hawaii Revised Statute 487N. Any breach is the responsibility and liability of the CONTRACTOR, which, by entering into this agreement, agrees to indemnify and defend HIDOE should HIDOE be found liable as a result of the breach.

Even if HIDOE shares de-identified data with the CONTRACTOR, the CONTRACTOR will provide HIDOE with a copy of the study results or final report of the study prior to publication for review to ensure that no PII is contained with the document. This includes data such as aggregated counts that are small enough to allow a reasonable person in the school community to identify the student(s) with reasonable certainty.

APPENDIX 2

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: Tammy Keller
Telephone: (808) 692-8000
Facsimile: (808) 692-7899
E-mail: tammy_keller@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 HIDOE's Point-of-Contact

The CA has designated the following person(s) 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:

- 1.2.1 School Administrator or his/her duly authorized representative or successor
- 1.2.2 POC contact information is identified on the respective Price List Order Form (PLOF) and corresponding purchase order.

1.3 Price/Vendor List Quotations and Orders

The HIDOE will place orders with the CONTRACTOR(s) as services are needed during the contract period utilizing the Price List Order Form and Authorization for Services and Payment (PLOF), attached as Exhibit 1.

Should a School or Office outside of the Leeward District find that this Price List suits their purpose, the School or Office may participate by adhering to the instructions and procedures herein.

CONTRACTOR shall acknowledge quote request within two (2) business days, and schedule meeting or call with requestor within five (5) business days of initial request if further clarification or coordination is

required. CONTRACTORS not fulfilling this requirement may be reported to the HIDEO PCB using the *DOE Form 12, Evaluation Form*.

Following an approved and confirmed PLOF, a corresponding purchase order will be issued. The CONTRACTOR shall honor all orders received during the contract period and deliver according to the contract terms and within the required delivery time.

Upon the ordering school or office's request, the CONTRACTOR shall furnish their Catalog including product descriptions and specifications by mail, hand-delivery, or online. There shall be no additional charge for the catalog.

1.4 Vendor and Product Evaluation

Evaluation: Vendor or Product, *DOE Form 12*, is made available to schools and offices for the purpose of addressing their concerns on the price/vendor list contract resulting from this solicitation.

Remedies. In the event of a complaint regarding product quality, the CONTRACTOR shall follow up on the complaint(s) with the manufacturer and respond to HIDEO PCB as to what remedies have or will be taken to correct the problem. In the event of a complaint regarding CONTRACTOR's service or CONTRACTOR's staff, the CONTRACTOR shall be sent a copy of the complaint. CONTRACTOR shall meet with or contact the user that issued the complaint to resolve the problem. This shall take place within one week of notification. CONTRACTOR shall contact and inform HIDEO PCB as to the correct measures taken to resolve the complaint.

Should the CONTRACTOR consistently receive complaints of poor service or refuse to resolve the complaints, the Procurement Officer reserves the right to terminate the contract with the CONTRACTOR and/or initiate the debarment process pursuant to HAR Chapter 3-126, Legal and Contractual Remedies. The resolving of complaints pursuant to product and CONTRACTOR evaluation notifications shall be done at no additional charge to the STATE.

1.5 Sales Report

CONTRACTOR is responsible for submitting summary sales reports to the Contract Administrator indicating the total cost to the STATE for services provided through this contract. When requested, the summary report provided shall be itemized by school, and service type/description, and shall include each item purchased and the price charged. Summary sales reports may be requested periodically throughout this contract period. In any case, an annual report is due no later than thirty (30) days after June 30th of each contract year, and shall be sent to the following address:

Hawaii Department of Education
Leeward Oahu District Office
Kakuhihewa State Office Building
601 Kamokila Boulevard, #588
Kapolei, HI 96707
Attn: T.Keller

Failure of the CONTRACTOR to submit the reports as required may result in termination of the contract.

1.6 Invoicing

The CONTRACTOR shall submit an invoice upon completion of services to the specified school/office specified on the PLOF and Purchase Order. The invoice must be clearly legible and must be in a generally accepted invoice format. The invoice must contain the following information, at a minimum:

- Name of payee (CONTRACTOR) which must correspond to information provided on Offeror's Proposal Identification and Information Form (Attachment A);
- Remittance address;
- Invoice number;
- Invoice date;
- Description of the goods/services provided including date(s) of service(s);
- Amount of payment requested;
- Bill to name and address (Name and address of purchasing school/office); and
- Price/vendor list number.

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.

1.7 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 §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 §103-10, HRS.

1.8 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/>.

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

1.9 Availability of Funds

This contract is subject to the availability of funds. Pursuant to §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.

1.10 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 HIDEOE. All persons engaged in performing the work covered by the Contract shall be considered employees of the CONTRACTOR.

1.11 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 HIDEOE 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 HIDEOE. Personnel changes that are not approved by the CA may be grounds for Contract termination.

1.12 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:

- 1.12.1 Any employee, agent or volunteer's license required to perform services under this Contract is or has been suspended, conditioned, revoked, expired, or terminated;
- 1.12.2 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;
- 1.12.3 Any employee, agent or volunteer is or has been convicted of a fraud or felony;
- 1.12.4 Any claim, judgment or settlement in which the CONTRACTOR or any of its employees, agents or volunteers is or has been named a defendant;

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.

1.13 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.

The HIDOE may require the CONTRACTOR to reimburse monies paid, may seek associated damages, and relief in accordance with law.

1.14 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>
General Liability , Commercial (Occurrence Form)	\$2,000,000 aggregate \$1,000,000 combined single limit per occurrence for bodily injury and property damage
Automobile Liability 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.

1.15 Inspection and Procedural Changes; Relief Available to State

All work is subject to inspection, evaluation, and approval by the CA. The HIDEOE 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 HIDEOE may determine CONTRACTOR is in non-compliance with Contract requirements and may:

- 1.15.1 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;
- 1.15.2 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.
- 1.15.3 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.

1.16 Federal Funds

- 1.16.1 This contract may involve the use of federal funds.

The STATE and CONTRACTOR shall be guided by and subject to the provisions of all Federal and State regulations, directives, guidance and circulars issued for the purposes of implementing the federal program standards.

STATE shall provide the CONTRACTOR with specific Federal and/or State requirements including but not limited to reporting requirements, funding allocations, and timeframes, as they are issued or are otherwise made available to the STATE by the Federal and State government, which requirements shall be binding on the CONTRACTOR as a condition of the CONTRACTOR's performance and as a condition of receipt of funds under this agreement.

It is expressly understood and agreed that the obligation of the STATE to proceed under this contract is conditioned upon the appropriation of funds by the federal government and/or the appropriation of funds by the Hawaii State Legislature and the receipt of federal and/or state

funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the Federal government to provide funds of the of the State of Hawaii to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the STATE, the STATE shall have the right to terminate this agreement without damage, penalty, cost or expenses to the State of any kind whatsoever. The STATE shall notify the CONTRACTOR of its right to terminate this agreement in writing. The effective date of termination shall be as specified in the notice of termination.

- 1.16.2 Suspension and/or Debarment – CONTRACTOR certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transaction by any federal department or agency; (b) have, within a three (3) year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements of receiving stolen property, and (d) have, within a three (3) year period preceding this Contract, had one or more public transactions (federal, state or local) terminated because of default. See System for Award Management (SAM) at <https://www.sam.gov/>

1.17 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 data sharing agreement (attached as Exhibit 2) 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.

Contractor, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The Contractor shall provide the HDOE 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 HDOE and shall safeguard and protect such documents from unauthorized use, handling, or viewing. Contractor shall be liable to the HDOE 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. The Contractor shall assume liability responsibility for records protection and for the inappropriate or unlawful release of Confidential Information. The Contractor shall return all documents containing Confidential Information upon completion of the services Contractor is contracted to provide under this Agreement.

- 1.17.1 Prior Written Approval. The 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.
- 1.17.2 In the event of termination of this Contract, Contractor shall return to the 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.

1.18 Ownership of Documents

General Conditions paragraph 26 entitled "Ownership Rights and Copyright" is deleted entirely and replaced with the following:

All documents and reports and student data/records developed or generated under this contract shall be the sole property of the STATE. CONTRACTOR retains ownership of any proprietary or copyrighted materials, data, software, technologies, test items, test forms that are previously developed, owner and/or copyrighted by the CONTRACTOR and used or adapted for use under this contract.

1.19 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 3
STATE'S GENERAL CONDITIONS

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

EXHIBIT 1

Price List Order Form (PLOF)

Sample Price List Order Form and Authorization for Services (PLOF) is attached.

Price List Order Form (PLOF)
RFP/Price List#

Instructions

- ☐ Schools/Offices review the Price List for detailed instructions and to view approved Contractor's menu/offerings.
- ☐ Schools/Offices may request quotations to obtain information needed to complete this PLOF.
- ☐ School/Office completes this PLOF specifying details of order, payment schedule, etc.
- ☐ Principal or Responsible Administrator authorizes/approves order; services may commence upon approval.
- ☐ School transmits copy of approved PLOF to Contractor; Contractor acknowledges receipt.
- ☐ School/Payor issues Purchase Order (reference PL# in approval field of PO).
- ☐ Upon satisfactory delivery of order, Contractor submits invoice in accordance with PO and approved PLOF.
- ☐ A copy of the approved PLOF must be attached to each ATP.
- ☐ Provided changes, adjustments, corrections, and/or revisions are legible and clear, they be made directly on this PLOF.
- ☐ Any changes must be initialed and dated by the DOE Principal/Administrator.

Section A - Contractor Information

Contractor:		Date PLOF transmitted:	
Name of Contact:		Via (enter email address or fax#):	

Section B - DOE Purchaser Identification

School Name:		Requestor/Contact Name:	
Delivery Address: <small>(school address, city, zip)</small>		Contact's Phone Number:	
		Contact's email address:	
Bill to Name & Address (if different):		Billing Contact Name & Number (SASA or Acct Clerk):	

Section C - Order Details

	Description <small>(include service dates if available, if not stated on PLOF, service dates MUST be stated on PO)</small>	Rate/Price	Payment <small>(One time upon satisfactory delivery unless otherwise specified)</small>	PO Number <small>(optional field)</small>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
Total Price		\$ -		

Section D - Authorization/Approval (services may commence upon approval)

Administrator Name (type)	Signature	Date