

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.

Number:	RFP F19-091
Title:	Applied Behavior Analysis (ABA) Services (Statewide)
Deadline:	2:00 p.m. Hawaii Standard Time, March 28, 2019
Contact Person:	Rex Shilo
Contact's e-mail Address:	Rex_Shilo@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.:	

State of Hawaii
Hawaii Department of Education
Office of Student Support Services
Special Needs Section

Request for Proposals

RFP No. F19-091

Applied Behavior Analysis (ABA) Services

(Statewide)

February 11, 2019

Note: *It is the applicant's responsibility to check the public procurement notice website, the request for proposals website, or to contact the RFP point-of-contact identified in the RFP for any addenda issued to this RFP. The State shall not be responsible for any incomplete proposal submitted as a result of missing addenda, attachments or other information regarding the RFP.*

February 11, 2019

**REQUEST FOR PROPOSALS
APPLIED BEHAVIOR ANALYSIS (ABA) SERVICES (Statewide)
RFP F19-091**

The Hawaii Department of Education (HIDOE) Special Needs Section is requesting proposals from qualified providers to furnish Applied Behavior Analysis (ABA) services to eligible HIDOE students statewide. ABA services are time limited interventions designed to improve student behavior and educational outcomes. The contract term will be from July 1, 2019 through June 30, 2020. Multiple contracts may be awarded under this request for proposals (RFP).

Proposals shall be mailed, postmarked by the United States Postal Service on or before March 28, 2019, and received no later than 10 days from the submittal deadline. Hand delivered proposals shall be received no later than 2:00 p.m., Hawaii Standard Time (HST), on March 28, 2019, at the drop-off site designated on the Proposal Mail-in and Delivery Information Sheet. Proposals postmarked or hand delivered after the submittal deadline shall be considered late and rejected. There are no exceptions to this requirement.

Due to the substantial similarity to other RFPs for the same services issued by the HIDOE in the past, and potential applicants being already familiar with the requirements of the RFP, the orientation meeting is waived. However, interested applicants may submit questions in writing (fax or e-mail).

The deadline for submission of written questions is 2:00 p.m., HST, on February 22, 2019. All written questions will receive a written response from the HIDOE on or about March 11, 2019.

Inquiries regarding this RFP should be directed to Rex Shilo, Procurement and Contracts Branch at 94-275 Mokuola St, Room 200, Waipahu, Hawaii 96797, by telephone at (808) 675-0130, or via email at Rex_Shilo@notes.k12.hi.us.

PROPOSAL MAIL-IN AND DELIVERY INFORMATION SHEET

**NUMBER OF COPIES TO BE SUBMITTED:
ONE (1) ORIGINAL
AND
FOUR (4) COPIES**

ALL MAIL-INS SHALL BE POSTMARKED BY THE UNITED STATES POSTAL SERVICE (USPS) NO LATER THAN **March 28, 2019** and received by the state purchasing agency no later than **10 days** from the submittal deadline.

All Mail-ins

Hawaii Department of Education
Procurement and Contracts Branch
Waipahu Civic Center
94-275 Mokuola Street, Room 200
Waipahu, Hawaii 96797

RFP COORDINATOR

Rex Shilo, HIDOE Procurement Office
For further info. or inquiries
Phone: (808) 675-0130
(interest forms, written questions, etc.)

ALL HAND DELIVERIES SHALL BE ACCEPTED AT THE FOLLOWING SITES UNTIL **2:00 P.M., Hawaii Standard Time (HST), March 28, 2019**. Deliveries by private mail services such as FEDEX shall be considered hand deliveries. Hand deliveries shall not be accepted if received after **2:00 p.m. March 28, 2019**.

Drop-off Site

Hawaii Department of
Education
Procurement and Contracts
Branch
Waipahu Civic Center

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Section 1

Administrative Overview

Section 1

Administrative Overview

Applicants are encouraged to read each section of the RFP thoroughly. While sections such as the administrative overview may appear similar among RFPs, state purchasing agencies may add additional information as applicable. It is the responsibility of the applicant to understand the requirements of *each* RFP.

1.1 Procurement Timetable

Note that the procurement timetable represents the State's best estimated schedule. If an activity on this schedule is delayed, the rest of the schedule will likely be shifted by the same number of days. Contract start dates may be subject to the issuance of a notice to proceed.

Activity

Scheduled Date

Public notice announcing Request for Proposals (RFP)	February 11, 2019
Distribution of RFP	February 11, 2019
RFP orientation session	waived
Closing date for submission of written questions for written responses	February 22, 2019
State purchasing agency's response to applicants' written questions	March 11, 2019
Discussions with applicant prior to proposal submittal deadline (optional)	To Be Determined
Proposal submittal deadline	March 28, 2019
Discussions with applicant after proposal submittal deadline (optional)	To Be Determined
Final revised proposals (optional)	To Be Determined
Proposal evaluation period	March 28, 2019 - April 18, 2019
Provider selection	Week of April 22, 2019
Notice of statement of findings and decision	Week of April 29, 2019
Contract start date	July 1, 2019

1.2 Website Reference

The State Procurement Office (SPO) website is <http://hawaii.gov/spo>

Item	Website
1 Procurement of Health and Human Services	http://spo.hawaii.gov/for-vendors/vendor-guide/methodsof-procurement/health-human-services/
2 RFP website	https://hands.ehawaii.gov/hands/opportunities
3 Hawaii Revised Statutes (HRS) and Hawaii Administrative Rules (HAR) for Purchases of Health and Human Services	http://spo.hawaii.gov Click on the “References” tab.
4 General Conditions, AG-103F13	http://spo.hawaii.gov/wpcontent/uploads/2013/12/103F13.pdf
5 Forms	http://spo.hawaii.gov Click on the “Forms” tab.
6 Cost Principles	http://spo.hawaii.gov Search: Keywords “Cost Principles”
7 Protest Forms/Procedures	http://spo.hawaii.gov/for-vendors/vendor-guide/protests-for-health-and-human-services/
8 Hawaii Compliance Express (HCE)	http://spo.hawaii.gov/hce/
9 Hawaii Revised Statutes	http://capitol.hawaii.gov/hrscurrent
10 Department of Taxation	http://tax.hawaii.gov
11 Department of Labor and Industrial Relations	http://labor.hawaii.gov
12 Department of Commerce and Consumer Affairs, Business Registration	http://cca.hawaii.gov click “Business Registration”
13 Campaign Spending Commission	http://ags.hawaii.gov/campaign/
14 Internal Revenue Service	http://www.irs.gov/
(Please note: website addresses may change from time to time. If a State link is not active, try the State of Hawaii website at http://hawaii.gov)	

1.3 Authority

This RFP is issued under the provisions of the Hawaii Revised Statutes (HRS) Chapter 103F and its administrative rules. All prospective applicants are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a

valid executed proposal by any prospective applicant shall constitute admission of such knowledge on the part of such prospective applicant.

1.4 RFP Organization

This RFP is organized into five sections:

Section 1, Administrative Overview: Provides applicants with an overview of the procurement process.

Section 2, Service Specifications: Provides applicants with a general description of the tasks to be performed, delineates provider responsibilities, and defines deliverables (as applicable).

Section 3, Proposal Application Instructions: Describes the required format and content for the proposal application.

Section 4, Proposal Evaluation: Describes how proposals will be evaluated by the state purchasing agency.

Section 5, Attachments: Provides applicants with information and forms necessary to complete the application.

1.5 Contracting Office

The Contracting Office is responsible for overseeing the contract(s) resulting from this RFP, including system operations, fiscal agent operations, and monitoring and assessing provider performance. The Contracting Office is:

Annemarie Kalama, Administrator for Special Needs Section
HIDOE, Office of Student Support Services, Special Needs Section
Address: 475 22nd Avenue, Room 108, Honolulu, Hawaii 96816
Telephone: (808) 305-9806 Fax: (808) 733-4475
Email: Annemarie_Kalama@notes.k12.hi.us

1.6 RFP Point-of-Contact

From the release date of this RFP until the selection of the successful provider(s), any inquiries and requests shall be directed to the sole point-of-contact identified below.

Rex Shilo, Procurement and Contracts Support Specialist
HIDOE Procurement and Contracts Branch
94-275 Mokuola Street, Room 200
Waipahu HI 96797
Tel: (808) 675-0130
Email: Rex_Shilo@notes.k12.hi.us

1.7 Orientation

Due to the substantial similarity to the other RFP for the same services issued by the HIDOE in the past, and potential applicants being already familiar with the requirements of the RFP, the orientation meeting is waived. However, interested applicants may submit questions in writing (fax or email).

1.8 Submission of Questions

Applicants may submit questions to the RFP point-of-contact identified in Section 1.6. Written questions should be received by the date and time specified in Section 1.1 Procurement Timetable. The purchasing agency will respond to written questions by way of an addendum to the RFP.

Deadline for submission of written questions:

Date: February 22, 2019 **Time:** 2:00 p.m. HST

State agency responses to applicant written questions will be provided by:

Date: March 11, 2019

1.9 Submission of Proposals

A. **Forms/Formats** - Forms, with the exception of program specific requirements, may be found on the State Procurement Office website referred to in Section 1.2, Website Reference. Refer to the Section 5, Proposal Application Checklist for the location of program specific forms.

1. **Proposal Application Identification (Form SPOH-200)**. Provides applicant proposal identification.
2. **Proposal Application Checklist**. The checklist provides applicants specific program requirements, reference and location of required RFP proposal forms, and the order in which all proposal components should be collated and submitted to the state purchasing agency.
3. **Table of Contents**. A sample table of contents for proposals is located in Section 5, Attachments. This is a sample and meant as a guide. The table of contents may vary depending on the RFP.
4. **Proposal Application (Form SPOH-200A)**. Applicant shall submit comprehensive narratives that address all proposal requirements specified in Section 3, Proposal Application Instructions, including a cost proposal/budget, if required.

B. **Program Specific Requirements**. Program specific requirements are included in Sections 2 and 3 as applicable. Required Federal and/or State certifications are listed on the Proposal Application Checklist in Section 5.

- C. **Multiple or Alternate Proposals.** Multiple or alternate proposals shall not be accepted unless specifically provided for in Section 2. In the event alternate proposals are not accepted and an applicant submits alternate proposals, but clearly indicates a primary proposal, it shall be considered for award as though it were the only proposal submitted by the applicant.
- D. **Provider Compliance.** All providers shall comply with all laws governing entities doing business in the State.
- **Tax Clearance.** Pursuant to HRS §103-53, as a prerequisite to entering into contracts of \$25,000 or more, providers are required to have a tax clearance from the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). Refer to Section 1.2, Website Reference for DOTAX and IRS website address.
 - **Labor Law Compliance.** Pursuant to HRS §103-55, providers shall be in compliance with all applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety. Refer to Section 1.2, Website Reference for the Department of Labor and Industrial Relations (DLIR) website address.
 - **Business Registration.** Prior to contracting, owners of all forms of business doing business in the state except sole proprietorships, charitable organizations, unincorporated associations and foreign insurance companies shall be registered and in good standing with the Department of Commerce and Consumer Affairs (DCCA), Business Registration Division. Foreign insurance companies must register with DCCA, Insurance Division. More information is on the DCCA website. Refer to Section 1.2, Website Reference for DCCA website address.

Providers may register with Hawaii Compliance Express (HCE) for online compliance verification from the DOTAX, IRS, DLIR, and DCCA. There is a nominal annual registration fee (currently \$12) for the service. The HCE's online "Certificate of Vendor Compliance" provides the registered provider's current compliance status as of the issuance date, and is accepted for both contracting and final payment purposes. Refer to Section 1.2, Website Reference, for HCE's website address.

Providers not utilizing the HCE to demonstrate compliance shall provide paper certificates to the purchasing agency. All applications for applicable clearances are the responsibility of the providers. All certificates must be valid on the date it is received by the purchasing agency. The tax clearance certificate shall have an original green certified copy stamp and shall be valid for six months from the most recent approval stamp date on the certificate. The DLIR certificate is valid for six months from the date of issue. The DCCA certificate of good standing is valid for six months from date of issue.

- E. **Wages Law Compliance.** If applicable, by submitting a proposal, the applicant certifies that the applicant is in compliance with HRS §103-55, Wages, hours, and

working conditions of employees of contractors performing services. Refer to Section 1.2, Website Reference for statutes and DLIR website address.

- F. **Campaign Contributions by State and County Contractors.** HRS §11-355 prohibits campaign contributions from certain State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. Refer to Section 1.2, Website Reference for statutes and Campaign Spending Commission website address.
- G. **Confidential Information.** If an applicant believes any portion of a proposal contains information that should be withheld as confidential, the applicant shall request in writing nondisclosure of designated proprietary data to be confidential and provide justification to support confidentiality. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal to facilitate eventual public inspection of the non-confidential sections of the proposal.

Note that price is not considered confidential and will not be withheld.

- H. **Proposal Submittal.** All mail-ins shall be postmarked by the United States Postal System (USPS) and received by the State purchasing agency no later than the submittal deadline indicated on the attached Proposal Mail-in and Delivery Information Sheet, or as amended. All hand deliveries shall be received by the State purchasing agency by the date and time designated on the Proposal Mail-In and Delivery Information Sheet, or as amended. Proposals shall be rejected when:
 1. Postmarked after the designated date; or
 2. Postmarked by the designated date but not received within 10 days from the submittal deadline; or
 3. If hand delivered, received after the designated date and time.

The number of copies required is located on the Proposal Mail-In and Delivery Information Sheet. Deliveries by private mail services such as FEDEX shall be considered hand deliveries and shall be rejected if received after the submittal deadline. Dated USPS shipping labels are not considered postmarks.

Proposals must be mailed or delivered as prescribed above. Proposals submitted via facsimile, electronic media such as diskettes or CDs, or by other electronic means **will not** be accepted.

The applicant bears the sole responsibility for any such improperly submitted proposal.

1.10 Discussions with Applicants

- A. **Prior to Submittal Deadline.** Discussions may be conducted with potential applicants to promote understanding of the purchasing agency's requirements.
- B. **After Proposal Submittal Deadline.** Discussions may be conducted with applicants whose proposals are determined to be reasonably susceptible of being

selected for award, but proposals may be accepted without discussions, in accordance with HAR §3-143-403.

1.11 Opening of Proposals

Upon the state purchasing agency's receipt of a proposal at a designated location, proposals, modifications to proposals, and withdrawals of proposals shall be date-stamped, and when possible, time-stamped. All documents so received shall be held in a secure place by the state purchasing agency and not examined for evaluation purposes until the submittal deadline.

Procurement files shall be open to public inspection after a contract has been awarded and executed by all parties.

1.12 Additional Materials and Documentation

Upon request from the state purchasing agency, each applicant shall submit additional materials and documentation reasonably required by the state purchasing agency in its evaluation of the proposals.

1.13 RFP Amendments

The State reserves the right to amend this RFP at any time prior to the closing date for final revised proposals.

1.14 Final Revised Proposals

If requested, final revised proposals shall be submitted in the manner and by the date and time specified by the state purchasing agency. If a final revised proposal is not submitted, the previous submittal shall be construed as the applicant's final revised proposal. *The applicant shall submit **only** the section(s) of the proposal that are amended, along with the Proposal Application Identification Form (SPOH-200).* After final revised proposals are received, final evaluations will be conducted for an award.

1.15 Cancellation of Request for Proposal

The RFP may be canceled 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 State.

1.16 Costs for Proposal Preparation

Any costs incurred by applicants in preparing or submitting a proposal are the applicants' sole responsibility.

1.17 Provider Participation in Planning

Provider(s), awarded a contract resulting from this RFP,

☐ are required

☒ are not required

to participate in the purchasing agency's future development of a service delivery plan pursuant to HRS §103F-203.

Provider participation in a state purchasing agency's efforts to plan for or to purchase health and human services prior to the release of a RFP, including the sharing of information on community needs, best practices, and providers' resources, shall not disqualify providers from submitting proposals, if conducted in accordance with HAR §§3-142-202 and 3-142-203.

1.18 Rejection of Proposals

The State reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in this RFP and which demonstrate an understanding of the problems involved and comply with the service specifications. Any proposal offering any other set of terms and conditions contradictory to those included in this RFP may be rejected without further notice.

A proposal may be automatically rejected for any one or more of the following reasons:

- (1) Rejection for failure to cooperate or deal in good faith. (HAR §3-141-201)
- (2) Rejection for inadequate accounting system. (HAR §3-141-202)
- (3) Late proposals (HAR §3-143-603)
- (4) Inadequate response to request for proposals (HAR §3-143-609)
- (5) Proposal not responsive (HAR §3-143-610(a)(1))
- (6) Applicant not responsible (HAR §3-143-610(a)(2))

1.19 Notice of Award

A statement of findings and decision shall be provided to each responsive and responsible applicant by mail upon completion of the evaluation of competitive purchase of service proposals.

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

No work is to be undertaken by the provider(s) awarded a contract prior to the contract commencement date. The State of Hawaii is not liable for any costs incurred prior to the official starting date.

1.20 Protests

Pursuant to HRS §103F-501 and HAR Chapter 148, an applicant aggrieved by an award of a contract may file a protest. The Notice of Protest form, SPOH-801, and related forms are available on the SPO website. Refer to Section 1.2, Website Reference for website address. Only the following matters may be protested:

- (1) A state purchasing agency's failure to follow procedures established by Chapter 103F of the Hawaii Revised Statutes;
- (2) A state purchasing agency's failure to follow any rule established by Chapter 103F of the Hawaii Revised Statutes; and
- (3) A state purchasing agency's failure to follow any procedure, requirement, or evaluation criterion in a request for proposals issued by the state purchasing agency.

The Notice of Protest shall be postmarked by USPS or hand delivered to 1) the head of the state purchasing agency conducting the protested procurement and 2) the procurement officer who is conducting the procurement (as indicated below) within five working days of the postmark of the Notice of Findings and Decision sent to the protestor. Delivery services other than USPS shall be considered hand deliveries and considered submitted on the date of actual receipt by the state purchasing agency.

Head of State Purchasing Agency	Procurement Officer
Name: Lois Mow	Name: Annemarie Kalama
Title: Director, Procurement and Contracts Branch	Title: Administrator, Special Needs Section
Mailing Address: 94-275 Mokuola Street, Room 200, Waipahu, HI 96797	Mailing Address: 475 22 nd Avenue, Room 108 Honolulu, HI 96816
Business Address: Same as above	Business Address: Same as above

1.21 Availability of Funds

The award of a contract and any allowed renewal or extension thereof, is subject to allotments made by the Director of Finance, State of Hawaii, pursuant to HRS Chapter 37, and subject to the availability of State and/or Federal funds.

1.22 General and Special Conditions of Contract

The general conditions that will be imposed contractually are on the SPO website. Special conditions may also be imposed contractually by the state purchasing agency, as deemed necessary. Refer to Attachment G, Contract Minimum and Special Conditions.

1.23 Cost Principles

To promote uniform purchasing practices among state purchasing agencies procuring health and human services under HRS Chapter 103F, state purchasing agencies will utilize standard cost principles as outlined on the SPO website. Refer to Section 1.2 Website Reference for website address. Nothing in this section shall be construed to create an exemption from any cost principle arising under federal law.

Section 2

Service Specifications

Section 2

Service Specifications

Commonly Used Abbreviations or Acronyms

ABA	Applied Behavior Analysis
ADA	Americans with Disabilities Act
ABA PARA	RBT or other paraprofessional who meets staffing requirements of this contract and may provide direct ABA services to students
BA	Behavior Analysis
BACB	Behavior Analyst Certification Board
BCBA-D	Board Certified Behavior Analyst-Doctoral
BIP	Behavior Intervention Plan
CAS	Complex Area Superintendent
CSSS	Comprehensive Student Support System
DCCA	Department of Commerce and Consumer Affairs
DES	District Educational Specialist
DSM V	Diagnostic and Statistical Manual of Mental Disorders, 5th Edition
eCSSS	Electronic Comprehensive Student Support System
ESD	Extended School Day
ESEA	Elementary and Secondary Education Act
ESY	Extended School Year
FBA	Functional Behavior Assessment
FERPA	Family Educational Rights and Privacy Act
GSS	General Supervision and Support
HAR	Hawaii Administrative Rules
HIDOE	Hawaii Department of Education
HIPAA	Health Insurance Portability and Accountability Act of 1996
HRS	Hawaii Revised Statutes
HST	Hawaii Standard Time
IDEA 2006 (IDEA)	Individuals with Disabilities Education Improvement Act -2006
IEP	Individualized Education Program
LBA	Licensed Behavior Analyst
LICENSED ABA Professional	LBA or Licensed Psychologist who can conduct FBAs, design and oversee BIPs, and provide ABA services to HIDOE students.
MP	Modification Plan
OSSS	Office of Student Support Services
POS	Purchase of Service
PROVIDER	Agency/Organization who has entered into a contract with HIDOE to provide ABA services to HIDOE students
QAP	Quality Assurance Plan
QAIP	Quality Assurance Improvement Plan
RBT	Registered Behavior Technician
RFI	Request for Information
RFP	Request for Proposal
RICO	Regulated Industries Complaints Office
SBBH	School Based Behavioral Health Services
SPO	HIDOE Procurement Office
SSC	Student Services Coordinator

SSP	Student Service Plan
SVF	Service Verification Form
TB	Tuberculosis
USPS	United States Postal Service

2.1 Introduction

A. Overview, purpose or need

The purpose of this RFP is to solicit private providers (agencies and/or individuals) interested in providing ABA services to improve educational outcomes for students who have severe challenging behavior and/or communication and social deficits. Applicants selected by HIDOE as contracted providers shall be required to provide on an as needed basis, the ABA Services below:

1. Licensed ABA Professional Services
 - a. ABA PARA Supervision;
 - b. Functional Behavior Assessment (FBA);
 - c. The Behavior Intervention Plan (BIP);
 - d. Program Development;
 - e. Teacher Consultation; and
 - f. Educational Team Planning and Participation.
2. Parent Education/Parent Training
(Short term service to educate parents or legal guardians)
3. ABA PARAServices
 - a. Implement the student's IEP and BIP;
 - b. Provide assistance to the HIDOE teacher; and
 - c. Collect and graph data.

4. Court/Due Process Hearing Testimony

Refer also to Exhibit A, Service Requirements and Activities, 1. Introduction.

B. Planning activities conducted in preparation for this RFP

The HIDOE reviewed existing workload of the HIDOE staff, the Department's experience with contracted services, and suggestions received from the HIDOE employees, contracted agencies, and community members. In addition, the HIDOE conducted Requests for Information (RFI) on January 17, 2018 and May 21, 2018. Written feedback and comments were submitted from interested respondents.

C. Description of the service goals

ABA services are time-limited services that are based on evidence-based practices designed to improve student's behaviors and educational outcomes.

D. Description of the target population to be served

In Hawaii, based on December 2018 HIDOE data, approximately 465 students were receiving ABA services. A significant reduction in this number is not anticipated however, as the HIDOE builds the personnel capacity to provide this service, the need for contracting for this service will decrease.

Refer to Exhibit A, Service Requirements and Activities, 3. Target Population.

E. Geographic coverage of service

The services are sought across the State. Service hours and geographic coverage needs vary and shall be determined by the HIDOE. Refer to Section 3 Proposal Application Instructions for specific requirements for submitting proposals by geographic areas.

F. Probable funding amounts, source, and period of availability

It is expected that General funds will be used to support these services. Although it is currently undetermined, it is possible that federal funds in whole or in part may also be used to support these services. The current fund appropriation for services is approximately \$36 million.

It is expected that funding of at least this current level would be allocated for this contract period.

2.2 Contract Monitoring and Evaluation

The criteria by which the performance of the contract will be monitored and evaluated are:

- (1) Performance/Outcome Measures
- (2) Output Measures
- (3) Quality of Care/Quality of Services
- (4) Financial Management
- (5) Administrative Requirements

Refer to Exhibit A, Service Requirements and Activities, 4. Provider Responsibilities.

2.3 General Requirements**A. Specific qualifications or requirements, including but not limited to licensure or accreditation**

The applicant shall comply with chapter 103F, HRS Cost Principles for Purchases of Health and Human Services identified in SPO-H-201 (effective 10/1/98), which can be found on the SPO website at: <http://www.spo.hawaii.gov>.

Click on *For Vendors*

Click on *Vendor Guide*

Click on *Health & Human Services*

Click on *Competitive Purchase of Services Procurement Method*

Click on *Cost Principles (Rev. 9/2011)*

Applicant must hold and maintain an appropriate certification or license to practice independently, for those activities restricted by licensure laws, or ensure and demonstrate the availability of appropriate supervision. There will be an annual verification of licensure.

B. Secondary purchaser participation

(Refer to HAR §3-143-608)

After-the-fact secondary purchases will be allowed.

Planned secondary purchases: None.

C. Multiple or alternate proposals

(Refer to HAR §3-143-605)

☐ Allowed ☒ Unallowed

D. Single or multiple contracts to be awarded

(Refer to HAR §3-143-206)

☐ Single ☐ Multiple ☒ Single & Multiple

Criteria for multiple awards: Successful applicants must first meet the requirements specified by the HDOE in this RFP. The criteria for multiple awards include, but are not limited to, the following:

The score of eighty (80) points or higher, awarded to the applicant's proposal based on the criteria set forth in this RFP.

E. Single or multi-term contracts to be awarded

(Refer to HAR §3-149-302)

☒ Single term (2 years or less) ☐ Multi-term (more than 2 years)

Contract terms:

Initial Term of Contract	Twelve (12) months
Length of Each Extension	One (1) year
Number of Possible Extensions	Two (2) extensions
Maximum Length of Contract	Three (3) Years
Initial Period	The initial contract period shall commence on the contract start date.

Conditions for Extension	Contract may be extended provided that the agreement to extend is in writing, is contingent upon potential changes to the HIDOE's approach to service delivery, availability of funding, and by mutual agreement.
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2.4 Scope of Work

The scope of work encompasses the following tasks and responsibilities:

A. Service Activities

(Minimum and/or mandatory tasks and responsibilities)

All services shall be provided in accordance with the requirements outlined in this section and any other applicable requirements referenced in any portion of this RFP. Provider responsibilities and service activities are described in sections 4 and 5 of Exhibit A, respectively.

Refer to Exhibit A, Section 5 Service Activities, subsections 5.1 through 5.3 for the following general requirements and service activities:

5.1 General Requirements

5.2 Licensed ABA Professional Services

5.3 ABA PARA Services

B. Management Requirements (Minimum and/or mandatory requirements)

Personnel Requirements

Refer to Exhibit A, Section 4 Provider Responsibilities, subsection 4.1 Personnel Requirements, items 4.1.1 through 4.1.6 for the following personnel requirements:

4.1.1 Supervision Requirements

4.1.2 Credential Requirements

4.1.3 Criminal History, Employment History and Background Record Check Requirements

4.1.4 Notification Requirements

4.1.5 TB Clearance

4.1.6 Training Requirements

Administrative Requirements

Refer to Exhibit A, Section 4 Provider Responsibilities, subsection 4.2 Administrative

Requirements, items 4.2.1 through 4.2.5 for the following administrative requirements:

4.2.1 Medicaid Requirements

4.2.2 Confidentiality Requirements

4.2.3 Sentinel Event/Incident Notification Reports

4.2.4 Use of Restraints

4.2.5 Facilities

Contracts Monitoring and Quality Assurance

Refer to Exhibit A, Section 4 Provider Responsibilities, subsection 4.3 Contract Monitoring and Quality Assurance, items 4.3.1 through 4.3.5 for the quality assurance requirements.

Performance Requirements

Refer to Exhibit A, Section 4 Provider Responsibilities, subsection 4.4 Performance Requirements, items 4.4.1 through 4.4.3 for the performance requirements.

Experience

Refer to Exhibit A, Section 5 Service Activities, subsection 5.2 Licensed ABA Professional Services, item 5.2.1 Staffing Requirements for the experience requirements for the Licensed ABA Professional Services.

Coordination of services

Provider shall be expected to coordinate services with other agencies and resources in the community on a competent and regular basis in order to satisfactorily accomplish the delivery of services.

Reporting Requirements for Program and Fiscal Data

Refer to Exhibit A, Section 4 Provider Responsibilities, subsection 4.5 Reporting Requirements for Program and Fiscal Data, items 4.5.1 through 4.5.3 for the following reporting requirements:

4.5.1 Program Requirements

4.5.2 Data and Device Security

4.5.3 Fiscal Requirements

Facilities

Refer to Exhibit A, Section 4 Provider Responsibilities, subsection 4.2 Administrative Requirements, item 4.2.5 for the facilities requirements.

2.5 Compensation and Method Of Payment

A. Pricing structure or pricing methodology to be used

The selected provider(s) shall be paid at a rate for the services of a Licensed ABA Professional and ABA PARA . The maximum allowable rate shall not exceed the “Maximum Allowable Unit Rates” as listed in RFP Attachment H Rate and Cost Summary Worksheet.

B. Units of service and unit rate

Refer to Attachment G, Contract Minimum and Special Conditions, 7. Compensation, 8. Compensation Rates, and 9. Invoicing and Payment Schedule.

C. Method of compensation and payment

Refer to Attachment G, Contract Minimum and Special Conditions, 7. Compensation, 8. Compensation Rates, and 9. Invoicing and Payment Schedule.

Section 3

Proposal Application Instructions

Section 3

Proposal Application Instructions

General instructions for completing applications:

- *Proposal Applications shall be submitted to the state purchasing agency using the prescribed format outlined in this section.*
- *The numerical outline for the application, the titles/subtitles, and the applicant organization and RFP identification information on the top right hand corner of each page should be retained. The instructions for each section however may be omitted.*
- *Page numbering of the Proposal Application should be consecutive, beginning with page one and continuing through for each section. See sample table of contents in Section 5.*
- *Proposals may be submitted in a three ring binder (optional).*
- *Tabbing of sections (Recommended).*
- *Applicants must also include a Table of Contents with the Proposal Application. A sample format is reflected in Section 5, Attachment B of this RFP.*
- *A written response is required for **each** item unless indicated otherwise. Failure to answer any of the items will impact upon an applicant's score.*
- *Applicants are **strongly** encouraged to review evaluation criteria in Section 4, Proposal Evaluation when completing the proposal.*
- *This form (SPOH-200A) is available on the SPO website (Refer to Section 1.2 Website Reference). However, the form will not include items specific to each RFP. If using the website form, the applicant must include all items listed in this section.*

The Proposal Application is comprised of the following sections:

- *Proposal Application Identification Form*
- *Table of Contents*
- *Program Overview*
- *Experience and Capability*
- *Project Organization and Staffing*
- *Service Delivery*
- *Financial*
- *Other*

3.1 Program Overview

Applicant shall give a brief overview to orient evaluators as to the program/services being offered.

3.2 Experience and Capability

A. Necessary Skills

The applicant shall demonstrate that it has the necessary skills, abilities, and knowledge relating to the delivery of the proposed services.

B. Experience

The applicant shall provide a description of projects/contracts pertinent to the proposed services, including a description of experience(s) in providing for and delivering IEP services.

The applicant shall provide a listing of verifiable experience with ABA projects or contracts, along with references, for the most recent five (5) years that are pertinent to the proposed ABA services. The Applicant shall include points of contact addresses, e-mail/phone numbers. The State reserves the right to contact references to verify experience.

C. Quality Assurance and Evaluation

The applicant shall describe its own plans for quality assurance and evaluation for the proposed services, including methodology.

Applicants must create and maintain an internal quality-assurance and improvement plan (QAIP) to assure the delivery of quality educational services and a plan for program assessment and continuous improvement. This plan should explain how the applicant would ensure outcomes from the services provided. Because this is an educationally related service, the primary outcome measures the HIDOE is accustomed to are improvements in behavior and IEP goals and objectives as set forth in the student's IEP. Applicant responses should seek to detail how work is evaluated and reviewed by supervisors and to what degree providers are accountable for providing sound interventions in accordance with the requirements set forth in this RFP.

D. Operational Plan

The applicant should describe in detail how it would address operational issues related to the delivery of the services covered in this RFP. Specifically, the applicant should detail the following:

- how the proposed plan and services would support service delivery of school-based services within the least restrictive environment;
- how it will handle new referrals;
- its policies and procedures for initiating services;
- how it will ensure that records and reports are accounted for within

- timelines;
- how it will ensure that records and reports containing personally identifiable information are secure and protected from unauthorized access (e.g., physical and technological measures of security);
- how it monitors and verifies service delivery prior to and after billing claims have been submitted;
- how it will comply with the terms of this RFP or subsequent contract;
- how the applicant addresses concerns about its service providers; and
- how it resolves questions of provider conduct or performance.

If applicable, the applicant's response should detail how the plan reflects past practice, or how it has been modified from the Applicant's prior method of operation. If the applicant has no prior history servicing this population in Hawaii for the Department of Education, then it should demonstrate how these policies and procedures would be fully adhered to and provide some measure of verification in the proposal that they will be faithfully implemented if a contract is awarded.

E. Coordination of Services

The applicant shall demonstrate the capability to coordinate services with other agencies and resources in the community.

The provision of services may need to be re-assigned to another provider, agency or HIDOE employee, when the current provider is unable to continue to provide services. The proposal application should address in detail how the transfer process and procedure will be conducted from their organization to a new service provider.

The applicant shall describe policies and procedures designed to insure the smooth transfer of services, including the storage, retrieval and transmission of any notes, files and documents, in any form, relevant and important to the transfer of services between and among providers and HIDOE.

The applicant should also submit documentation and evidence of collaborative relationships with schools, complexes, districts, other individual providers and community agencies.

In the event that an applicant intends to integrate services with schools, agencies, and other HIDOE contracted providers, applicants presuming to utilize any community assets, staff, facilities, or instructional resources, including those of the HIDOE, should submit documentation of any agreements with the relevant organizations/agencies confirming the applicant's intent to participate in service delivery in the event the applicant is successful and awarded a contract.

F. Facilities

In the event that applicants are required to provide facilities used for the provision of services, applicants shall describe how they will ensure that the facilities meet all applicable State and federal requirements including but not limited to ADA compliance and are otherwise safe, legal and appropriate for its use in connection with these RFP services.

The applicant shall provide a description of its facilities and demonstrate its adequacy in relation to the proposed services. If facilities are not presently available, describe plans to secure facilities. Also describe how the facilities are appropriate and meet all requirements, including but not limited to ADA requirements, as applicable, and special equipment that may be required for the services.

Applicants should be clear where the services are to be provided, and if they will be delivered at a specific site. If so, this section would apply.

3.3 Project Organization and Staffing

A. Staffing

1. Proposed Staffing

The applicant shall describe the proposed staffing pattern, and proposed caseload capacity appropriate for the viability of the services. (Refer to the personnel requirements in Section 2, Service Specifications, as applicable.)

The table below presents the following:

- 1.) The total number of students within each geographic area that currently require the ABA services as described in this RFP. These numbers are expected to remain fairly stable during the initial contract term;
- 2.) The number of Licensed ABA Professionals within each geographic area that are anticipated to be needed to service the current number of students statewide during the initial contract term; and
- 3.) The number of ABA PARAs within each geographic area that are anticipated to be needed to service the current number of students statewide during the initial contract term.
- 4.) The total number of students for all geographic areas that currently require the ABA services as described in this RFP.

- 5.) The total number of service providers for all geographic areas that are anticipated to be needed to service the current number of students statewide during the initial contract term.

Table: Anticipated number of service providers needed within each geographic area (A-D) to service the current number of students statewide.

	Oahu (A)	Maui Molokai Lanai (B)	Hawaii (C)	Kauai (D)	TOTAL For All Geographic Areas (A + D)
Service Provider	328 Students	63 Students	40 Students	34 Students	465 Students
Licensed ABA Professional	22	5	3	3	33
ABA PARA	328	63	40	34	465

Applicant Requirement

Applicants shall complete one (1) Rate and Cost Summary Worksheet (RFP Attachment H) and submit with their proposal. Applicants shall propose the following:

Attachment H - Table 1: Proposed Daily Rate And Unit Rate For All Geographic Areas

The daily rate and unit rate for each service provider for each geographic area proposing to serve.

Applicants must NOT propose daily rates and unit rates that exceed the HIDEOE maximum allowable daily and unit rates shown in Table 1 of the RFP Attachment H, Rate and Cost Summary Worksheet. Doing so will result in the proposal being considered non-responsive and the applicant will not be considered for award.

Applicants may propose daily rates and unit rates equal to or lower than the HIDEOE maximum allowable daily and unit rates shown in Table 1 of the RFP Attachment H, Rate and Cost Summary Worksheet. Proposing a lower rate shall result in the number of points stated in the evaluation criteria. It will not guarantee however, that the applicant, if selected by HIDEOE as a contracted provider, will be utilized to provide ABA services to HIDEOE.

Attachment H - Table 2: Proposed Number of Students and Service Providers By Geographic Area

- 1.) The maximum number of students, applicants are capable of serving, per geographic area, for the initial contract term;

- 2.) The maximum number of LBAs and/or Licensed Psychologists that applicants can provide per geographic area, for the initial contract term to service the number of students proposed in item #1; and
- 3.) The maximum number of RBTs and/or ABA PARAs that applicants can provide per geographic area, for the initial contract term to service the number of students proposed in item #1.

Applicants may propose to service less than the maximum number of students shown in the table provided above in RFP Subsection 3.3 Project Organization and Staffing and their evaluation score will not be reduced by doing so. However, applicants proposing to serve additional numbers of students exceeding the HIDOE figures for students shown in the table provided above in RFP Subsection 3.3 Project Organization and Staffing, will not, in of itself, increase an applicant's proposal evaluation score nor will it guarantee that the applicant, if selected by HIDOE as a contracted provider, will be utilized to provide ABA services to HIDOE.

Applicants may propose to serve all geographic areas they are available to serve and have the capacity to serve during the anticipated initial contract term. Applicants are not required to propose to serve all geographic areas.

Applicants who are selected as contracted providers shall not be required to serve the entirety of the geographic areas they are selected by HIDOE to service. However, applicants will be required to serve the maximum number of students as possible and as frequently as possible in the geographic area they propose to serve, that is within their capacity, as both they and the HIDOE may determine on an ongoing basis. It will be at the HIDOE's sole discretion not to refer additional work to the provider, if HIDOE's determination is that the provider lacks the capacity to perform or manage additional work. Applicants proposing to serve all geographic areas will not result in additional points added to the evaluation score, nor will it guarantee that the applicant, if selected by HIDOE as a contracted provider, will be utilized to provide ABA services to HIDOE.

2. Staff Qualifications

The applicant shall provide the minimum qualifications (including experience) for staff assigned to the program. (Refer to the qualifications in the Service Specifications, as applicable.) This should be reflected in the supporting resumes or curriculum vitae attached as part of the applicant's response. For each service type specified in the scope of services, the applicant should illustrate what it considers the norm for the qualifications and level of education or experience of its providers.

The applicant shall also describe how staff is evaluated not only for the mandatory background checks, but also for competence and ability to

deliver the services in conformity with the applicant's own policies and within the requirements of this RFP.

The applicant shall describe in detail the method and means they use to ensure that all employees are free of legal entanglements which may be relevant to their work, including but not limited to criminal convictions.

In particular, the applicant must describe how they conduct employee background checks.

B. Project Organization

1. Supervision

The applicant shall describe its ability to supervise and provide administrative direction relative to the delivery of the proposed services.

The supervision ratios of supervisors to staff should be identified for each service activity. The applicant's ability to supervise its personnel should be specifically addressed. A description of the supervision, how it will be enforced and implemented, and what it entails should be specifically described.

In addition, the applicants should describe in detail how staff is monitored to ensure what is covered in supervision is implemented on the job. Furthermore, the applicant should describe any remedial actions utilized such as retraining.

2. Training Requirements

The proposal application should address how the applicant will meet the training requirements noted and detail how the applicant's proposed training plan will address each training requirement.

3. Organization Chart

The applicant shall reflect the position of each staff and line of responsibility/supervision. (Include position title, name and full time equivalency). Both the "Organization-wide" and "Program" organization charts shall be attached to the Proposal Application.

3.4 Service Delivery

Applicant shall include a detailed discussion of how applicant's approach to applicable service delivery and management requirements including a work plan of all service activities and tasks to be completed, related work assignments/

responsibilities and timelines/schedules best accomplishes the HIDOE's plan for service delivery.

Tele-health shall be considered an acceptable method of service delivery for all ABA Professional Services described in this RFP and resulting contract with the exception of certain aspects of the FBA service as determined by the HIDOE. Tele-health shall not be an acceptable method of service delivery for all ABA PARA Services described in this RFP and resulting contract

A generic response to how services will be addressed will not be scored highly. This section should contemplate the methodology, program integration, and allow a reviewer to differentiate one response from another.

Responses must include the provision of all services listed in this RFP. Applicants may not choose to omit any of the services in their response. Failure to address all of the service activities will be deemed as non-responsive and the proposal shall be rejected.

Applicants shall provide services for all schools within the geographic area(s) they propose to serve, including those schools in remote complex areas. For a list of schools within each geographic area, go to:

<http://www.hawaiipublicschools.org/ParentsAndStudents/EnrollingInSchool/SchoolFinder/Pages/home.aspx>

3.5 Financial

A. Pricing Structure

An applicant must submit a cost proposal utilizing the unit rate pricing structure as designated by the HIDOE. The cost proposal must be attached to the proposal application for those specific services as listed on Attachment H, Rate and Cost Summary Worksheet.

The HIDOE will not consider proposals for services with unit rates that are above the "Maximum Allowable Unit Rate" amounts set forth on RFP Attachment H Rate and Cost Summary Worksheet.

This RFP seeks to purchase services on an as needed basis. The applicant should establish a reasonable estimate of the maximum number of LBAs/Licensed Psychologists and RBT or ABA Paraprofessional by geographic area it can provide for which there is sufficient operating capacity (e.g., adequate, planned and budgeted space, equipment, staff, etc.) to assist the HIDOE in determining applicant's capacity to serve.

All budget forms, instructions and samples are located on the SPO website

(<http://www.spo.hawaii.gov>). The following budget form(s) shall be submitted with the Proposal Application:

SPO-H-205 Budget

SPO-H-206A Personnel Salaries and Wages

SPO-H-206B Personnel Payroll Taxes, Assessments and Fringe

SPO-H-206C Travel Inter-Island

SPO-H-206D Travel Out of State

SPO-H-206E Contractual Services – Administrative

SPO-H-206F Contractual Services – Subcontracts

When preparing the SPO-H-205 Budget form, the first column should be used to reflect the **total** cost of the proposal (i.e., total budget for all services across all geographic areas). Applicants should use the additional columns for each specific geographic area they are applying for to reflect the associated costs in delivering that service to the specific geographic area. If there is a set cost for some aspect of the service delivery, such as an office, the percentage of the cost should be assigned to each service as it relates to that cost. If an applicant is responding to more geographic areas than will fit on one form, they may continue on additional forms as needed.

The HDOE reserves the right to ask for additional information (i.e., information supporting or justifying service delivery, or rate information) from each applicant. Additional information must be available for review during the proposal evaluation period.

B. Other Financial Related Material

1. Accounting System

In order to determine the adequacy of the applicant's accounting system as described under the administrative rules, the following documents are requested as part of the Proposal Application (may be attached):

- A description of how applicant's accounting system is organized to handle the contract;
- A description of the applicant's billing procedures including, if applicable, the procedures in which subcontractors are paid;
- Applicant's most recent program annual report (if available);
- Applicant's most recent financial audit (if available);
- Description of the internal control structure used in the accounting system; and
- If accounting work is subcontracted, please describe.

2. Information System

The applicant shall describe the organization's current type of computer hardware, software, any plans for major changes to comply with Exhibit A Section 4 Provider Responsibilities, subsection 4.5 Reporting Requirements for Program and Fiscal Data and the capability of staff to use the system.

3.6 Other

A. Litigation

The applicant shall disclose and explain any pending litigation to which they are a party, including the disclosure of any outstanding judgment. If applicable, please explain.

Section 4

Proposal Evaluation

Section 4

Proposal Evaluation

4.1 Introduction

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

4.2 Evaluation Process

The procurement officer or an evaluation committee of designated reviewers selected by the head of the state purchasing agency or procurement officer shall review and evaluate proposals. When an evaluation committee is utilized, the committee will be comprised of individuals with experience in, knowledge of, and program responsibility for program service and financing.

Applicants who meet all requirements based on the rating listed in this section may be qualified to enter into a contract with the HIDOE. **In order to be eligible for a contract award, the applicant(s) must receive a score of eighty (80) points or higher as detailed in this section.** Qualified applicants will be placed on HIDOE's School Based Services Qualified Providers List. Services will be procured from the contracted agencies on an as needed basis, and any referrals will be determined by the applicable SSC or designated representative. Selection will be based upon various factors including the applicant's responsiveness to the RFP, quality of providers, specific expertise, fit of the provider, and the needs and interest of the HIDOE.

The evaluation will be conducted in three phases as follows:

- Phase 1 - Evaluation of Proposal Requirements
- Phase 2 - Evaluation of Proposal Application
- Phase 3 - Recommendation for Award

Evaluation Categories and Thresholds

Evaluation Categories

Possible Points

Administrative Requirements

Pass or Rejected

Proposal Application

100 Points

Program Overview	0 points
Experience and Capability	17 points
Project Organization and Staffing	20 points
Service Delivery	55 points

Financial

8 Points

TOTAL POSSIBLE POINTS**100 Points****4.3 Evaluation Criteria****A. Phase 1 - Evaluation of Proposal Requirements****1. Administrative Requirements**

- Application Checklist
- Registration
- Federal Certifications

2. Proposal Application Requirements

- Proposal Application Identification Form (Form SPOH-200)
- Table of Contents
- Program Overview
- Experience and Capability
- Project Organization and Staffing
- Service Delivery
- Financial (All required forms and documents)
- Program Specific Requirements (as applicable)

B. Phase 2 - Evaluation of Proposal Application (100 Points)***(1) Program Overview (0 Points)***

The intent is to give the applicant an opportunity to orient evaluators as to the service(s) being offered. This should not be a long drawn out narrative but a concise review of the proposal.

- The applicant has demonstrated a thorough understanding of the purpose and scope of the service activity.
- The goals and objectives are in alignment with the proposed service activity.
- The applicant has described how the proposed service is designed to meet the pertinent issues and problems related to the service activity.
- The applicant demonstrates a clear understanding of delivery of this service through an educational and not a clinical model.
- The applicant demonstrates a clear understanding of how to deliver these services in concert with the goals and philosophical approach of the HDOE, and will incorporate its efforts under IDEA, make progress in assisting students to make progress on all identified service goals and objectives.

Applicants should pay particular attention to the evaluation criteria for the following sections as proposal applications will be scored by sections. A generic response to how services will be addressed will not be scored highly. The proposal application should contemplate the methodology, program integration, and allow a reviewer to differentiate one response from another.

(2) *Experience and Capability (17 Points)*

The HIDEOE will evaluate the applicant's experience and capability relevant to the proposal contract, which shall include:

A. Necessary Skills

- Demonstrated skills, abilities, knowledge relating to the delivery of the proposed services in an educationally based approach through ABA and evidenced based practices. [5 points]

B. Experience

- Description of projects/contracts including a description of experience(s) in providing for and delivering IEP services and a listing of verifiable experience with ABA projects or contracts. [4 points]

C. Quality Assurance and Evaluation

- Sufficiency of quality assurance and improvement plans (QAIP) for the proposed services, including methodology. [2 points]
- Demonstration of the applicant's specific operational plan to manage and oversee the delivery of services including the security measures for student records information. [2 points]
- Accredited by Behavioral Health Center of Excellence (BHCOE). [2 points]

D. Coordination of Services

- Demonstrated capability to coordinate services with other agencies and resources in the community. [2 points]

(3) *Project Organization and Staffing (20 Points)*

The HIDEOE will evaluate the applicant's overall staffing approach to the service that shall include:

A. Staffing

- Proposed Staffing: That the proposed staffing pattern, and proposed caseload capacity is reasonable to insure viability of the services:
 - Does the applicant have sufficient staff to provide the amount of services proposed? [2 points]

- Does the applicant have a clearly detailed and viable plan for obtaining necessary staff? **[3 points]**
- Does the applicant have a clearly detailed plan for covering staff sick calls, vacations, etc., so that services to the HIDEOE is not interrupted? **[1 point]**
- Staff Qualifications: Minimum qualifications (including experience) for staff assigned to the program:
 - Staff meets the minimum qualifications for the position they are assigned. **[2 points]**
 - The applicant should have detailed and demonstrated a background review process. **[2 points]**
 - The applicant should have a detailed screening process for determining competency of providers to deliver interventions in line with the applicant's policies and the requirements of this RFP. **[2 points]**

B. Project Organization

- Demonstrated ability to supervise and provide administrative direction to staff relative to the delivery of the proposed services. **[2 points]**
 - The applicant's ability to train its personnel is specifically addressed. **[2 points]**
 - How applicant will document and enforce training requirements. **[2 points]**
- Organization Chart (Approach and rationale for the structure, functions, and staffing of the proposed organization for the overall service activity and tasks). **[2 points]**

(4) Service Delivery (55 Points)

Evaluation criteria for this section will assess the applicant's approach to the service activities and management requirements outlined in the Proposal Application.

- Given the service description of the required services in this RFP, the response has clearly detailed an understanding of the service in terms of the service operations and service activities in an educationally based model and how this will translate to actual provision of the service as related to the target population. **[10 points]**
- The means in ensuring prompt responses to referral, and a detailed description of the applicant's policies and procedures on how services are referred to their providers. **[5 points]**
- The response clearly demonstrates how the referral system will avoid service delays or keep the HIDEOE apprised of service gaps. **[5 points]**

- The response addresses how the applicant will address the provision of substitutes and how the applicant will address the issue of informing the schools of provider absences. *[5 points]*
- The response addresses how the applicant will service the remote or out-lying areas in the proposed geographic area(s) and ensure services will be available throughout the geographic area(s). *[5 points]*
- Evidence that the service activities are in conformity with educational best practices and are evidence-based as described in peer reviewed established professional publications for the target population. *[5 points]*
- Demonstration of the applicant's commitment to least restrictive interventions. *[5 points]*
- Demonstration of the applicant's policies and procedures for identifying, addressing and managing transfers. *[5 points]*
- Clearly addresses how the services will be delivered collaboratively with the HIDOE, and will focus on assisting the teacher to help students to improve their behaviors and make progress towards their IEP goals and objectives. *[5 points]*
- Description of how applicant's providers will collaborate and problem solve with classroom teachers and other HIDOE personnel that are involved with the student. *[5 points]*

(5) Financial (8 Points)

The HIDOE will evaluate the applicant's cost proposal(s) and description of the applicant's overall fiscal operations that will include:

- Proposed unit rate for Licensed ABA Professional is less than \$75.00/hour and the proposed daily rate is less than \$600.00/day. *[1 point]*
- Proposed unit rate for ABA PARA is less than \$50.00/hour and the proposed daily rate is less than \$350.00/day. *[1 point]*
- Description of how applicant's accounting system is organized to support contract implementation. *[1 point]*
- Description of adequacy of accounting system and infrastructure to support electronic/manual billing requirements including a demonstration of the applicant's ability to accurately track cost of related services by students served. *[1 point]*
- Description of the applicant's billing procedures including, if applicable, the procedures in which employees or agents are paid. *[2 points]*
- Description of the internal control structure used in the accounting system. *[2 points]*

C. Phase 3 - Recommendation for Award

Each notice of award shall contain a statement of findings and decision for the award or non-award of the contract to each applicant.

Section 5

Attachments

- A. Competitive Proposal Application Checklist
- B. Sample Proposal Table of Contents
- C. Wage Certification
- D. Federal Certifications
- E. General Conditions
- F. Exhibit A. Service Requirements and Activities
- G. Contract Minimum and Special Conditions
- H. Rate and Cost Summary Worksheet

Proposal Application Checklist

Applicant: _____ RFP No.: RFP F19-091

The applicant's proposal must contain the following components in the order shown below. Return this checklist to the purchasing agency as part of the Proposal Application. SPOH forms are on the SPO website.

Item	Reference in RFP	Format/Instructions Provided	Required by Purchasing Agency	Applicant to place "X" for items included in Proposal
General:				
Proposal Application Identification Form (SPOH-200)	Section 1, RFP	SPO Website*	X	
Proposal Application Checklist	Section 1, RFP	Attachment A	X	
Table of Contents	Section 5, RFP	Section 5, RFP	X	
Proposal Application (SPOH-200A)	Section 3, RFP	SPO Website*	X	
Provider Compliance	Section 1, RFP	SPO Website*		
Cost Proposal (Budget)				
SPO-H-205	Section 3, RFP	SPO Website*	X	
SPO-H-205A	Section 3, RFP	SPO Website* Special Instructions are in Section 5		
SPO-H-205B	Section 3, RFP,	SPO Website* Special Instructions are in Section 5		
SPO-H-206A	Section 3, RFP	SPO Website*	X	
SPO-H-206B	Section 3, RFP	SPO Website*	X	
SPO-H-206C	Section 3, RFP	SPO Website*	X	
SPO-H-206D	Section 3, RFP	SPO Website*	X	
SPO-H-206E	Section 3, RFP	SPO Website*	X	
SPO-H-206F	Section 3, RFP	SPO Website*	X	
SPO-H-206G	Section 3, RFP	SPO Website*		
SPO-H-206H	Section 3, RFP	SPO Website*		
SPO-H-206I	Section 3, RFP	SPO Website*		
SPO-H-206J	Section 3, RFP	SPO Website*		
Certifications:				
Federal Certifications		Section 5, RFP		
Debarment & Suspension		Section 5, RFP	X	
Drug Free Workplace		Section 5, RFP	X	
Lobbying		Section 5, RFP	X	
Program Fraud Civil Remedies Act		Section 5, RFP	X	
Environmental Tobacco Smoke		Section 5, RFP	X	
Program Specific Requirements:				
Most Recent Financial Audit			X	
Most Recent Program Annual Report			X	
Rate and Cost Summary Worksheet			X	
Organization Wide Organization Chart			X	
Program Organization Chart			X	

*Refer to Section 1.2, Website Reference for website address.

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WAGE CERTIFICATE

Subject: Project No. RFP F19-091

Description of Project: Applied Behavior Analysis (ABA) Services (Statewide)

Pursuant to §103-55, HRS, I hereby certify that, if awarded a contract of \$25,000.00 or more, and that either:

- I. Services to be performed will be performed in accordance with the following conditions:
- a. The services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to the public officers and employees for similar work, if similar positions are listed in the classification plan of the public sector, and
 - b. All applicable laws of the Federal and State governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

PROVIDER shall be obliged to notify its employees performing work under this contract of the provisions of §103-55, HRS, and the current wage rate for public employees performing similar work. The PROVIDER may meet this obligation by posting a notice to this effect in the PROVIDER's place of business accessible to all employees, or the PROVIDER may include such notice with each paycheck or pay envelope furnished to the employee

I understand that, in addition to the base wages required by §103-55, HRS, all payments required by Federal and State laws that employers must make for the benefit of their employees shall be paid.

OR

- II. I am exempt from these requirements as provided for under to §103-55(c), HRS.

PROVIDER: _____

By Its (signature): _____

Title: _____

Title: _____

CERTIFICATIONS
0920-0428

PHS-5161-1-CERTIFICATIONS (7/00)

OMB Approval No.

1. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION.

The undersigned (authorized official signing for the applicant organization) certifies to the best of his or her knowledge and belief, that the applicant, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
- (b) have not within a 3-year period preceding this proposal 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 antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

Should the applicant not be able to provide this certification, an explanation as to why should be placed after the assurances page in the application package.

The applicant agrees by submitting this proposal that it will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions" in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

2. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS.

The undersigned (authorized official signing for the applicant organization) certifies that the applicant will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a) above;
- (d) Notifying the employee in the statement required by paragraph (a), above, that, as a condition of employment under the grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d) (2), with respect to any employee who is so convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

For purposes of paragraph (e) regarding agency notification of criminal drug convictions, the DHHS has designated the following central point for receipt of such notices: Office of Grants and Acquisition Management Office of Grants Management Office of the Assistant Secretary for Management and Budget Department of Health and Human Services 200 Independence Avenue, S.W., Room 517-D Washington, D.C. 20201

3. CERTIFICATION REGARDING LOBBYING

Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative agreements from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a

SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (non-appropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING \$100,000 in total costs (45 CFR Part 93).

The undersigned (authorized official signing for the applicant organization) certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this application form.)
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

4. CERTIFICATION REGARDING PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA)

The undersigned (authorized official signing for the applicant organization) certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees that the applicant organization will comply with the Public Health Service terms and conditions of award if a grant is awarded as a result of this application.

5. CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE.

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing the certification, the undersigned certifies that the applicant organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The applicant organization agrees that it will require that the language of this certification be included in any sub awards which contain provisions for children's services and that all sub recipients shall certify accordingly.

The Public Health Services strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

1. Representations and Conditions Precedent

1.1 Contract Subject to the Availability of State and Federal Funds.

1.1.1 State Funds. This Contract is, at all times, subject to the appropriation and allotment of state funds, and may be terminated without liability to either the PROVIDER or the STATE in the event that state funds are not appropriated or available.

1.1.2 Federal Funds. To the extent that this Contract is funded partly or wholly by federal funds, this Contract is subject to the availability of such federal funds. The portion of this Contract that is to be funded federally shall be deemed severable, and such federally funded portion may be terminated without liability to either the PROVIDER or the STATE in the event that federal funds are not available. In any case, this Contract shall not be construed to obligate the STATE to expend state funds to cover any shortfall created by the unavailability of anticipated federal funds.

1.2 Representations of the PROVIDER. As a necessary condition to the formation of this Contract, the PROVIDER makes the representations contained in this paragraph, and the STATE relies upon such representations as a material inducement to entering into this Contract.

1.2.1 Compliance with Laws. As of the date of this Contract, the PROVIDER complies 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 PROVIDER's performance of this Contract.

1.2.2 Licensing and Accreditation. As of the date of this Contract, the PROVIDER holds all licenses and accreditations required under applicable federal, state, and county laws, ordinances, codes, rules, and regulations to provide the Required Services under this Contract.

1.3 Compliance with Laws. The PROVIDER 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 PROVIDER's performance of this Contract, including but not limited to the laws specifically enumerated in this paragraph:

1.3.1 Smoking Policy. The PROVIDER shall implement and maintain a written smoking policy as required by Chapter 328K, Hawaii Revised Statutes (HRS), or its successor provision.

1.3.2 Drug Free Workplace. The PROVIDER shall implement and maintain a drug free workplace as required by the Drug Free Workplace Act of 1988.

- 1.3.3 Persons with Disabilities. The PROVIDER shall implement and maintain all practices, policies, and procedures required by federal, state, or county law, including but not limited to the Americans with Disabilities Act (42 U.S.C. §12101, et seq.), and the Rehabilitation Act (29 U.S.C. §701, et seq.).
- 1.3.4 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 1.4 ~~Insurance Requirements. The PROVIDER shall obtain from a company authorized by law to issue such insurance in the State of Hawai'i commercial general liability insurance ("liability insurance") in an amount of at least TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) coverage for bodily injury and property damage resulting from the PROVIDER's performance under this Contract. The PROVIDER shall maintain in effect this liability insurance until the STATE certifies that the PROVIDER's work under the Contract has been completed satisfactorily.~~
- ~~The liability insurance shall be primary and shall cover the insured for all work to be performed under the Contract, including changes, and all work performed incidental thereto or directly or indirectly connected therewith.~~
- ~~A certificate of the liability insurance shall be given to the STATE by the PROVIDER. The certificate shall provide that the STATE and its officers and employees are Additional Insureds. The certificate shall provide that the coverages being certified will not be cancelled or materially changed without giving the STATE at least 30 days prior written notice by registered mail.~~
- ~~Should the "liability insurance" coverages be cancelled before the PROVIDER's work under the Contract is certified by the STATE to have been completed satisfactorily, the PROVIDER shall immediately procure replacement insurance that complies in all respects with the requirements of this section.~~
- ~~Nothing in the insurance requirements of this Contract shall be construed as limiting the extent of PROVIDER's responsibility for payment of damages resulting from its operations under this Contract, including the PROVIDER's separate and independent duty to defend, indemnify, and hold the STATE and its officers and employees harmless pursuant to other provisions of this Contract.~~
- 1.5 Notice to Clients. Provided that the term of this Contract is at least one year in duration, within 180 days after the effective date of this Contract, the PROVIDER shall create written procedures for the orderly termination of services to any clients receiving the Required Services under this Contract, and for the transition to services supplied by another provider upon termination of this Contract, regardless of the circumstances of such termination. These procedures shall include, at

the minimum, timely notice to such clients of the termination of this Contract, and appropriate counseling.

- 1.6 Reporting Requirements. The PROVIDER shall submit a Final Project Report to the STATE containing the information specified in this Contract if applicable, or otherwise satisfactory to the STATE, documenting the PROVIDER's overall efforts toward meeting the requirements of this Contract, and listing expenditures actually incurred in the performance of this Contract. The PROVIDER shall return any unexpended funds to the STATE.
- 1.7 Conflicts of Interest. In addition to the Certification provided in the Standards of Conduct Declaration to this Contract, the PROVIDER represents that neither the PROVIDER nor any employee or agent of the PROVIDER, 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 PROVIDER's performance under this Contract.

2. Documents and Files

- 2.1 Confidentiality of Material.
- 2.1.1 Proprietary or Confidential Information. All material given to or made available to the PROVIDER by virtue of this Contract that is identified as proprietary or confidential information shall be safeguarded by the PROVIDER and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
- 2.1.2 Uniform Information Practices Act. All information, data, or other material provided by the PROVIDER to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS, and any other applicable law concerning information practices or confidentiality.
- 2.2 Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished that is developed, prepared, assembled, or conceived by the PROVIDER 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 PROVIDER pursuant to this Contract.
- 2.3 Records Retention. The PROVIDER and any subcontractors shall maintain the books and records that relate to the Contract, and any cost or pricing data for three (3) years from the date of final payment under the Contract. In the event that any litigation, claim, investigation, audit, or other action involving the records retained under this provision arises, then such records shall be retained for three (3) years from the date of final payment, or the date of the resolution of the action, whichever occurs later. During the period that records are retained under this section, the

PROVIDER and any subcontractors shall allow the STATE free and unrestricted access to such records.

3. Relationship between Parties

- 3.1 Coordination of Services by the STATE. The STATE shall coordinate the services to be provided by the PROVIDER in order to complete the performance required in the Contract. The PROVIDER shall maintain communications with the STATE at all stages of the PROVIDER's work, and submit to the STATE for resolution any questions which may arise as to the performance of this Contract.
- 3.2 Subcontracts and Assignments. The PROVIDER may assign or subcontract any of the PROVIDER's duties, obligations, or interests under this Contract, but only if (i) the PROVIDER obtains the prior written consent of the STATE and (ii) the PROVIDER's assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER's assignee or subcontractor have been paid. Additionally, no assignment by the PROVIDER of the PROVIDER's right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawai'i, as provided in section 40-58, HRS.
- 3.3 Change of Name. When the PROVIDER asks to change the name in which it holds this Contract, the STATE, shall, upon receipt of a document acceptable or satisfactory to the STATE indicating such change of name such as an amendment to the PROVIDER's articles of incorporation, enter into an amendment to this Contract with the PROVIDER to effect the change of name. Such amendment to this Contract changing the PROVIDER's name shall specifically indicate that no other terms and conditions of this Contract are thereby changed, unless the change of name amendment is incorporated with a modification or amendment to the Contract under paragraph 4.1 of these General Conditions.
- 3.4 Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
- 3.4.1 Independent Contractor. In the performance of services required under this Contract, the PROVIDER 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 PROVIDER in compliance with this Contract.
- 3.4.2 Contracts with Other Individuals and Entities. Unless otherwise provided by special condition, the STATE shall be free to contract with other individuals and entities to provide services similar to those performed by the Provider under this Contract, and the

PROVIDER shall be free to contract to provide services to other individuals or entities while under contract with the STATE.

3.4.3 PROVIDER's Employees and Agents. The PROVIDER and the PROVIDER's employees and agents are not by reason of this Contract, agents or employees of the State for any purpose. The PROVIDER and the PROVIDER'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. Unless specifically authorized in writing by the STATE, the PROVIDER and the PROVIDER's employees and agents are not authorized to speak on behalf and no statement or admission made by the PROVIDER or the PROVIDER's employees or agents shall be attributed to the STATE, unless specifically adopted by the STATE in writing.

3.4.4 PROVIDER's Responsibilities. The PROVIDER shall be responsible for the accuracy, completeness, and adequacy of the PROVIDER's performance under this Contract.

Furthermore, the PROVIDER intentionally, voluntarily, and knowingly assumes the sole and entire liability to the PROVIDER's employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the PROVIDER, or the PROVIDER's employees or agents in the course of their employment.

The PROVIDER shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the PROVIDER 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 PROVIDER also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

The PROVIDER shall obtain a general excise tax license from the Department of Taxation, State of Hawai'i, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The PROVIDER shall obtain a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The PROVIDER shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under section 103-53, HRS, and these General Conditions.

The PROVIDER is responsible for securing all employee-related insurance coverage for the PROVIDER and the PROVIDER's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

3.5 Personnel Requirements.

3.5.1 Personnel. The PROVIDER shall secure, at the PROVIDER's own expense, all personnel required to perform this Contract, unless otherwise provided in this Contract.

3.5.2 Requirements. The PROVIDER shall ensure that the PROVIDER'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. Modification and Termination of Contract

4.1 Modification of Contract.

4.1.1 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 PROVIDER and the STATE.

4.1.2 No Oral Modification. No oral modification, alteration, amendment, change, or extension of any term, provision or condition of this Contract shall be permitted.

4.1.3 Tax Clearance. The STATE may, at its discretion, require the PROVIDER 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 Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state and federal law against the PROVIDER have been paid.

4.2 Termination in General. This Contract may be terminated in whole or in part because of a reduction of funds available to pay the PROVIDER, or when, in its sole discretion, the STATE determines (i) that there has been a change in the conditions upon which the need for the Required Services was based, or (ii) that the PROVIDER has failed to provide the Required Services adequately or satisfactorily, or (iii) that other good cause for the whole or partial termination of this Contract exists. Termination under this section shall be made by a written notice sent to the PROVIDER ten (10) working days prior to the termination date that includes a brief statement of the reason for the termination. If the Contract is terminated under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.

- 4.3 Termination for Necessity or Convenience. If the STATE determines, in its sole discretion, that it is necessary or convenient, this Contract may be terminated in whole or in part at the option of the STATE upon ten (10) working days' written notice to the PROVIDER. If the STATE elects to terminate under this paragraph, the PROVIDER shall be entitled to reasonable payment as determined by the STATE for satisfactory services rendered under this Contract up to the time of termination. If the STATE elects to terminate under this section, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.
- 4.4 Termination by PROVIDER. The PROVIDER may withdraw from this Contract after obtaining the written consent of the STATE. The STATE, upon the PROVIDER's withdrawal, shall determine whether payment is due to the PROVIDER, and the amount that is due. If the STATE consents to a termination under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.
- 4.5 STATE's Right of Offset. The STATE may offset against any monies or other obligations that STATE owes to the PROVIDER under this Contract, any amounts owed to the State of Hawai'i by the PROVIDER under this Contract, or any other contract, or pursuant to any law or other obligation owed to the State of Hawai'i by the PROVIDER, including but not limited to the payment of any taxes or levies of any kind or nature. The STATE shall notify the PROVIDER in writing of any exercise of its right of offset and the nature and amount of such offset. For purposes of this paragraph, amounts owed to the State of Hawai'i shall not include debts or obligations which have been liquidated by contract with the PROVIDER, and that are covered by an installment payment or other settlement plan approved by the State of Hawai'i, provided, however, that the PROVIDER shall be entitled to such exclusion only to the extent that the PROVIDER is current, and in compliance with, and not delinquent on, any payments, obligations, or duties owed to the State of Hawai'i under such payment or other settlement plan.

5. Indemnification

- 5.1 Indemnification and Defense. The PROVIDER shall defend, indemnify, and hold harmless the State of Hawai'i, the contracting agency, and their officers, employees, and agents from and against any and all liability, loss, damage, cost, expense, including all attorneys' fees, claims, suits, and demands arising out of or in connection with the acts or omissions of the PROVIDER or the PROVIDER'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.
- 5.2 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 PROVIDER in connection with this Contract, the PROVIDER shall pay any cost and expense incurred by or imposed on the STATE, including attorneys' fees.

6. **Publicity**

- 6.1 **Acknowledgment of State Support.** The PROVIDER shall, in all news releases, public statements, announcements, broadcasts, posters, programs, computer postings, and other printed, published, or electronically disseminated materials relating to the PROVIDER's performance under this Contract, acknowledge the support by the State of Hawai'i and the purchasing agency.
- 6.2 **PROVIDER's Publicity Not Related to Contract.** The PROVIDER shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, or to the services or goods, or both provided under this Contract, in any of the PROVIDER's publicity not related to the PROVIDER's performance under this Contract, including but not limited to commercial advertisements, recruiting materials, and solicitations for charitable donations.

7. **Miscellaneous Provisions**

- 7.1 **Nondiscrimination.** No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 7.2 **Paragraph Headings.** The paragraph headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They shall not be used to define, limit, or extend the scope or intent of the sections to which they pertain.
- 7.3 **Antitrust Claims.** The STATE and the PROVIDER recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the PROVIDER hereby assigns to the 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.
- 7.4 **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 Hawai'i. 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, Hawai'i.
- 7.5 **Conflict between General Conditions and Procurement Rules.** In the event of a conflict between the General Conditions and the Procurement Rules or a Procurement Directive, the Procurement Rules or any Procurement Directive in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
- 7.6 **Entire Contract.** This Contract sets forth all of the contracts, conditions, understandings, promises, warranties, and representations between the STATE and the PROVIDER 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 contracts, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the PROVIDER other than as set forth or as referred to herein.

- 7.7 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.
- 7.8 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 Hawai'i 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 PROVIDER's obligations under the Procurement Rules or statutes.
- 7.9 Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one instrument.

8. Confidentiality of Personal Information

8.1 Definitions.

8.1.1 Personal Information. "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.

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

8.2 Confidentiality of Material.

8.2.1 Safeguarding of Material. All material given to or made available to the PROVIDER by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the PROVIDER and shall not be disclosed without the prior written approval of the STATE.

8.2.2 Retention, Use, or Disclosure. PROVIDER agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

8.2.3 Implementation of Technological Safeguards. PROVIDER agrees to implement appropriate “technological safeguards” that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

8.2.4 Reporting of Security Breaches. PROVIDER shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

8.2.5 Mitigation of Harmful Effect. PROVIDER agrees to mitigate, to the extent practicable, any harmful effect that is known to PROVIDER because of a use or disclosure of personal information by PROVIDER in violation of the requirements of this paragraph.

8.2.6 Log of Disclosures. PROVIDER shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by PROVIDER on behalf of the STATE.

8.3 Security Awareness Training and Confidentiality Agreements.

8.3.1 Certification of Completed Training. PROVIDER certifies that all of its employees who will have access to the personal information have completed training on security awareness topics related to protecting personal information.

8.3.2 Certification of Confidentiality Agreements. PROVIDER certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

- 1) The personal information collected, used, or maintained by the PROVIDER will be treated as confidential;
- 2) Access to the personal information will be allowed only as necessary to perform the Contract; and
- 3) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

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

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

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

8.5 Records Retention.

8.5.1 Destruction of Personal Information. Upon any termination of this Contract, PROVIDER shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

8.5.2 Maintenance of Files, Books, Records. The PROVIDER and any subcontractors shall maintain the files, books, and records, that relate to the Contract, including any personal information created or received by the PROVIDER on behalf of the STATE, and any cost or pricing data, for three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall not be disclosed without the prior written approval of the STATE. After the three (3) year retention period has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS.

GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

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Exhibit A

SERVICE REQUIREMENTS AND ACTIVITIES

1. Introduction

The Hawaii Department of Education (HIDOE) administers the statewide system of public schools. The scope of education programs and services of the public schools encompasses grades kindergarten through twelve, and such pre-school programs and community/adult education curricula as may be authorized. In addition to regular programs of instruction and support services, the HIDOE offers special programs and services for students who are disabled, gifted, learning English as a second language, economically and culturally disadvantaged, at-risk, or institutionally confined. Applicable Federal and State statutes and regulations govern the provision of some behavioral health services (e.g., 34 C.F.R. Section 300 and Hawaii Administrative Rules Chapter 60).

In accordance with the Individuals with Disabilities Education Improvement Act of 2006 (IDEA) and Section 504 Subpart D of the Rehabilitation Act of 1973 (as amended), the HIDOE strives to provide an integrated educational model for students with disabilities to realize reasonable benefits from their education.

In addition, ACT 205 Relating to the Practice of Behavior Analysis, 2018, and anticipated revisions to chapter 465D, Hawaii Revised Statutes, require paraprofessionals who directly implement applied behavior analysis (ABA) programs be under the supervision of a licensed behavior analyst (LBA) or licensed psychologist on or before January 1, 2020. As of January 1, 2010, all paraprofessionals working under the supervision of an LBA need to be credentialed as a Registered Behavior Technician (RBT) by the Behavior Analyst Certification Board (BACB). ABA Paraprofessionals working under the supervision of a licensed psychologist are not required to be credentialed as an RBT. RBTs and ABA Paraprofessionals can implement ABA services under supervision.

The anticipated revisions will also immediately require that an LBA or a licensed psychologist shall conduct functional behavior assessments and design and oversee ABA services when what the classroom teacher is doing is not resulting in increased learning or improved behavior and the student's behavior impedes their learning or the learning of others.

As a result of the anticipated revisions to chapter 465D, when the HIDOE does not have sufficient human resources to meet the needs, the goal will be to build HIDOE capacity by augmenting HIDOE employees through the provision of ABA services in a timely manner for identified students.

Services are required statewide; service hours and geographic coverage needs vary and shall be determined by the HIDOE.

2. Service Activities

The PROVIDER shall provide services in accordance with Exhibit A, entitled Service Requirements and Activities.

3. Target Population

The PROVIDER shall provide ABA services for students meeting the following criteria:

- 3.1 The student has or is suspected of having a disability described in HAR Sections 8-60-1 to 8-60-84 (or subsequent revisions).
 - 3.1.1 The student has an IEP developed under criteria described in HAR Chapter 60, that is, the student is eligible for services under the criteria set forth in HAR Chapter 60 and the student needs special education and related services because of the disability; and the IEP team has determined that the student requires ABA services; or the student may require a disciplinary change in placement because the student has violated a school code as a manifestation of that student's disability.
- 3.2 The student resides in the State and comes within the following age range: (a) at least three years of age and (b) under 22 years of age.

4. Provider Responsibilities

4.1. Personnel Requirements

4.1.1. Supervision Requirements

- 4.1.1.1. The PROVIDER shall be responsible for the quality of work provided by its employees and agents. The PROVIDER shall also be responsible for monitoring the work of its employees and agents. The PROVIDER must ensure that the expectations and responsibilities assumed by and between its employees are equally placed on agents.
- 4.1.1.2. The PROVIDER must train, monitor, investigate complaints, and cooperate fully with any HIDOE investigations, including but not limited to, taking immediate necessary action as well as the prompt submittal and implementation of HIDOE corrective action plans.

4.1.2. Credential Requirements

- 4.1.2.1. It is preferred that PROVIDER be an organization accredited by The Behavior Health Center of Excellence (BHCOE)
- 4.1.2.2. The PROVIDER must maintain personnel files that include documentation of the training, supervision, appropriate credentialing, and ongoing performance of all employees and agents. The PROVIDER must complete and submit the prescribed HIDOE credentialing application for each employee and agent prior to the start of service delivery.
- 4.1.2.3. In addition, the PROVIDER shall submit monthly personnel updates to reflect any changes in staffing (e.g., new hires, terminations, changes in credentialing) among the PROVIDER officers, direct service employees and agents using the prescribed HIDOE provider update form. The PROVIDER shall notify the HIDOE, verbally within twenty-four (24) hours, upon any change in staffing that could reasonably be expected to affect the PROVIDER's ability to carry out its obligation under the contract.
- 4.1.2.4. The PROVIDER must maintain written policies and procedures, subject to the HIDOE approval, that identify the PROVIDER's process for primary source verification of all personnel. Agencies must have all official transcripts and current licenses or certificates

on file for each employee and agent, providing services under the contract.

- 4.1.2.5. The PROVIDER must verify and document all of their claims regarding degrees from accredited institutions at the following website: the Council for Higher Education Accreditation at < www.chea.org >.

4.1.3. Criminal History, Employment History and Background Record Check Requirements

- 4.1.3.1. The PROVIDER shall conduct all reasonable investigations to determine whether an employee, agent, or prospective employee has been convicted of any criminal offense pursuant to any law enforcement or military authority which would make the employee, agent, or prospective employee unsuited for working in close proximity to students. To be eligible to provide services under this contract, PROVIDER must conduct a criminal history check, employment history check and background check prior to the start of providing services under the contract.

- 4.1.3.2. The PROVIDER shall require, at a minimum, initial and annual national finger print based criminal history checks on all employees and agents including but not limited to administrative and direct service staff members who work in close proximity to students.

- 4.1.3.2.1. The initial national finger print based criminal history check must be completed and issued within the thirty (30) day period preceding the start of providing services under the contract.

- 4.1.3.2.2. The annual national finger print based criminal history check must be completed and issued within the thirty (30) day period preceding the annual due date (e.g., initial date 10/1/18, annual must be done during the time frame of 9/1/19-9/30/19).

- 4.1.3.2.3. The national finger print based criminal history check (initial and annually) must confirm there is no conviction of any criminal offense at any point of time. If there is a conviction, employee and agent shall not provide services under this contract.

- 4.1.3.2.4. The PROVIDER shall indemnify and defend the HIDEOE for any liability or damages resulting from the PROVIDER's failure to conduct a national finger print based criminal history check.

- 4.1.3.2.5. All costs associated with conducting and processing national finger print based criminal history checks of PROVIDER's employees and agents shall be borne by the PROVIDER.

- 4.1.3.3. The PROVIDER shall inform the HIDEOE if a current employee or agent who is providing services under the contract had been convicted of a

criminal offense and thus no longer be allowed to continue to provide services. If this occurs, the PROVIDER shall ensure there is a smooth transition of services.

- 4.1.3.4. The PROVIDER shall at all times maintain a current list of all new employees and agents documenting the status and completion dates of the mandatory national criminal history checks and other primary source verification.
- 4.1.3.5. National criminal history checks for each employee and agent, including sub-contracted personnel, must be kept on file.
- 4.1.3.6. The HDOE reserves the right to monitor at any time, but at least annually, the PROVIDER's compliance with this section through either an on-site evaluation, or a documents review, or both.
- 4.1.3.7. The HDOE reserves the right to refuse the services of any employee, agent, volunteer or prospective employee of the PROVIDER who the HDOE determines in the reasonable exercise of its sole discretion, is unsuitable to provide the services required under the contract. Prospective employees are not eligible to provide services under this contract if a criminal history record, employment history or background involving violence, alcohol, drug abuse, sex offense, offense involving children, or any other circumstance exists which indicates that prospective employee may pose a risk to the health, safety, or well-being of children.

4.1.4. Notification Requirements

- 4.1.4.1. The PROVIDER shall notify the HDOE, verbally and in writing within twenty-four (24) hours, upon learning of the occurrence of any of the events indicated below:
 - 4.1.4.1.1. Any employee, agent, or subcontractor's license to practice in the State of Hawaii is suspended, conditioned, revoked, expired, or terminated;
 - 4.1.4.1.2. Any employee, agent, or subcontractor becomes the subject of any disciplinary proceeding or action before any Federal or State agency or Board, such as the Behavior Analyst Certification Board (BACB), Department of Commerce and Consumer Affairs (DCCA), Regulated Industries Complaints Office (RICO);
 - 4.1.4.1.3. Any employee, agent, or subcontractor is charged with or convicted of a criminal offense;
 - 4.1.4.1.4. Any malpractice claim, judgment or settlement in which the PROVIDER or any of its employees or agents is/are named as defendant(s).

4.1.5. TB Clearance

- 4.1.5.1. The PROVIDER shall require and maintain certification of TB examination for all employees and agents issued within the twelve (12) month period preceding the start of employment of service under the contract. Certificate must state that the person is free of communicable tuberculosis.

4.1.5.2. Certificate for each employee and agent, including sub-contracted personnel, must be retained by PROVIDER.

4.1.5.3. The HIDOE reserves the right to monitor at anytime, but at least annually, the PROVIDER's compliance with this section through either, an on-site evaluation, or a documentation review, or both at least once a year.

4.1.6. Training Requirements

The PROVIDER is responsible for all the training related costs. The PROVIDER must adhere to the following provisions for any service activity:

4.1.6.1. **INITIAL TRAINING**

The PROVIDER must provide and ensure that its direct services staff (including sub-contracted personnel) complete a minimum of thirteen (13) hours of training before beginning service delivery. No direct service staff shall deliver services until all thirteen (13) hours of training are completed. The thirteen (13) hours of training shall include:

- A minimum of one (1) hour of training in the State of Hawaii Department of Education Code of Conduct.
 - It is the policy of the Hawaii Board of Education (Board) that all employees, contractors, and volunteers of the public school system shall conduct themselves in an ethical manner and comply with federal and state laws, rules, regulations, and departmental policies, procedures, regulations, rules, and guidance to promote public trust and confidence in public education pursuant to HRS Chapter 84 Standards of Conduct.
- A minimum of twelve (12) hours of training that results in certification in:
 - Quality Behavioral Solutions, (QBS) behavioral intervention and restraints training or the most current training required by HIDOE.

4.1.6.2. **ANNUAL TRAINING**

The PROVIDER must ensure that its direct services staff (including sub-contracted personnel) completes a minimum of the seven (7)) hours of annual training. No direct service staff may continue to deliver services unless all seven (7) hours of annual training is completed. The seven (7) hours of annual of training shall include:

- A minimum of one (1) hour of training on the State of Hawaii Department of Education Code of Conduct.
- A minimum of six (6) hours of training and recertification in:
 - Quality Behavioral Solutions, (QBS) behavioral intervention and restraints training or the most current training required by HIDOE

4.1.6.3. **DOCUMENTATION REQUIREMENTS FOR ALL TRAINING SESSIONS**

The PROVIDER must maintain documentation of each training session. Upon a request from the HDOE, the PROVIDER must provide the requested training documentation.

All training documentation shall include:

- The name of the training;
- Date, place and length of time of training;
- Signature on an official registration or sign-in sheet by each employee and agent, including sub-contracted personnel;
- Documentation of completion for QBS training or other restraints training (i.e. certification, card) A record for each employee and agent including sub-contracted personnel, must be kept in his/her personnel file; and
- The PROVIDER shall maintain a master record of all training.

4.2. **Administrative Requirements**

4.2.1. Medicaid Requirements

The HDOE may engage in activities to support the HDOE requests for Medicaid reimbursement of the provision of services identified in the contract for eligible students. The HDOE shall require verification of licensure and credentialing subject to the terms of the contract in the context of Medicaid reimbursable activities. Per current Medicaid requirements, PROVIDER shall ensure that all Licensed ABA Professionals and ABA PARAs submit their National Provider Identification (NPI) number (as applicable) and PROVIDER shall ensure that all Licensed ABA Professionals and ABA PARAs be enrolled in Medicaid or have all documents for enrollment in Medicaid submitted to Med QUEST (Hawaii Department of Human Services) as applicable. The PROVIDER under the contract shall be subject to administrative claiming for all eligible services and may be required to participate in time studies by the HDOE or their agent(s) as frequently as required. All current Medicaid requirements and any subsequent amendments shall be applicable; PROVIDER must adhere to Medicaid requirements and any amendments.

All services under the contract shall be subject to Medicaid audit.

4.2.2. Confidentiality Requirements

4.2.2.1. The PROVIDER must ensure that employees and agents adhere to all applicable State and Federal laws regarding the collection and release of confidential student information. The PROVIDER shall adopt and implement policies and procedures that govern the provision of services in natural settings. The PROVIDER shall generate, maintain and make available documentation evidencing that it respects students' and/or families' right to privacy when services are provided in these settings. The HDOE shall have the right to inspect and approve these policies and documentary records.

4.2.2.2. The PROVIDER's records relating to students under the contract are educational records governed under FERPA. The documents and records held by the PROVIDER for students serviced under the contract are the

property of the HIDOE. Any documentation that a PROVIDER requires an employee or subcontractor to maintain shall be provided to the HIDOE within two (2) working days of a request by the HIDOE. This includes but is not limited to copies of any progress notes, files and/or group supervision notes.

- 4.2.2.3. Parental consent for assessment and release of information is covered by the IEP consent. No additional parental consent for assessment or release of information is needed by the PROVIDER.

4.2.3. Sentinel Event/Incident Notification Reports

The PROVIDER must have policies and procedures, approved by the HIDOE that address sentinel events and incident notification. These policies must address (1) how the PROVIDER shall notify the respective School Administrator and the DES who is funding the service twenty-four (24) hours by phone and also in writing within seventy-two (72) hours of any event that compromises the safety of a student; (2) how the PROVIDER tracks the occurrence of all sentinel events and incidents to identify trends and patterns in order to implement improvements; and (3) a complete analysis of the event as well as actions taken to address the event. Upon a sentinel event occurring, the PROVIDER shall inform the HIDOE utilizing the prescribed HIDOE format.

All communication shall only take place between the PROVIDER and the appropriate HIDOE staff member(s).

4.2.4. Use of Restraints

The PROVIDER must have documentation and evidence of policies and procedures, approved by the HIDOE, regarding the use of restraints in accordance with Act 206 (2014), Restraint and Seclusion Law. Additionally, in accordance with Section 302A-1141.4, Hawaii Revised Statutes (HRS), the use of seclusion, chemical restraint, or mechanical restraint is prohibited. Further, the use of physical restraint shall be prohibited in public schools unless a student's behavior poses an imminent danger of property damage or physical injury to the student, school personnel, or others and only for so long as the danger persists; provided that other less intrusive interventions have failed or been determined to be inappropriate for the student.

4.2.5. Facilities

In most cases, the HIDOE shall provide facilities used for the provision of services described and considered in the contract. Nonetheless, any facilities that are not provided by the HIDOE and used by the PROVIDER to provide any services or otherwise requiring the presence or participation of students or their families must be ADA compliant and otherwise safe, legal, and appropriate for its use in connection with the contract. The PROVIDER, and not the HIDOE, shall be wholly and completely responsible for ensuring that any such facilities are ADA compliant and otherwise safe, legal, and appropriate for its use in connection with the contract.

4.3. **Contracts Monitoring and Quality Assurance**

- 4.3.1. The PROVIDER must participate in contract monitoring as requested by the HIDOE, but in no event less than annually. This contract monitoring shall focus on compliance with the HIDOE monitoring protocol and compliance with all

administrative and fiscal aspects of the contract.

- 4.3.2. As part of the contract monitoring, PROVIDER will be monitored during a site visit. PROVIDER will be notified by HIDOE personnel via telephone or email to schedule a site visit at least one (1) business day in advance. In addition, a pool of service providers will be selected randomly to ensure accurate representation. No list of service provider names will be given in advance; therefore, contract monitors must have access to all personnel files and be readily available for inspection.
- 4.3.3. If site visit is not conducted, PROVIDER shall provide all requested documents within two (2) working days from the date of the request.
- 4.3.4. The HIDOE reserves the right to evaluate the PROVIDER program/service delivery or financial records/billing information for program monitoring purposes through either, an on-site evaluation, or a documentation review, or both at least once a year.
- 4.3.5. The PROVIDER shall implement an internal Quality Assurance Plan (QAP) that has been approved by the HIDOE, to assure the delivery of quality behavioral services and a plan for program assessment and continuous improvement.

4.4. Performance Requirements

- 4.4.1. At a minimum, performance requirements must include the following measures:
 - 4.4.1.1. Performance/Outcome Measures
 - 4.4.1.1.1. Appropriateness of services delivered to each student that incorporates evidence-based practices.
 - 4.4.1.2. Output Measures
 - 4.4.1.2.1. Accuracy and completeness of student records and documentation.
 - 4.4.1.2.2. Submittal of all required data, reports, and improvement or corrective action plans and deliverables.
 - 4.4.1.2.3. Adequacy and timeliness of responses to any required information, program improvements, and corrective actions.
 - 4.4.1.2.4. Degree of adherence to credentialing process and accuracy and completeness of credentialing files.
 - 4.4.1.3. Fidelity of Implementation
 - 4.4.1.3.1. Degree of adherence to program operations, policies and procedures, and standards as described in the contract.
 - 4.4.1.3.2. Degree of integrity and adequacy of services; use of evidence-based practices, and monitoring of student progress and outcomes.
 - 4.4.1.3.3. Demonstrated ability to comply with training requirements and provide timely, complete and effective training modules annually.
 - 4.4.1.3.4. Student's BIP meets the minimum requirements as defined in section 5.2.1.2.
 - 4.4.1.3.5. Student's FBA meets the minimum requirements as defined in section 5.2.1.2.

- 4.4.2. An annual report of performance requirements shall be provided to the HIDOE within thirty (30) days of the end of the contract year. Reports must contain the following data:
 - 4.4.2.1. The number of unique students serviced by month and annual total.
 - 4.4.2.2. The number of unique students exited from services as determined by the IEP team by month and annual total.
 - 4.4.2.3. The number of unique students transferred to services provided by the HIDOE or other agency by month and annual totals.
 - 4.4.2.4. Narrative summary of how PROVIDER was able to provide substitutes to service students, including challenges to providing substitutes, and PROVIDER action plan to address provision of substitutes for the coming year.
 - 4.4.2.5. Narrative summary on how the PROVIDER addressed any findings of non-compliance identified during the annual contract monitoring period with a description of how the PROVIDER shall prevent the non-compliant behavior(s) from reoccurring.
- 4.4.3. Annual (or more frequent as requested by the HIDOE) reports of quality assurance based on a template, survey, or guidelines provided by the HIDOE. Information will indicate quality of services and may contain outcome data on quality of FBAs, BIPs, and other written teaching plans; student progress; outcomes of ABA PARA supervision; outcomes of teacher and/or parent training; and may include additional data and information.
- 4.5. **Reporting Requirements for Medicaid, Program and Fiscal Data**
 - 4.5.1. Program Requirements
 - 4.5.1.1. The PROVIDER shall input Medicaid required information into one of the HIDOE's student information systems, which is currently the electronic Comprehensive Student Support System (eCSSS). The HIDOE will be transitioning eCSSS into another student information system in the future and the PROVIDER shall input information into that system once notified. Input of information into eCSSS may include modules such as: 1) Service Log; 2) Progress Report; and 3) Other modules that the HIDOE may require. Evaluation reports must be entered into eCSSS and hard copy shall be submitted to the HIDOE. For any event which was done with the teacher or ABA PARA, a visit record must be entered into eCSSS within two (2) working days of its occurrence. In the event eCSSS is amended or unavailable, the PROVIDER shall use the data system specified, or alternatively, the HIDOE may authorize substitution of hard copy reporting utilizing a designated format. In the event a paper system is instituted, the same timelines for reports shall apply.
 - 4.5.1.2. Data entry into eCSSS or another future student information system (along with applicable requirements within each service activity) must be completed before invoice submission and payment.

- 4.5.1.3. At a minimum, PROVIDER is required to have computer hardware/software that supports the operation and access to eCSSS including:
 - 4.5.1.3.1. Desktop and Browser Settings
 - 4.5.1.3.1.1 Recommended: Internet Explorer 10 for Windows. This is the selected platform supported by the HIDOE.
 - 4.5.1.3.1.2 Mozilla Firefox, Google Chrome, Microsoft Edge and Safari may work with some glitches.
 - 4.5.1.3.1.3 Do Not Use: Any other browser such as Opera, etc., or Internet Explorer 6, 7, or 8.
 - 4.5.1.3.1.4 Caution: Internet Explorer 10.x browser is not yet a HIDOE standard and eCSSS and other HIDOE I.T. system applications may not run properly if you use it.
 - 4.5.1.3.1.5 Caution: 64-bit browsers will not work with eCSSS.
 - 4.5.1.3.1.6 Desktop resolution set to at least 1024 x 768.
 - 4.5.1.3.2. Windows-based Personal Computer (laptop or desktop)
 - 4.5.1.3.3. Allow pop-up windows in Internet Explorer while in eCSSS
 - 4.5.1.3.4. Ability to temporarily hide search engine toolbars
 - 4.5.1.3.5. Adobe Acrobat Reader 8 or higher
 - 4.5.1.3.6. Internet connectivity, plus necessary equipment, training and technical support
 - 4.5.1.3.7. Active and available email account

4.5.2. Data and Device Security

- 4.5.2.1 PROVIDER will be NIST 800-114 revision 1 compliant (Anti-Virus, Malware protection, hard drive encryption, Windows firewalls, backups, email protection, Internet filtering and protection, etc) or equivalent for any device(s) that access a HIDOE system(s) and/or stores HIDOE or student information.
- 4.5.2.2 Communications
PROVIDER shall use a secure communications method (HTTPs, VPN, etc.) at all times when discussing or transmitting student information.
- 4.5.2.3 Data Breach
PROVIDER shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of PROVIDER's security obligations or other event requiring notification under applicable law, PROVIDER shall notify HIDOE and any other necessary agency, office, or organization immediately and assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the HIDOE and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event, unless released in writing by an HIDOE officer with designated data, security, or signature authority. Additionally, HIDOE reserves the right to audit and/or inspect

PROVIDERS security, systems, operations, or anything else related to the breach.

- 4.5.2.4 **Data Management**
 “Protected information” shall be defined as data that has been designated as private or confidential by law, by regulation, or by the HIDOE. Protected information includes, but not limited to, employment records, medical records, student records, education records, personal financial records (or other personally identifiable information), research data, trade secrets, and classified government information. Protected information shall not include public records that by law must be made available to the general public.

To the extent there is any uncertainty as to whether any data constitutes protected information, the data in question shall be treated as protected information until a determination is made by the HIDOE or proper legal authority.

- 4.5.3. **Fiscal Requirements**
 All PROVIDER reporting data must be submitted in the time, manner and format specified by the HIDOE.

5. Service Activities

5.1. General Requirements

- 5.1.1. The PROVIDER must adhere to the following provisions for any service activity:
- 5.1.1.1. Provide services pursuant to the IEP and/or authorized by the HIDOE to design programs which support the specialized instruction for targeted students as assigned by the HIDOE. This includes non-academic support and behavioral interventions.
 - 5.1.1.2. In circumstances where the HIDOE determines that a PROVIDER shall no longer provide a service or PROVIDER shall no longer be able to provide a service, the PROVIDER shall assist in the orderly transfer among and between individual providers or HIDOE personnel. The PROVIDER shall work collaboratively with the HIDOE, to develop appropriate and timely transfer plans.
 - 5.1.1.3. In cases where a student moves from a geographic area in which the PROVIDER has entered into a valid contract agreement with the HIDOE to another geographic area that in which PROVIDER does not hold a contract agreement with the HIDOE, the HIDOE may require the PROVIDER to continue and if required, the PROVIDER shall ensure services are provided during an appropriate transfer period, as identified by the HIDOE.
 - 5.1.1.4. Services are provided as directed by HIDOE and may include IEP specified services or other services. In no event shall the provision of services exceed eight (8) hours for Licensed ABA Professionals and seven (7) hours for ABA PARAs unless authorized by the HIDOE.

- 5.1.1.5. Provide services at the student's school, or at a site identified as best suited to address student's IEP goals and objectives. The HIDOE has final determination of the location of the delivery of service.
- 5.1.1.6. Ensure that PROVIDER behavior and practices are consistent with school policies, such as being respectful towards others, and signing in/out when entering/leaving campus.
- 5.1.1.7. Wear identification when visiting a school campus or School Visitor ID when working on a school campus.
- 5.1.1.8. Maintain appropriate levels of contact and strictly professional relationships (as specified per service) with school staff and families. Refrain from dual or multiple relationships (i.e., social, financial, business, sexual, and legal) in which there is conflict of interest, appearance of a conflict of interest, or potential for conflict of interest and potential for harm to the student, family, school, or the HIDOE. Should a dual or multiple relationship become evident, the PROVIDER shall immediately inform HIDOE of the situation and the steps that will be taken to resolve the situation which may include removal of staff from providing services under this contract and securing a qualified staff replacement.
- 5.1.1.9. There shall be no photography, audio or video recording of HIDOE students, staff and contracted employees without prior written HIDOE and parent consent.
- 5.1.1.10. There shall be no posting of information concerning HIDOE students, staff, contracted employees or the contract on any social media platform or anywhere on the Internet without prior written HIDOE consent.
- 5.1.1.11. PROVIDER shall engage in the timely scheduling of appointments, processing of documents, and participation in conference meetings.
- 5.1.1.12. Any active use of electronic devices shall comply with HIDOE policies and procedures.
- 5.1.1.13. The use of personal electronic devices is prohibited during service time.
- 5.1.1.14. PROVIDER personnel shall have competency, and provide proof of such if requested by the HIDOE, to provide the services, specifically related to the educational implications of severe social, communication, and behavioral deficits.
- 5.1.1.15. Participate in meetings when requested by the HIDOE.
- 5.1.1.16. Provide information to the HIDOE about the PROVIDER services within two (2) working days of a request by the HIDOE.
- 5.1.1.17. Adhere to all the HIDOE guidelines relating to specific programs and activities, such as water-related activities.

5.2. **Licensed ABA Professional Services**

5.2.1. **Staffing Requirements**

It is a requirement that the Licensed ABA Professional have knowledge of, and experience in applied behavioral analysis principles, functional behavior assessments, and behavior intervention plans.

The Licensed ABA Professional shall have knowledge in developmental and functional skills and experience in conducting assessments such as the VB-MAPP, ABLIS-R, AFLS, PEAK and Essential for Living. The Licensed ABA Professional shall be able to analyze assessment results and develop verbal behavior programs, developmentally appropriate programs, functional educational programs, etc. in collaboration with the teacher.

Licensed ABA Professional shall have knowledge and experience in providing evidence based practices in working with individuals with Autism Spectrum Disorder and related disorders such as:

<https://autismpdc.fpg.unc.edu/sites/autismpdc.fpg.unc.edu/files/2014-EBP-Report.pdf> Licensed ABA Professional must also have knowledge and experience in providing behavior analytic services to individuals who have an Emotional Disability.

Any additional training or professional development needed by the Licensed ABA Professional to support the delivery of ABA services shall be the responsibility of the PROVIDER supervisory and training infrastructure and shall be provided by the PROVIDER as an included cost of the service and provided prior to the PROVIDER beginning work activities.

At a minimum, a Licensed ABA Professional must be one of the following:

- LBA- Licensed to provide behavior analytic services in the State of Hawaii, credentialed by the Behavior Analyst Certification Board (BACB). In addition, must meet current BACB supervision requirements. At the time this RFP is written, the supervision requirements are:
 - Must hold the BCBA or BCBA-D AND
 - Have passed an 8-hour, competency-based training covering the BACB Supervisor Training Curriculum Outline; AND
 - Have obtained three (3) hours of continuing education related to supervision during each certification cycle; AND
 - Have at least (1) year experience providing ABA services. Experience may include supervised experience accrued in pursuit of professional ABA certificate.
- Licensed psychologist in the State of Hawaii provided that ABA services performed are within the boundaries of the licensed psychologist's experience, training, and competency and:
 - Have at least (1) year experience providing ABA services. Experience may include supervised experience accrued in pursuit of credential if such experience was comprised of ABA service provision.

Licensed ABA Professional must have on file DCCA documentation indicating individual is licensed to practice behavior analysis or psychology in the State of Hawaii.

Service Description

5.2.1.1. ABA PARA (RBT and ABA Paraprofessional) Clinical Supervision

Registered Behavior Technician (RBT):

- Clinical supervision to be provided by PROVIDER LBA.
- Clinical supervision shall be provided to PROVIDER RBT, other PROVIDER RBT, and the HIDEOE RBT.

ABA Paraprofessional:

- Clinical supervision may be provided by a PROVIDER LBA or PROVIDER Licensed Psychologist through January 1, 2020 according to Hawaii law.
- After January 1, 2020, clinical supervision shall be provided only by a Licensed Psychologist.
- Clinical supervision shall be provided to PROVIDER ABA Paraprofessional, other PROVIDER ABA Paraprofessional, and HIDEOE Paraprofessional.
- May work under the clinical supervision and direction of a HIDEOE Licensed ABA Professional.

All:

- Clinical supervision requirements include a minimum of 5% of the hours spent delivering ABA services to each student per month. Clinical supervision is not required during periods of time ABA services are not being provided.
 - Clinical supervision must include at least two (2) face-to-face, synchronous contacts per month, during at least one of which the Licensed ABA Professional observes the ABA PARA providing services. While in- person, on-site observation is preferred, this clinical supervision may be conducted virtually (e.g., via web cameras, videoconferencing, or similar) means in lieu of the supervisor being physically present. Clinical supervision may not be provided virtually for the sole purpose of PROVIDER convenience and/or to save money.
 - Licensed ABA Professionals are not required to provide service to all students in the geographic areas that the PROVIDER is selected to service. However, PROVIDER is required to serve the maximum number of students as possible and as frequently as possible on the island they propose to serve, that is within their capacity, as both they and the HIDEOE may determine on an ongoing basis.
 - Licensed ABA Professional must ensure in-person, on-site observation of ABA program implementation when possible. Supervision and service provision to students through virtual means (e.g., web-based media) is allowable in lieu of face to face when face to face is not possible. Service delivery may not be provided virtually for the sole purpose of Licensed ABA

Professional convenience and/or to save money.

- At least one (1) of the two (2) clinical supervision sessions must be individual, but the other may occur in a small-group meeting.
- *Small Group Supervision* must meet current BACB requirements

for group supervision. Some clinical supervision activities may be conducted in small groups. Small groups are interactive meetings in which two to ten (2-10) ABA PARAs who share similar experiences participate. If non-ABA PARAs are present during the meeting, their participation should be limited so as to increase the interaction opportunities of ABA PARAs.

- As part of the clinical supervision requirements, the PROVIDER LBA completes the annual Registered Behavior Technician Competency Assessment for both PROVIDER RBTs and assigned HIDEOE RBTs as required by the BACB before the annual due date.
 - Per this contract, the PROVIDER LBA is not required to complete the annual Registered Behavior Technician Competency Assessment for other PROVIDER'S RBTs.
- The PROVIDER shall ensure the PROVIDER's RBTs have a responsible certificant listed in the BACB website.
 - Clinical supervisor of HIDEOE RBTs will be the responsible certificant and shall be listed in the BACB website.
 - Administrative supervision of a HIDEOE RBT will be provided by HIDEOE.
 - Administrative supervision of PROVIDER ABA PARA will be provided by PROVIDER.
 - Upon a request from the HIDEOE, the PROVIDER shall allow HIDEOE staff to observe and attend clinical supervision sessions, and receive information from the PROVIDER regarding ABA PARA's performance including all pertinent information.
 - All clinical supervision provided to PROVIDER, HIDEOE, and other PROVIDER ABA PARAs must be documented with date, place, length of time of session, topics discussed, other relevant information, and the name of the individual providing supervision. Upon a request from the HIDEOE, the PROVIDER must provide the requested supervision documentation within two (2) working days from the request.
 - The purpose of clinical supervision is to improve and maintain the behavior-analytic, professional, and ethical repertoires of the ABA PARA and facilitate the delivery of high-quality services to students and ensure the implementation of programs with fidelity. Clinical supervision does not include corrective actions or consequences that address disciplinary issues. Effective behavior-analytic supervision includes:

- Development of performance expectations;
- Observation, behavioral skills training, review of inter-observer agreement data and delivery of performance feedback;
- Modeling technical, professional, and ethical behavior;
- Guiding behavioral case conceptualization, problem-solving, and decision-making repertoires;
- Review of written materials (e.g., behavior programs, data sheets, reports); and
- Oversight and evaluation of the effects of behavioral service delivery.

5.2.1.2. Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP)

- Per the IEP team's decision and with informed parental consent conducts a formal FBA (e.g., descriptive, functional analysis) to determine potential reinforcers, baseline (pre-intervention), function of behavior(s), educational implications, recommendations etc.
- Writes the FBA report so as to be comprehensive, understandable, and complete.
- It is recommended that the PROVIDER use the HIDEOE FBA form. If PROVIDER chooses not to use HIDEOE FBA form, the FBA must, at a minimum, contain the following components:
 - Reason for Referral
 - Background Information
 - Diagnosis and Medication information
 - Strengths
 - Needs
 - Preferences/Interests
 - Information Sources to include:
 - Records Review
 - Interviews with interview dates
 - Observations with observation dates
 - Analysis of Environmental Factors, including impact of student goals and objectives, curriculum, or teaching methods on student behavior
 - Setting Events
 - Description of Problem Behavior(s)
 - Baseline Data
 - Graphed Data
 - Antecedents
 - Consequences
 - Hypothesis Statement
 - Replacement Behavior
 - Recommendations
 - Long-term behavior goal
 - Short-term behavior objectives

- Based upon the results of the FBA, makes educational recommendations that may include changes to student goals and objectives, curriculum, or teaching methods; need for non-ABA assessments; classroom strategies; or development of a BIP. The BIP provides antecedent based interventions, teaches functionally equivalent replacement behaviors and/or skills, and reduces problematic behaviors.
- Works collaboratively with the teacher, related service providers, parent etc. and gathers behaviorally relevant information needed to conduct the FBA and develop the BIP.
- Development and implementation of the BIP shall adhere to the seven dimensions of ABA as specified in Baer, Wolf, and Risley's 1968 article, *Some Current Dimension of Applied Behavior Analysis* (i.e., Applied, Behavioral, Analytic, Technological, Conceptually Systematic, Effective, and Generalized). BIP shall include evidenced based intervention or practices, written teaching procedures or protocols, reinforcement, schedules of reinforcement, prompt & prompt fading, generalization, maintenance, data collection system, graphs, data analysis, conducting inter-observer agreements and fidelity checks.
- It is recommended that the PROVIDER use the HIDEOE BIP form. If PROVIDER chooses not to use HIDEOE BIP form, the BIP must at a minimum, contain the following components:
 - Environmental Factors
 - Setting Events
 - Hypothesized Function of behavior
 - Antecedent
 - Consequential Responses
 - Replacement Behavior
 - Procedures to Teach Replacement Behavior
 - Reinforcement Procedures
 - Data Collection
 - Crisis Plan
 - Criteria for Termination of the BIP
- Provides behavioral skills training to individuals who work with the student and collects program implementation integrity data to ensure program is implemented with fidelity at 90% or better.
- Provides on-going supervision to the ABA PARA implementing the BIP, as outlined in item 5.2.1.1.
- Graphs and analyzes behavioral data to evaluate the BIP's effectiveness in collaboration with the teacher regarding the following:
 1. Decreasing problem behavior(s);
 2. Increasing the alternative and positive replacement behavior(s);

3. Increasing skills;
 4. Generalizing skills to new environments, persons, situations;
 5. Changing behavioral intervention as needed;
 6. Revising the BIP as needed; and
7. Determining if another FBA or other assessments needs to be conducted.
- Prepares student progress and other reports in collaboration with teacher and related service providers; Communicates with teacher, school and other HIDOE staff in a timely manner on work-related matters; Participates in work-related meetings upon request of the HIDOE; Engages in other relevant or work-related activities upon request of the HIDOE. In-person, face-to-face communication and meetings are preferred. However, with permission from the school, communication and meetings may be conducted via web cameras, videoconferencing, or similar means in lieu of the ABA consultant being physically present. Non face-to-face meetings are not to replace face-to-face communication for the sole purpose of PROVIDER convenience or to save money.
 - Implements BIP so the result is rapid and meaningful progress in student behavior. If student is not making improvement within a reasonable period of time (e.g., 3 to 6 weeks) based on data analysis and there is evidence that the BIP is being implemented with fidelity, program changes must be made. If the student continues not making progress after a longer period of time (e.g., 1 to 3 months), the BIP may need to be updated which may include a meeting with the teacher and/or the IEP team to discuss the need for environmental changes, including but not limited to adding or removing goals and objectives, modifying or replacing the curriculum, or rearranging the classroom environment.

5.2.1.3. Program Development

- Works collaboratively with the teacher, related service providers etc. to administer assessments for program development such as the VB-MAPP, ABLIS-R, AFLS, PEAK, Essential for Living etc. These developmental and functional skills assessments are used to evaluate students' behavioral, communication, social, daily living skills, vocational, functional academic needs etc.
- Works collaboratively with the teacher, related service providers etc. to design student's program based upon assessment (e.g., VB-MAPP, ABLIS-R, AFLS, PEAK, Essential for Living etc.) results and social validity.
- Communication, meeting, and interaction with teacher, related service providers, and other HIDOE staff may occur virtually (e.g., web cameras, videoconferencing, telephone conferencing, or similar means in lieu of being physically present) with agreement from the teacher, school, and/or funding DES.

- The program shall adhere to the seven dimensions of ABA as specified in Baer, Wolf, and Risley's 1968 article, *Some Current Dimension of Applied Behavior Analysis* (i.e., Applied, Behavioral, Analytic, Technological, Conceptually Systematic, Effective, and Generalized) and includes evidenced based intervention or practices, written teaching procedures or protocols, reinforcement, schedules of reinforcement, prompt & prompt fading, generalization, maintenance, data collection system, graphs, data analysis, conducting inter-observer agreements and fidelity checks.
- Provides behavioral skills training to individuals who work with the student and collects program implementation integrity data to ensure program is implemented with fidelity at 90% or better.
- Provides on-going supervision to the RBT implementing the program as outlined in item 5.2.1.1.
- Graphs and analyzes program data to evaluate the program's effectiveness in collaboration with the teacher regarding the following:
 1. Increasing skills and mastering targets;
 2. Generalizing skills to new environments, persons, materials, situations etc.
 3. Determining new skills or targets;
 4. Changing teaching procedures as needed;
 5. Revising program as needed; and
 6. Determining if another assessment for program development needs to be conducted.
- It is recognized that over-reliance on paraprofessional supports can be harmful to students ([Giangreco, 2010](#)). Thus, emphasis will be placed on increased student independence and fading of ABA PARA services as student makes meaningful progress. To accomplish this interventions and supports will focus on accommodations and modifications to the environment, curriculum, peer support structure, learning activities, natural adult support structure, etc. as a means to reduce student reliance on the paraprofessional
- Prepares student progress and other reports in collaboration with teacher and related service providers; Communicates with teacher, school and other HDOE staff in a timely manner on work-related matters; Participates in work-related meetings upon request of the HDOE; Engages in other relevant or work-related activities upon request of the HDOE.

5.2.1.4. Teacher Consultation

- Provide consultation to the teacher(s) in regards to ABA principles, verbal behavior, functional behavior assessments, behavior intervention plans, assessments for programming (i.e., VB-MAPP, ABLLS-R, AFLS, Essential for Living, PEAK), evidence-based practices, environmental arrangement, classroom behavior management, student programs, data collection, and

development of the IEP.

- Teacher consultation may occur virtually (e.g., web cameras, videoconferencing, telephone conferencing, or similar means in lieu of being physically present) with agreement from the teacher, school, and/or HDOE staff (e.g. DES) .
- Teacher consultation services includes working collaboratively with the teacher to accomplish the following:
 1. Increase teacher's skills and knowledge in the implementation of programs for the student; and
 2. Increase teacher's knowledge in the collection and analysis of student data that will inform teaching practices for the student
 3. Increase teacher's responsibility regarding full independent implementation of student programs.
- Uses behavioral skills training as a teacher consultation activity to implement the ABA Plan.
- Teacher consultation will not include generic professional development activities (e.g., teacher or paraprofessional professional development activities).

5.2.1.5. Educational Team Planning and Participation

- Meet with the student's educational team members to determine the need for ABA services, review FBA, BIP, student's program and other matters relating to behavioral and educational programming at the discretion of HDOE.

5.2.1.6. Parent Education/Parent Training

The Parent Education/Parent Training shall include all of the following:

- The Licensed ABA Professional shall develop a Parent Education Service Plan and/or Parent Training Service Plan that includes topics of instruction that shall address the education and/or training needs of the parent as indicated by the student's program. The education and/or training service plan shall be completed and submitted to the teacher.
- The Licensed ABA Professional shall contact the parent to initiate services on the topics and/or areas to be covered within one (1) week following the Parent Education Service Plan and/or Parent Training Service Plan approval by the DES. It may be made available to parents within the typical work day as well as in the evenings or on the weekends. However, the Parent Educator/Trainer shall provide the service in accordance with the time and frequency as identified in the IEP. Services may be delivered at the student's school, private home or community location.

- The Licensed ABA Professional shall also be required to monitor the effectiveness of the training. This monitoring shall include but is not limited to consultation with the teacher, meeting with parent(s) or legal guardian(s) to discuss specific issues/interventions related to their progress or to make recommendations for adjustments to the training or education plan. The documentation of parents/legal guardians' inability to acquire the skills/knowledge or lack of participation is required.
- A report including the education and/or training provided to parents shall be completed and submitted quarterly to the teacher. Failure to submit the quarterly report and measurable outcome data shall be constructive proof that the event did not occur and any payments made shall be subject to refund.
- The Licensed ABA Professional shall not specify a particular service provider be required. All recommendations shall be supported by evidence-based research. Failure to adhere to this requirement shall result in the immediate removal of the Parent Educator/Trainer by the HIDEOE.
- The Licensed ABA Professional may provide services at any time during the week. Service hours of the Licensed ABA Professional shall not exceed eight (8) hours per day and/or forty (40) hours per week without prior authorization from the HIDEOE.

5.2.1.7. Court/Due Process Hearing Testimony

- The Licensed ABA Professional's participation in a court hearing or due process hearing at the request of the HIDEOE. This participation is in addition to a State representative's (i.e., Deputy Attorney General and/or HIDEOE personnel) presence in court and is intended to ensure that the court has access to all relevant information needed.
- Court/Due Process Hearing Testimony shall be included in the calculation of the Licensed ABA Professionals' maximum service hours of eight (8) hours per day and the forty (40) hours per week and may include all of the following:
 1. Attending court or due process hearings as specifically requested by the HIDEOE to present relevant educational data or other information needed.
 2. Specific report writing by the PROVIDER is needed for court or due process hearing (i.e., Progress Notes, assessments, and other existing reports do not suffice). If a specific report must be submitted, the HIDEOE may request that the PROVIDER complete specific documentation to assist in the writing of the report. The unit of service for the generation of the specific documentation is limited to a maximum of one (1) hour.

3. Recommendations are based on the presenting needs of the student and evidenced based practices.
4. Reports to be submitted to the HIDEOE for review two (2) weeks prior to the scheduled hearing date.

5.2.2. Service Operations

- 5.2.2.1. PROVIDER staff works collaboratively with the HIDEOE and all members of a student's educational team. It shall not include the provision of direct services to a student or parent communication, unless otherwise approved by the HIDEOE. It is the HIDEOE's responsibility to communicate information regarding the student to the parent, including but not limited to topics such as program modifications and student progress.
- 5.2.2.2. Teaming and collaboration are critical in the development and implementation of appropriate educational services for students. It is required that the PROVIDER staff shall communicate directly with the HIDEOE regarding any issues that may affect or impact the student's progress.
- 5.2.2.3. PROVIDER staff shall work collaboratively with the teacher and members of the student's IEP team to determine criteria regarding fading or decreasing service delivery. The criteria is based on student needs and the staff's ability to implement student's BIP and program with decreased PROVIDER staff support. This is done to ensure student as well as staff are moving towards independence.
- 5.2.2.4. If the PROVIDER staff has concerns regarding personnel or delivery of services or any aspect thereof, the PROVIDER staff shall first try to resolve the matter with the person(s) in question while adhering to the BACB Professional and Ethical Compliance Code for Behavior Analysts (BACB Compliance Code) or APA Ethical Principles of Psychologists and Code of Conduct. If concerns are not resolved, the PROVIDER staff shall inform his/her supervisor. The PROVIDER staff's supervisor shall contact the funding DES or other relevant HIDEOE staff who shall have the final decision making authority. If the PROVIDER staff disagrees with the final decision, the PROVIDER may decide to remove their staff from the job and discontinue providing services following an appropriate transition to another of their staff.
- 5.2.2.5. Direct services to students shall be provided during the school day. However, some students require services beyond the school day (ESD) at various HIDEOE approved locations.
- 5.2.2.6. Direct services that occur beyond the school day may occur in various environments, such as schools, private homes, community, homeless shelters and street locations or at a site identified by the HIDEOE as best suited to address the student's needs.
- 5.2.2.7. The HIDEOE has the final determination of the location of the

delivery of service. For all service activities provided in a private home, a parent, guardian, or caregiver [who must be at least eighteen (18) years of age] must be present for the duration of the session. Any other contracted service professional or paraprofessional shall not be considered a parent, guardian or caregiver.

- 5.2.2.8. If the PROVIDER staff is unable to provide service, the PROVIDER shall be responsible for providing replacement staff for absences or vacations of their assigned staff. It is required that a pool of substitutes shall be maintained to ensure continuity of service delivery. Failure to provide a replacement or substitute, both on a temporary or permanent basis, shall be documented and may impact future referrals. The HIDEOE has the final determination if the PROVIDER must provide any missed services.
- 5.2.2.9. If the PROVIDER staff does not provide services as scheduled , teacher shall complete a Sentinel Event/Incident Notification Form and submit to the DES funding the service.
- 5.2.2.10. PROVIDER staff shall not transport the student. Transportation of the student to and from required service activities is the responsibility of the HIDEOE. The HIDEOE shall not pay nor reimburse for transportation costs or mileage.
- 5.2.2.11. The HIDEOE will be responsible for costs (e.g., admission fees) for PROVIDER staff to attend any school sponsored extracurricular activity when there is a need for PROVIDER to attend as determined by HIDEOE.
- 5.2.2.12. As authorized by the HIDEOE, PROVIDER ABA consultant will provide service up to a maximum of eight (8) hours per day or forty (40) hours per week (not including lunch and other short breaks during the day) including Extended School Year for students who have those services, with the exception of holidays, vacation, sick leave, school breaks, as well as HIDEOE professional development or waiver days (i.e., days when students are not on campus) and other leave permitted by the HIDEOE. Caseload will be determined by the HIDEOE.

The Licensed ABA Professional caseload and service schedule will be determined by the HIDEOE (e.g. DES).

5.3. **ABA PARA Services**

5.3.1 Staffing Requirements- ABA PARA Services are to be provided by an RBT or ABA Paraprofessional.

Requirements for ABA Paraprofessional:

- 5.3.1.1. At a minimum, the ABA Paraprofessional must have a two-year degree from an accredited university or institution of higher learning or meet at least one of the following ESEA requirements. ESEA requirements are:

- 5.3.1.1.1. Option 1 – 48 credits when enrolled in a Bachelor’s degree or higher

- Credits must be 100 level or higher in any subject area.
 - If earned after June 30, 2003, credits must include 3 credits in Math and 3 credits in English.
 - Must be earned from a regionally accredited institution.
 - PROVIDER must have official transcripts on file.
- 5.3.1.1.2. Option 2 – Associates, Bachelors, or Master’s degree
- Degree must be earned with 100 level or higher courses.
 - For employees who earned a degree prior to January 8, 2002, the degree may include less than 100 level courses.
 - Must be earned from a regionally accredited institution.
 - PROVIDER must have official transcripts on file.
- 5.3.1.1.3. Option 3 – Passing score on the ParaPro Assessment
- A certificate with a minimum score of 459 on the ParaPro Assessment provided by Educational Testing Service.
 - Agencies must have all official copies of ParaPro Assessment results on file.
- 5.3.1.1.4. Complete a 40-hour training conducted by a Licensed Psychologist that covers the following topics/components. Completion of the 40-hour training shall be documented in a manner consistent with documentation requirements to be specified by the HDOE. The 40-hour RBT training may be substituted.
1. Data Collection, including continuous measurement (e.g., frequency/duration, discontinuous measurement (e.g., interval recording/momentary time sampling), and permanent product recording.
 2. Comply with confidentiality requirements
 3. Fidelity of Implementation Data, including Inter-Observer Agreement
 4. Assisting professional in conducting functional behavior and/or program assessments.
 5. Program Implementation
 - Describing behavior and program variables in observable, measurable terms
 - Ability to explain and implement components of an ABA program, including
 - Ability to read, explain, and follow Behavior Intervention Plan or other ABA Program with fidelity
 - Differential Reinforcement
 - Functionally Equivalent Replacement Behavior
 - Being prepared prior to implementing Program (e.g., setting up the environment, having all teaching and data collection materials at hand, etc.)
 - Conduct preference assessments
 - Implement reinforcement Schedules
 - Use discrete Trial Training Procedures

- Use naturalistic (Incidental) Teaching Procedures
- Use task Analyzed Chaining Procedures
- Use stimulus Control Transfer Procedures/Prompt Fading
- Use stimulus Fading Procedures
- Incorporate Generalization and Maintenance activities
- Generate session notes that are objective and useful.
- Comply with legal, ethical, regulatory, and workplace requirements.
- Describe role and responsibility of paraprofessional in the hierarchy of ABA service providers
- 6. Communicate/collaborate with/assist school personnel, such as ABA Professional, teachers, related service providers, other paraprofessionals, and family members with professionalism and only as authorized
- 7. Respond to feedback from ABA professional and teacher by verbally indicating acceptance and working on improving indicated areas of need
- 8. Maintain professional boundaries
- 9. Protect student dignity

5.3.1.1.5 Pass a Competency Assessment conducted by Licensed ABA Professionals to include all components of the 40-hour training with at a minimum 25% of the components being conducted in a real-life situation (i.e., working with a student or other similar individual). The remainder of the components may be conducted through role play.

Requirements for RBT:

5.3.1.2. Must meet at least one of the Options (i.e., 5.3.1.1.1. , 5.3.1.1.2. , 5.3.1.1.3) as described in above as well as all of the following as required in the current BACB RBT requirements. In the event that the BACB changes RBT requirements, RBT must meet all new current requirements of the BACB.

<https://www.bacb.com>

- Must be 18 years of age
- Possess a minimum of a high school diploma or national equivalent
- Complete the 40-hour training outlined in 5.4.1.1.4.
- Pass the Competency Assessment annually (see 5.4.1.1.5).

5.3.2. PROVIDER shall have copies of official transcripts and training credentials on file.

5.3.3. Any additional training shall be available from the PROVIDER's supervisory and training infrastructure.

5.3.4. The completion of the RBT Competency Assessment annually shall be available from the PROVIDER's supervisory and training infrastructure.

5.3.5. Service Description:

- 5.3.5.1. ABA PARA services include the following: (1) implement the student's IEP;(2) implement the Behavior Intervention Plan (BIP); (3) provide assistance to the teacher on implementation of classroom/school routines; and other instructional duties as they relate to the student or classroom as assigned by the HIDEOE.
- 5.3.5.2. ABA PARA shall collect data and graph the data as directed by the LBA. Data shall be graphed at least weekly and made available for teacher and LBA review no less than weekly.
- 5.3.5.3. Implement student's IEP and BIP with at least 90% fidelity. Licensed ABA Professional shall provide behavioral skills training to ABA PARA to ensure interventions and teaching procedures are implemented with fidelity of 90% or better.
- 5.3.5.4. If ABA PARA does not meet fidelity at 90% or better after a period of time as determined by the Licensed ABA Professional, the Licensed ABA Professional shall collaborate with the teacher and determine if ABA PARA needs to be replaced. If replacement of ABA PARA is needed, the DES will inform the PROVIDER. The PROVIDER shall provide a replacement ABA PARA as soon as possible; but the school's waiting period for a replacement ABA PARA shall not exceed five (5) calendar days. If the PROVIDER is unable to provide replacement ABA PARA within five (5) calendar days, PROVIDER shall immediately inform the school. The Licensed ABA Professional shall ensure there is an appropriate transition of ABA PARA services to the new PROVIDER.
- 5.3.5.5. ABA PARA may provide services to an individual student or for a classroom where multiple students are provided with ABA services. ABA PARA may work simultaneously with more than one student in a classroom and/or sequentially with different students. In the event that student is absent or not available, ABA PARA shall work with other students in the classroom as deemed appropriate by the classroom teacher.
- 5.3.5.6. ABA PARA may provide services at any time during the week. Service hours of the ABA PARA shall not exceed thirty-five (35) hours per week. Activities engaged in when school is not in session or student is unavailable may include but are not limited to activities authorized by the DES such as individual or group clinical supervision, training, travel to authorized activities, participation in authorized activities, preparing materials, graphing data, and providing ABA services to other students.
- 5.3.5.7. ABA PARA may work under the supervision and direction of a HIDEOE Licensed ABA Professional.

5.3.6. Service Operations

- 5.3.6.1. ABA PARA services shall be delivered in an instructional format determined by the Licensed ABA Professional who works in collaboration with the teacher.

- 5.3.6.2. The ultimate goal of ABA PARA services is to improve student's behaviors so that the student can access his/her education and function as independently possible in the least restrictive environment with natural supports.
- 5.3.6.3. Teaming and collaboration among teacher, Licensed ABA Professional and educational team members is critical in the development and implementation of appropriate educational services for students such as those exhibiting severe behavioral deficits. The ABA PARA shall work collaboratively with the teacher and educational team including other classroom staff. The ABA PARA shall take direction from the Licensed ABA Professional and the teacher. If there is a disagreement between the teacher and ABA PARA, the Licensed ABA Professional maintains authority on the implementation of ABA services until there is resolution. The DES or HIDEOE state office personnel will determine the final resolution.
- 5.3.6.4. ABA PARA services shall be provided primarily during the school day. However, some students require services beyond the school year (ESY) or school day (ESD) at various HIDEOE approved locations which may be provided by the ABA PARA.
- 5.3.6.5. ABA PARA services that occur beyond the school year or school day may occur in various environments, such as schools, private homes, community, homeless shelters and street locations or at a site identified by the HIDEOE as best suited to address the student's needs.
- 5.3.6.6. The HIDEOE has the final determination of the location of the delivery of service. For all service activities provided in a private home, a parent, guardian, or caregiver (who must be at least eighteen (18) years of age) must be present for the duration of the session. Any other contracted service professional shall not be considered a parent, guardian or caregiver.
- 5.3.6.7. If the ABA PARA is unable to provide service, the PROVIDER may be required, at the DES request, to provide replacement staff for absences or vacations of the assigned ABA PARA. It is required that a pool of substitutes shall be maintained to ensure continuity of service delivery. Failure to provide a replacement or substitute, both on a temporary or permanent basis, shall be documented and may impact future referrals. The HIDEOE has the final determination if a missed session is to be made up by the contracted provider.
- 5.3.6.8. If the ABA PARA is absent and fails to notify PROVIDER and teacher of the pending absence, teacher shall complete a Sentinel Event/Incident Notification Form and submit to the DES. Excessive absences shall be documented and may impact future referrals.
- 5.3.6.9. ABA PARA services shall not include the transportation of the student. Transportation to and from required activities, such as a school sponsored or classroom field trip, is the responsibility of the HIDEOE.

The HIDEOE will not pay nor reimburse for transportation costs or mileage to and from the work site.

- 5.3.6.10. The HIDEOE will be responsible for any costs (e.g. admission fees) for ABA PARA to attend any school sponsored extracurricular activity when there is a need for ABA PARA to attend as determined by HIDEOE.

5.3.6.11. Service Schedule

Provision of ABA PARA services shall be according to the following:

5.3.6.11.1 Classroom Assignment:

- ABA PARA shall be assigned to assist and support one student or multiple students requiring ABA services in a classroom(s) as determined by the HIDEOE.
- ABA PARA shall assist and support the targeted student(s) in the classroom as directed by the Licensed ABA Professional in collaboration with the teacher.

5.3.6.11.2. Instructional Days:

- Assigned days shall include instructional days as set forth by the HIDEOE calendar.
- ESY assignments are dependent upon the staffing needs of the HIDEOE.
- Should there be a need for ABA PARA, the HIDEOE will inform the ABA PARA of the specific details of the ESY assignment (i.e. school site, the days and hours).

5.3.6.11.3. Non-Instructional Days:

- Non-Instructional Days include school holidays, school closures, professional development or waiver days (when students are NOT on campus).
- ABA PARA shall not provide services unless otherwise stated in the student's IEP and as determined by the HIDEOE.
- Should there be a need for ABA PARA services on non-instructional days, the HIDEOE will notify the PROVIDER of the dates and hours of the assignments.

5.3.6.11.4. The need for ABA PARA services shall be determined by the HIDEOE.

5.3.6.11.5. As authorized by the HIDEOE, ABA PARA will typically provide service for seven (7) hours per day or thirty-five (35) hours per week (not including lunch and other short breaks during the day) with the exception of holidays, vacation, sick leave, school breaks, as well HIDEOE professional development or waiver days (i.e., days when students are not on campus) and other leave permitted by the HIDEOE. Assigned students will be determined by the HIDEOE.

6. Authorization of Licensed ABA Professional and ABA PARA Services

Referral Criteria-The HIDEOE has determined that the HIDEOE does not have sufficient personnel capacity

to provide Licensed ABA Professional and ABA PARA services.

- 6.1 Prior authorization of services by the HIDEOE is required for Licensed ABA Professional and ABA PARA services.
- 6.2 The Licensed ABA Professional daily rate reflects the work completed in an eight (8) hour day and includes both direct and indirect activities per this contract:
 - 6.2.1. Direct Services including but not limited to the following:
 - ABA PARA Supervision
 - Conducting the Functional Behavior Assessment
 - Parent Education and Training
 - 6.2.2. Indirect Services, including but not limited to the following:
 - Development of Behavior Intervention
 - Program Development
 - Teacher Collaboration/Consultation
 - Educational Team Planning Participation Documentation/Report Writing
 - Data review and analysis
 - Service related travel to and from a service location
- 6.3 Maximum Billable for Licensed ABA Professional:
 - The PROVIDER shall bill for Licensed ABA Professional services at the daily rate, as established by the HIDEOE. (1 eight (8) hour day = \$600.00)
 - If Licensed ABA Professional provides service for more or less than eight (8) hours in one day, PROVIDER shall bill at the hourly rate of \$75.00.
 - The Licensed ABA Professional daily rate reflects the services completed in a eight (8) hour day and includes services and activities per this contract.
- 6.4 Maximum Billable for ABA PARA:
 - The PROVIDER shall bill for ABA PARA services at the daily rate, as established by the HIDEOE. (1 seven (7) hour day = \$350.00)
 - If ABA PARA provides service for more or less than seven (7) hours in one day, PROVIDER shall bill at the hourly rate of \$50.00.
 - The ABA PARA daily rate reflects the services completed in a seven (7) hour day and includes services and activities per this contract.
- 6.5 The following activities are not authorized services:
 - Unauthorized hours including hours that exceed eight (8) hours per day and 40 hours per week for Licensed ABA Professionals.
 - Unauthorized hours including hours that exceed seven (7) hours per day and 35 hours per week for ABA PARA.
 - Lunch and other breaks.
 - Any meeting in which the HIDEOE is not present with the exception of parent education and training and meetings authorized by the HIDEOE;
 - Corrections of reports or documents that the HIDEOE has identified as inadequate;
 - Any service activity that is already an included cost of the service.

6.6 Documentation

PROVIDER must have documented verification of attendance, such as the monthly Service Verification Form, or any other process as determined by the HIDOE.

- Absence of any required documentation shall be constructive proof that Licensed ABA Professional and/or ABA PARA services were not provided and the amount billed shall be subject to refund.

6.7 Continuing Service Criteria

PROVIDER services must be on a time-limited basis and based on HIDOE's capacity in providing Licensed ABA Professional and ABA PARA services that include behavioral interventions and evidenced based practices conducive to the student's success in meeting identified IEP Goals and Objectives and the Hawaii Common Core State Standards.

6.8 Completion of Service

Licensed ABA Professional and/or ABA PARA services are complete when the HIDOE determines the services are no longer necessary. In addition, the HIDOE reserves the right to refuse the services of any employee, agent, volunteer or prospective employee of the PROVIDER for any reason or for no reason.

Attachment G
CONTRACT MINIMUM AND SPECIAL CONDITIONS

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: Annemarie Kalama, Administrator for Special Needs
Section
Telephone Number: (808) 305-9806
E-mail Address: Annemarie_Kalama@notes.k12.hi.us

The CA is responsible for:

- 1.1 the terms, conditions, quantities, specifications, scope of services, other contract terms, and all decisions relating to the Contract;
- 1.2 monitoring the PROVIDER's work, documenting that PROVIDER maintains the required insurance coverage (if applicable), resolving contract disputes and discrepancies, evaluating the work of the PROVIDER, assuring the services or goods are delivered as required in the Contract, and processing payment for services rendered; and
- 1.3 notifying Procurement & 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 3.1, entitled "Coordination of Services by the STATE.").

2. POINT OF CONTACT

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

POC: Ruth Ballinger, Educational Specialist
Telephone Number: (808) 305-9806
e-mail Address: Ruth.Ballinger@notes.k12.hi.us

3. PROVIDER'S POINT OF CONTACT

The PROVIDER's primary point of contact shall be identified upon award of contract.

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

- 3.1. Change in the PROVIDER's business address or phone number;
- 3.2. Change in the PROVIDER's tax identification number; or
- 3.3. Any other situation that could reasonably be expected to affect the PROVIDER's ability to carry out its obligation under this Contract.

4. CASE ASSIGNMENTS

Under the terms of this Contract, the right to assign a case to a particular PROVIDER is within the sole discretion of the STATE. Services provided to an individual under this Contract shall not constitute ownership or a property right to deliver that service by either an Agency or an individual provider.

5. VERIFICATION OF EMPLOYEES

In accordance with State rules and regulations, PROVIDER shall conduct mandatory annual criminal background checks at no cost to the STATE, on any employee, agent, volunteer or prospective employee working directly with students.

The PROVIDER 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.

6. COORDINATION OF SERVICES

PROVIDER is required to coordinate services with the various programs and offices of the STATE, as well as community service providers as directed by the CA in a collaborative and cooperative manner.

7. COMPENSATION

The contract price shall include all services, materials, overhead, profit, all applicable taxes, and any other incidental and operational expenses incurred by PROVIDER in the performance of its obligations hereunder. The contract price shall be the all-inclusive cost to the STATE and no other charges shall be honored.

Total Compensation stated herein is estimated for the contract period specified. Actual compensation shall be contingent on the needs of the STATE, the service rates stated in the following section, and funding availability. No guarantee to purchase services in the exact amount stated is intended or implied. In the event service requirements do not

materialize and the STATE purchases less than the total compensation stated, such failure shall not constitute grounds for equitable adjustment under this Contract.

Additionally, unless explicitly stated in this Contract, no additional fees or charges may be assessed to the STATE, the parties that the services are provided to, or their parents, guardians, insurance, or any other party associated with the provision of these specific services.

8. COMPENSATION RATES

Total compensation is based on the Contract unit measures and rates. These rates are paid in accordance with the work described herein, and includes all labor, services, travel, materials and equipment (as applicable), overhead, profit, all applicable taxes, and any other incidental and operational expenses incurred by the PROVIDER in the performance of its obligations hereunder. The rates established shall be all-inclusive to the STATE and no other charges shall be honored.

A unit rate shall be recorded in one (1) hour increments.

The unit rate established by the STATE shall include all direct and indirect costs associated with service delivery, including but not limited to the following:

- Costs of travel, including airfare, lodging and car rental.
- Costs associated with servicing remote geographical areas.

There shall be no payment for start-up costs associated with developing a new program.

9. INVOICING AND PAYMENT SCHEDULE

9.1 Monthly Claim Submissions shall be made to the State (Behavior Intervention Educational Specialist)

Payments shall be made in monthly installments upon the monthly claim/invoice submissions by the PROVIDER for the services provided. All claims/invoices for service must be submitted to the State utilizing the current system of record within thirty (30) calendar days after the last day of each calendar month.

The PROVIDER shall submit one (1) original and two (2) invoice copies utilizing the STATE-provided invoice form which may be electronic for monthly submission. All invoices shall include copies of the Monthly Service Verification form for each Licensed ABA Professional and/or ABA PARA who provided service

Monthly invoices shall be reviewed by the STATE and shall be subject to the STATE's preliminary determination of appropriateness and allowability of invoice. The STATE reserves the right to withhold payment from the PROVIDER for any non-compliance with the Contract.

Once properly submitted, the STATE shall have thirty (30) days to pay unless the invoice is called into question (e.g. appeals, corrections, etc.). If at any time the invoice is called into question, then the STATE's requirement to pay within thirty (30) days shall end. After that, the STATE's thirty-day requirement to pay shall start anew on the day the corrected invoices are properly resubmitted by the PROVIDER. Any errors or omissions may cause a significant delay in payment to the PROVIDER. The STATE shall not consider any late invoices.

All appeals and corrections for reporting/ invoice rejections must be resolved within sixty (60) calendar days from the day that the invoice(s) was first submitted. After that sixty-day period, the STATE may reject those invoice(s) for any reason and for no reason.

9.2 Audit, Reimbursement and Reconciliation

The STATE's preliminary determination of appropriateness and allowability of the invoice shall be subject to later verification and subsequent audit. The STATE reserves the right to seek reimbursement from the PROVIDER upon an audit of all invoices for any errors made in payment and/or for services not delivered. Final settlement of this Contract shall include submission and acceptance of all invoices (or reports) and other materials to be submitted by the PROVIDER to the STATE, resolution of all discrepancies in performance of services monthly invoices (or reports), and completion of all outstanding matters under this Contract.

The STATE reserves the right to audit the PROVIDER's financial records and billing documentation on an annual basis, at a minimum, or as requested through either an on-site evaluation or a documentation review.

10. USE OF SCHOOL FACILITIES

PROVIDER shall comply with all campus procedures, requirements and rules as determined by the school site.

Property damages due to PROVIDER's negligence as determined by the STATE shall be repaired or replaced by PROVIDER.

11. PROGRESS OF WORK

The PROVIDER shall be available during the STATE's normal office hours to discuss the progress of the work being performed. All questions raised during the course of the work shall be promptly addressed to the CA.

Upon request, the PROVIDER shall provide the STATE with a status report on the progress of work. Also, within three (3) working days of request, the PROVIDER shall complete and submit a written report to the STATE. At least once a week or as deemed necessary by the CA, the STATE may hold project status meetings in which the PROVIDER shall participate.

12. NOTIFICATION

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

1. Any employee, agent or volunteer becomes the subject of any disciplinary proceeding or action before any federal or state agency or Board;
2. Any employee, agent or volunteer is convicted of a fraud or criminal activity involving violence, alcohol, drug abuse, sex offense, offense involving children, or any other circumstance which indicates that employee may pose a risk to the health, safety, or well-being of children.;
3. An act of nature or any event occurs that substantially interrupts all or a portion of the PROVIDER's business or practice, or that has a materially adverse effect on the PROVIDER's ability to perform its obligations under this contract;
4. The PROVIDER fails to maintain the insurance coverage required under Paragraph 1.4 of the General Conditions;
5. Any litigation, claim, judgment or settlement in which the PROVIDER is named a defendant;

13. CONDUCT

PROVIDER's employees or agents must sign in at the school office when entering a school campus and sign out when leaving a school campus.

In addition, all PROVIDER's employees or agents must wear a picture identification badge listing agency name, employee name, and position at all times while on school premises.

PROVIDER's employees or agents must maintain a professional attitude, work ethic, and appearance. PROVIDER's employee or agents must be accessible to observations without notice by designated STATE personnel and provide services, as specified in the IEP.

14. CRIMINAL HISTORY RECORD CHECK REQUIREMENTS

The PROVIDER shall conduct all reasonable investigations which, at a minimum, includes: a national fingerprint based criminal background check, including state and federal (FBI) criminal history records search; to determine whether an employee, agent, volunteer, or prospective employee including but not limited to administrative and direct service staff members who work in close proximity to children ("Worker"), has been

convicted of any criminal offense pursuant to any law enforcement or military authority which would make the Worker unsuited for working in close proximity to children.

All PROVIDER employees shall meet credentialing requirements prior to any assignment, which includes fingerprinting. The required fingerprint checks shall be completed and a determination of suitability made before any Worker is assigned to any work site. Furthermore, the PROVIDER shall inform the STATE if any Worker providing services under this Contract has been convicted of a criminal offense.

The PROVIDER shall maintain a record of the mandatory national fingerprint based criminal history checks performed on each of its Workers in compliance with this section. Additionally, the PROVIDER shall at all times maintain a current list of all new Workers documenting the status and completion dates of the national fingerprint based mandatory criminal history checks and other primary source verification.

The STATE reserves the right to monitor the PROVIDER's compliance with this section through either, or both, an on-site evaluation or a documents review.

All costs associated with conducting and processing criminal history checks of the PROVIDER's Workers shall be borne by the PROVIDER.

15. TB CLEARANCE REQUIREMENTS

The PROVIDER shall require and maintain certification of tuberculosis (TB) examination for all employees, agents, and volunteers issued within the twelve (12) month period preceding the start of employment. Certificate must state that the person is free of communicable TB.

The PROVIDER shall adopt and implement a policy requiring all personnel providing services under this contract to obtain current TB clearance from a licensed medical provider and PROVIDER shall maintain records of such clearance.

16. EXCLUSION OF SPECIFIC WORKERS

The STATE reserves the right to require a PROVIDER to remove an employee, agent, or volunteer from performing work under this Contract. The CA shall notify the PROVIDER in writing and this exclusion of a specific provider shall take effect as indicated on the notice. The PROVIDER may appeal this decision to the CA, in writing within ten (10) working days of receipt of the notice. Removal of the employee, agent, or volunteer shall remain in effect pending the outcome of the appeal. This provision shall not infringe upon the right of the PROVIDER to employ the removed individual, but shall apply to any work requiring interaction with the STATE, its employees or students.

17. TIME OF PERFORMANCE

17.1. CONTRACT TERM

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

17.2. CONTRACT RENEWAL

This 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 Contract or as negotiated between the STATE and the PROVIDER. Contract extension(s) shall be contingent upon i) the need for continued services and ii) funding availability beyond the current fiscal year. As each option(s) to extend is mutually agreed upon, the PROVIDER shall be required to execute a supplement to the Contract for each additional period.

17.3. PERFORMANCE PERIOD

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

18. CONTRACT EXECUTION

The PROVIDER shall be required to enter into a formal written contract, and no work is to be undertaken by the PROVIDER prior to the commencement date of the Contract. The STATE is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the PROVIDER prior to official starting date.

19. CONFIDENTIALITY OBLIGATIONS

The following serves to supplement provision 8.2 of the General Conditions, entitled "Confidentiality of Material" and provision 8, entitled "Confidentiality of Personal Information":

While performing under this Contract, the PROVIDER 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 database or computer readable form. Hereinafter, such language shall be collectively referred to as "Confidential Information."

The PROVIDER, 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 STATE and subject to the STATE's limitations on confidentiality of information and

relevant legal requirements of the State to include, but not limited to the Family Educational Rights and Privacy Act (**FERPA**), Permission will be granted through a formal written agreement concerning the disclosure of personally identifiable information (PII) from student education records, signed by EOEL and the PROVIDER, 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 Contract; and (iii) They shall advise each of their employees, agents, representatives, and assigns of their obligations to keep such Confidential Information confidential.

The PROVIDER, its employees, agents, representatives, or assigns shall ensure the security of the Confidential Information. The PROVIDER shall provide the STATE 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 shall be kept on password protected computers with the hard copy documents kept in a locked file cabinet. The PROVIDER shall ensure that procedures exist to prohibit access to the Confidential Information by anyone other than an Authorized Handler.

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

- 19.1. Prior Written Approval: PROVIDER 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.
- 19.2. In the event of termination of this Contract, PROVIDER shall return to STATE all student information received under this Contract and further agrees to destroy any and all copies of, or references to, any student information shared by STATE as a result of this Contract.

20. RELIEF AVAILABLE TO STATE

In addition to all rights and remedies available to the STATE under the Contract or otherwise provided under law, if the PROVIDER is in non-compliance with contract requirements, the STATE may:

- 20.1. Suspend Payments – Disallow or temporarily withhold all or part of the billing cost/payments pending correction of a deficiency or a non-submission of a required deliverable by the PROVIDER;
- 20.2. Suspend Referrals – Suspend referrals to the PROVIDER should the PROVIDER fail to comply with any of the requirements or other term(s) or condition(s) of this Contract and, further, the STATE may maintain the suspension of referrals until such time as the deficiency or non-compliance is corrected and the PROVIDER’s corrective actions are determined to be acceptable by the STATE; and
- 20.3. Seek Reimbursement – Seek reimbursement from the PROVIDER or withhold future payments for any funds paid to the PROVIDER subsequent to a determination that such was unauthorized, fraudulently obtained, or inappropriately billed; and
- 20.4. Seek Market Value – In the event the PROVIDER fails, refuses or neglects to perform the services in accordance with the requirements of these Special Conditions, the Services Specifications 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 PROVIDER, the difference between the price named in the Contract and the actual cost to the STATE. In case any money due the PROVIDER is insufficient for said purpose, the PROVIDER shall pay the difference upon demand from the STATE. The STATE may also utilize all other remedies provided by law.

21. **LIABILITY INSURANCE**

General Conditions, section 1.4, entitled “Insurance Requirements”, is deleted entirely and replaced with the following (revisions to the original text are noted in redline where deletions bold strikethrough text indicates deletions, and additions are in bold italics):

Insurance Requirements. The PROVIDER shall obtain from a company authorized by law to issue such insurance in the State of Hawai‘i commercial general liability insurance (“liability insurance”) in an amount of at least TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) coverage for bodily injury and property damage resulting from the PROVIDER’s performance under this Contract. The PROVIDER shall maintain in effect this liability insurance until the STATE certifies that the PROVIDER’s work under the Contract has been completed satisfactorily.

The insurance shall be primary and shall cover the insured for all work to be performed under the Contract, including changes, and all work performed incidental thereto or directly or indirectly connected therewith.

A certificate of the liability insurance shall be given to the STATE by the PROVIDER. The certificate shall provide that the STATE and its officers and employees are Additional Insureds.

Should the insurance coverages be cancelled before the PROVIDER's work under the Contract is certified by the STATE to have been completed satisfactorily, the PROVIDER shall immediately procure replacement insurance that complies in all respects with the requirements of this section.

Nothing in the insurance requirements of this Contract shall be construed as limiting the extent of PROVIDER's responsibility for payment of damages resulting from its operations under this Contract, including the PROVIDER's separate and independent duty to defend, indemnify, and hold the STATE and its officers and employees harmless pursuant to other provisions of this Contract.

In addition, the following minimum insurance coverage(s) and limit(s) shall be provided by the PROVIDER (including its subcontractor(s) where appropriate):

<u>Coverage</u>	<u>Limits</u>
Automobile Liability:	Combined Single Limit \$1,000,000 per accident
Professional Liability:	\$1,000,000 per claim and \$2,000,000 per annual aggregate

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

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

The PROVIDER will provide written notice within twenty-four (24) hours to the Contract Administrator should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

22. PAYMENT FOR SERVICES NOT REQUESTED

The STATE reserves the right to deny any claims for payment for the testimony or participation of individual providers that was not requested by the STATE. Unauthorized services include but are not limited to, the PROVIDER litigation on behalf of itself. The PROVIDER is not authorized to claim payment for, among other things, services relating to testimony, depositions, or other litigation matters in pursuit of its own interests.

23. FEDERAL FUNDS

23.1 Availability of Funds and Use of Funds – 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 anytime, not forthcoming or insufficient, either through the failure of the Federal government to provide funds 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.

23.2 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 at www.sam.gov.

24. SPECIAL CONDITIONS ARE SUPPLEMENTAL

Nothing in the Special Conditions of the Contract shall supersede the General Conditions, but shall serve to supplement the General Conditions, except where a conflict exists between the General Conditions and Special Conditions, in which case the Special Conditions shall apply.

25. APPROVALS

This Contract is subject to the approval of the Department of the Attorney General as to form, and to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

Attachment H
Rate and Cost Summary Worksheet for RFP No. F19-091

APPLICANT: _____
PROPOSED GEOGRAPHIC AREA(S): _____

Directions:

1. Complete your proposed daily rate and proposed unit rate for the ABA Professional (which includes LBAs and Licensed Psychologists) and ABA PARA (which includes ABA Paraprofessionals and RBTs) in Table 1. The proposed daily rate should be based on an eight (8) hour day for the ABA Professional and a seven (7) hour day for the ABA PARA. Note the HIDOE maximum allowable daily rates and unit rates.
2. Complete your proposed maximum number of students you can provide service for, for each geographic area you propose to serve and provide the total in Table 2.
3. Complete your proposed maximum number of LBAs, Licensed Psychologists, RBTs and ABA Paraprofessionals you can provide for each geographic area you propose to serve and also provide the total on Table 2.

Table 1: Proposed Daily Rate And Unit Rate For All Geographic Areas

Service Provider	HIDOE Maximum Allowable Daily Rate	HIDOE Maximum Allowable Unit Rate	Proposed Daily Rate	Proposed Unit Rate
ABA Professional	\$600.00/day	\$75.00/hour		
ABA PARA	\$350.00/day	\$50.00/hour		

Table 2: Proposed Number of Students and Service Providers by Geographic Area (Identify numbers of LBAs, Licensed Psychologists, RBTs and ABA Paraprofessionals separately)

	# of Students	# of LBA	# of Licensed Psychologist	# of RBT	# of ABA PARA
HIDOE Current Oahu	328	22		328	
Proposed Oahu					
HIDOE Current Maui, Molokai, Lanai	63	5		63	
Proposed Maui, Molokai, Lanai					
HIDOE Current Hawaii	40	3		40	
Proposed Hawaii					
HIDOE Current Kauai	34	3		34	
Proposed Kauai					
PROPOSED TOTAL					