



OFFICE OF THE AUDITOR

STATE OF HAWAI'I

REQUEST FOR STATEMENTS OF QUALIFICATIONS
TO PROVIDE LEGAL SERVICES
TO THE OFFICE OF THE AUDITOR
(RFQ NO. 2021-02)

DATE OF ISSUANCE: OCTOBER 6, 2021

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SECTION I

INTRODUCTION

House Resolution No. 164 of the 2021 Regular Session of the Hawai'i State Legislature (**Attachment 2**) established the House Investigative Committee to Investigate Compliance with Audit Nos. 19-12 and 21-01 (House Investigative Committee). The Office of the Auditor, State of Hawai'i (Office of the State Auditor), requires legal services in connection with the House Investigative Committee's investigation, including but not limited to legal representation of one or more employees of the Office of the State Auditor, in their official capacities, before the House Investigative Committee and in the Circuit Court for the First Circuit, State of Hawai'i and/or other courts, as needed.

The Office of the State Auditor is issuing this Request for Qualifications (RFQ) to solicit Statements of Qualifications from attorneys actively licensed and authorized to practice law in the State of Hawai'i to provide legal services on a contract basis as the need arises for the remainder of Fiscal Year 2022 (October 6, 2021 to June 30, 2022).

This RFQ may be cancelled and any and all Statements of Qualifications may be rejected in whole or in part when it is in the best interest of the State.

SECTION II

PURPOSE OF THE REQUEST FOR QUALIFICATIONS

The purpose of this RFQ is to solicit and evaluate Statements of Qualifications from prospective offerors, and prepare a list of pre-qualified attorneys actively licensed and authorized to practice in the State of Hawai'i from which the State Auditor may choose to select prospective contractors to provide legal services to the Office of the State Auditor and its employees, in their official capacities, as needed in connection with the House Investigative Committee's investigation. Prospective offerors pre-qualified under this RFQ are not guaranteed a contract.

The State Auditor may contract with one or more prospective offerors pre-qualified under this RFQ as the need arises for the remainder of Fiscal Year 2022 (October 6, 2021 to June 30, 2022), with the option that a contract may be extended for an additional twelve (12) month period.

All prospective offerors should be aware that any contract extended beyond the initial contract period shall be subject to availability of funds therefor, satisfactory performance of services by provider, and if deemed in the best interest of the State.

All prospective offerors should also be aware that the contractual obligation of both parties is subject to availability of funds. A contract will be cancelled when funds are not available to support continuation of performance in any fiscal year succeeding the initial term of the contract; however, this does not affect either the State's rights or the contractor's rights under any

termination clause of the contract. A contractor will be notified on a timely basis by the State Auditor on the availability of funds for the continuation of the contract for each succeeding year as required under Section 3-122-149(f)(6), Hawai'i Administrative Rules (HAR). In the event of cancellation, as noted above, the contractor will be reimbursed the unamortized, reasonably incurred, nonrecurring costs pursuant to Section 3-122-149(f)(7), HAR.

SECTION III

SCOPE OF SERVICES

This scope of services provides general guidelines for the work the State Auditor expects to be performed, and is not a complete description of all services that may be required or desired.

The Office of the State Auditor requires legal services including legal representation of one or more employees of the Office of the State Auditor, in their official capacities, before the House Investigative Committee and in the Circuit Court for the First Circuit, State of Hawai'i and/or other courts, as needed. The required legal services include but are not limited to representing one or more employees of the Office of the State Auditor, in their official capacities, at meetings and hearings before the House Investigative Committee, the preparation and filing of all necessary pleadings and the handling of all court proceedings as counsel for one or more of the Office of the State Auditor, in their official capacities in the Circuit Court for the First Circuit, State of Hawai'i and/or other courts, as needed.

The Rules of the House Investigative Committee to Investigate Compliance with Audit Nos. 19-12 and 21-01 provide for the House Investigative Committee to report and certify instances of contempt as provided in Section 21-14, HRS, and for the Attorney General to prosecute any offender in any court of the State. A person guilty of contempt shall be subject to criminal sanctions.

The House Investigative Committee issued a Subpoena Duces Tecum dated September 29, 2021 commanding the State Auditor, or Other Appropriate Individual in the custody of the books,

records, documents, or other evidence requested to produce certain records, documents, and evidence to the Chair of the House Investigative Committee by 4:30 p.m. on October 13, 2021.

The State Auditor submitted a written request to the House Investigative Committee on October 5, 2021, requesting additional time to respond to the Subpoena Duces Tecum dated September 29, 2021, until the Office of the State Auditor is able to retain legal counsel to provide the services described in this RFQ No. 2021-02.

The House Investigative Committee stated its intent to hold hearings and to issue subpoenas requiring the attendance and testimony of witnesses and subpoenas duces tecum requiring the production of books, documents, records, papers, or other evidence in any matter pending before the House Investigative Committee at least through October 2021.

House Resolution No. 164 of the 2021 Regular Session of the Hawai'i State Legislature requires that the House Investigative Committee submit its written findings and recommendations, including any proposed legislation, to the House of Representatives prior to the convening of the Regular Session of 2022 and cease to exist upon the adjournment sine die of the Regular Session of 2022 unless extended.

SECTION IV

SUBMISSION REQUIREMENTS

The Office of the State Auditor is issuing this RFQ in accordance with the *Hawaii Public Procurement Code*, specifically, Section 103D-304, Hawai‘i Revised Statutes (HRS). Attorneys actively licensed and authorized to practice in the State of Hawai‘i interested in being considered to provide the legal services described in the Scope of Services in Section III above as the need arises for the remainder of Fiscal Year 2022 (October 6, 2021 to June 30, 2022), with the option that a contract may be extended for an additional twelve (12) month period, and who have the necessary experience and qualifications, should submit a letter of interest along with a Statement of Qualifications (SOQ). The accurate completion of Form SOQ 2021-02 (**Attachment 1**), in its entirety, should provides sufficient information upon which to evaluate such qualifications.

Pursuant to Section 3-122-63(b), Hawai‘i Administrative Rules (HAR), a prospective offeror may submit a written request to the Office of the State Auditor for portions of the offeror’s SOQ to remain confidential and not open to public inspection under Section 3-122-58, HAR. Any portion of an offeror’s SOQ designated as confidential must be readily separable in order to facilitate public inspection of the nonconfidential portions of the SOQ. Upon request by the Office of the State Auditor, the prospective offeror has the responsibility to provide the Office of the State Auditor with an explanation of the basis for its position that the portions designated can be withheld from disclosure under the Uniform Information Practices Act (Modified), Chapter 92F, HRS.

Prospective offerors shall submit a letter of interest and a completed Form SOQ 2021-02 in its entirety. Responses and all related materials must be clearly marked “**RFQ No. 2021-02 – Procurement of Legal Services**” and must be received by noon (Hawai‘i Standard Time), **Monday, October 11, 2021**. Responses must be delivered or emailed to:

Office of the Auditor

465 South King Street, Room 500

Honolulu, Hawai‘i 96813

Email: LAO.Auditors@hawaii.gov

Postmarks will not be considered in judging timeliness of submissions. **Late submissions will not be considered, including those submitted late due to mail or delivery service failure.**

If available, prospective offerors should also submit an original consolidated Certificate of Vendor Compliance as issued by the Hawai‘i State Procurement Office via the online system, “Hawai‘i Compliance Express.” Details regarding this online application process may be viewed at: <http://vendors.ehawaii.gov/hce/>

Pursuant to 103D-310(c), HRS, all offerors, upon award of contract worth \$2,500 or more with state and county government entities in Hawai‘i, must comply with all laws governing entities doing business in the State, including chapters 237, 383, 386, 392, and 393, HRS. Offerors must produce documents to the procuring officer to demonstrate compliance with this subsection prior to award of a contract worth \$2,500 or more.

Hawai‘i Compliance Express (HCE) is an electronic system that allows vendors, contractors and service providers doing business with state or county agencies to document that they are

compliant with applicable laws. HCE expedites ability to furnish proof of compliance with the requirements of 103D-310(c), HRS. This single certificate eliminates the need to obtain individual copies of clearances with the following agencies:

- Internal Revenue Service (IRS) - Form 8821
- Department of Labor & Industrial Relations (DLIR) - Form LIR27
- Department of Commerce and Consumer Affairs (DCCA) - Form COGS
- Department of Taxation (DOTAX) - Form A-6

SECTION V

EVALUATION AND SELECTION CRITERIA

Pursuant to Section 103D-304(c), HRS, all completed SOQs from prospective offerors received by the deadline specified in Section IV above will be evaluated by a review committee designated by the State Auditor as Head of the Purchasing Agency (HOPA). Upon evaluation, the review committee will prepare a list of qualified attorneys.

The State Auditor, as the HOPA, will designate a selection committee to examine and evaluate SOQs, performance data of the qualified attorneys, and related information such as references and reports for the work described in the Scope of Services. The selection committee will rank a minimum of three (3) attorneys and/or law firms from the list of qualified attorneys based on the selection criteria set forth in Section 103D-304(c), HRS, for review by the State Auditor as the HOPA.

Both the review committee and the selection committee shall consist of a minimum of three (3) persons with sufficient education, training, licenses, and credentials. At the State Auditor's discretion, designated members may serve on both the review and selection committees concurrently.

Selection Criteria

Pursuant to Section 103D-304(e), HRS, the mandatory selection criteria employed in descending order of importance are:

- A. Experience and professional qualifications relevant to the project type;**
- B. Past performance on projects of similar scope for public agencies or private industry, including corrective actions and other responses to notices of deficiencies;**
- C. Capacity to accomplish work in the required time;**
- D. Any additional criteria determined in writing by the selection committee to be relevant to the Office of the State Auditor's needs or necessary and appropriate to ensure full, open, and fair competition for professional services contracts.**

The selection committee may also evaluate the form and content of narrative responses to assess writing competencies and other qualifications, such as attention to detail and completeness in the responses.

A prospective offeror's past performance on any prior engagements with the Office of the State Auditor will be considered by the selection committees when evaluating prospective offerors for both qualifications and ranking, as applicable.

The relevant selection criteria covered on Form SOQ 2021-02 are as follows:

A. Experience and professional qualifications relevant to the project type.

Part II: Licensing

Part III: Experience and Professional Qualifications

B. Past performance on projects of similar scope for public agencies or private industry, including corrective actions and other responses to notices of deficiencies.

Part IV: Past Performance on Projects

C. Capacity to accomplish the work in the required time.

Part V: Availability (Capacity)

D. Any additional criteria determined in writing by the selection committee to be relevant to the State Auditor's needs or necessary and appropriate to ensure full, open, and fair competition for professional services contracts.

Part VI: Other Information

SECTION VI
QUESTIONS AND COMMUNICATIONS

To ensure fair and equal access to information about this RFQ No. 2021-02, any questions regarding this solicitation must be submitted in writing and be received by **4:30 p.m., Hawai‘i Standard Time, on October 7, 2021**. Questions may be sent via email to LAO.Auditors@hawaii.gov.

A summary of the questions and answers pertaining to this solicitation will be posted on the Office of the State Auditor’s website at <https://auditor.hawaii.gov/solicitations> by 4:30 p.m., Hawai‘i Standard Time, on October 8, 2021.

SECTION VII
ATTACHMENTS

- Attachment 1:** Statement of Qualifications Form, Form SOQ 2021-02
- Attachment 2:** House Resolution No. 164 (2021 Regular Session)

**STATE OF HAWAI'I
OFFICE OF THE AUDITOR
FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

Part I. General Information

1. Attorney Name, including name of law firm with which the attorney is affiliated (include dba, if applicable):

2. Business Address:

3. Law Firm Federal Employer Identification Number (if applicable):

4. Law Firm Hawai'i State General Excise Tax License Number (if applicable):

5. Telephone No.:

6. Email Address:

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FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

Part II. Licensing

		<u>YES</u>	<u>NO</u>
1.	<p>Do you have a current and valid license to practice law in the State of Hawai'i?</p> <p>If yes, provide Hawai'i Bar No.: _____</p> <p>Year admitted to practice law in the State of Hawai'i: _____</p>	<input type="checkbox"/>	<input type="checkbox"/>
2.	<p>In the past 5 years, has your license to practice law in <u>any</u> jurisdiction been suspended, revoked or otherwise subject to any professional disciplinary action?</p> <p>If yes, attach detailed description.</p>	<input type="checkbox"/>	<input type="checkbox"/>
3.	<p>Are there any lawsuits, complaints, administrative actions or professional disciplinary actions pending against you or your law firm in <u>any</u> jurisdiction?</p> <p>If yes, attach detailed description.</p>	<input type="checkbox"/>	<input type="checkbox"/>
4.	<p>In the past 5 years, have you or your law firm filed a lawsuit or commenced any administrative proceeding in connection with any professional services contract with a federal, state or local government entity?</p> <p>If yes, attach detailed description.</p>	<input type="checkbox"/>	<input type="checkbox"/>
5.	<p>In the past 5 years, have you or your law firm failed to complete a professional services contract with a federal, state or local government entity?</p> <p>If yes, attach statement of the following for <u>each</u> such contract:</p> <p>a. Contracting parties' names;</p> <p>b. Effective date of contract;</p> <p>c. Description of scope of services; and</p> <p>d. Specify if contract was terminated for default, terminated for convenience, or describe other circumstances of the firm's failure to complete the contract.</p>	<input type="checkbox"/>	<input type="checkbox"/>

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OFFICE OF THE AUDITOR
FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

Part III. Experience and Professional Qualifications

Provide information related to your experience and qualifications.

1. Position with Firm:

2. Years of Experience:

3. Education (College; Law School; Degrees; Specialization):

4. Membership in Professional Organizations:

5. Admissions to practice law in jurisdictions other than Hawai'i (State; Original License Date; License Expiration Date):

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FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

Part IV. Past Performance on Projects

1. In the past 5 years, have you or any member of your firm provided legal services similar to the legal services described in the Scope of Services in Section III of RFQ No. 2021-02?
2. In the past 5 years, have you or any member of your firm provided legal services to a member of the Hawai'i State Legislature?
 - a. If so, which member and the applicable year(s):
 - b. Type of matter:
3. In the past 5 years, have you or any member of your firm provided legal services to a department or agency of the State of Hawai'i?
 - a. If so, which department or agency and the applicable year(s):
 - b. Type of matter:

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FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

Part V. Availability (Capacity)

1. Are you or any member of your firm currently providing legal services to a member of the Hawai'i State Legislature?
 - a. If so, which member:
 - b. Type of matter:

2. Are you or any member of your firm currently providing legal services to a department or agency of the State of Hawai'i?
 - a. If so, which department or agency:
 - b. Type of matter:

**STATE OF HAWAII
OFFICE OF THE AUDITOR
FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

VI. Other information

Provide the following additional information:

1. Statement indicating any conflicts of interest in performing services for the Office of the State Auditor and/or the State of Hawai'i. Please list membership on State boards, commissions, etc. For additional information, please refer to the State Ethics Code, Chapter 84, HRS, or go to the Hawai'i State Ethics Commission website at <https://ethics.hawaii.gov>;
2. Promotional or descriptive literature the firm desires to submit; and
3. Any other pertinent data you desire to disclose.

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FORM SOQ 2021-02 STATEMENT OF QUALIFICATIONS**

I hereby certify that the information included in the preceding Statement of Qualifications and any additional information included with the Statement of Qualifications is a true statement of fact.

I further certify that Prospective Offeror shall immediately inform the Office of the State Auditor of any change in information furnished which would disqualify the Prospective Offeror from being considered for a contract award.

Prospective Offeror: (Print Name) _____

Signature: _____

Date: _____

HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

H.R. NO. 164

HOUSE RESOLUTION

ESTABLISHING AN INVESTIGATING COMMITTEE TO FOLLOW UP ON THE AUDITS OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES' SPECIAL LAND AND DEVELOPMENT FUND, REPORT NO. 19-12, AND AGRIBUSINESS DEVELOPMENT CORPORATION, REPORT NO. 21-01; TO EXAMINE THE RECOMMENDATIONS MADE IN THOSE AUDITS; AND FOR PURPOSES OF IMPROVING THE OPERATIONS AND MANAGEMENT OF THESE STATE AGENCIES, THEIR FUNDS, AND ANY OTHER MATTERS.

1 WHEREAS, the Legislature is vested with the responsibility
2 of determining state policy and appropriating public funds; and
3

4 WHEREAS, to promote transparency, accountability, and the
5 proper functioning of the state government, the Legislature
6 requires audits to examine the efficiency and effectiveness of
7 government programs or agencies or the fairness of the financial
8 statements of the State and its agencies; and
9

10 WHEREAS, pursuant to Act 209, Session Laws of Hawaii 2017,
11 the State Auditor submitted an audit of the Department of Land
12 and Natural Resources' Special Land and Development Fund (Report
13 No. 19-12), which made several recommendations for the Board of
14 Land and Natural Resources, Department of Land and Natural
15 Resources' Land Division, and Department of Land and Natural
16 Resources based on the following findings:
17

18 (1) Without a strategic plan for its public lands, the
19 management of leases and revocable permits by the
20 Department of Land and Natural Resources' Land
21 Division defaults to maintaining the status quo rather
22 than exploring higher and better use;
23

24 (2) Lack of complete and coherent policies and procedures
25 prevents the Department of Land and Natural Resources'
26 Land Division from adequately managing its leases and
27 revocable permits; and



1
2 (3) Lack of transparency and accountability hinders the
3 administration of the Special Land and Development
4 Fund; and
5

6 WHEREAS, the State Auditor also submitted a performance
7 audit of the Agribusiness Development Corporation (Report No.
8 21-01) pursuant to Act 28, Session Laws of Hawaii 2019, which
9 found:
10

11 (1) The Agribusiness Development Corporation has done
12 little to fill the economic void created by the
13 closure of the sugar and pineapple plantations;
14

15 (2) The Agribusiness Development Corporation's land
16 management struggles expose the State to unnecessary
17 risk;
18

19 (3) The Agribusiness Development Corporation's Board of
20 Directors provide minimal guidance and oversight to
21 the corporation; and
22

23 (4) The Agribusiness Development Corporation's financial
24 records were not auditable; and
25

26 WHEREAS, the State Auditor made twenty-eight
27 recommendations for the Agribusiness Development Corporation as
28 a whole and five recommendations specifically for the Board of
29 Directors of the Agribusiness Development Corporation to address
30 the issues identified in the audit; and
31

32 WHEREAS, the implementation of the recommendations made in
33 the audits of the Department of Land and Natural Resources'
34 Special Land and Development Fund and Agribusiness Development
35 Corporation are of great interest to the House of
36 Representatives and public to ensure the proper operation and
37 management of state programs and agencies; and
38

39 WHEREAS, chapter 21, Hawaii Revised Statutes, establishes
40 "procedures governing legislative investigating committees to
41 provide for the creation and operation of legislative
42 investigating committees in a manner which will enable them to



1 perform properly the powers and duties vested in them, including
2 the conduct of hearings, in a fair and impartial manner,
3 consistent with protection of the constitutional rights of
4 persons called to testify at such hearings and preservation of
5 the public good"; and
6

7 WHEREAS, section 21-3, Hawaii Revised Statutes, authorizes
8 the establishment of an investigating committee by a single
9 house resolution, and Rule 28.12 of the Rules of the House of
10 Representatives for the Thirty-First Legislature allows for the
11 establishment of an investigating committee pursuant to
12 chapter 21, Hawaii Revised Statutes, for the purposes therein
13 mentioned; now, therefore,
14

15 BE IT RESOLVED by the House of Representatives of the
16 Thirty-first Legislature of the State of Hawaii, Regular Session
17 of 2021, that an investigating committee is established pursuant
18 to chapter 21, Hawaii Revised Statutes, and may operate during
19 the interim between the 2021 and 2022 Regular Sessions; and
20

21 BE IT FURTHER RESOLVED that the purpose and duties of the
22 investigating committee and the subject matter and scope of its
23 investigative authority shall be:
24

25 (1) To follow up on the audits of the Department of Land
26 and Natural Resources' Special Land and Development
27 Fund, Report No. 19-12, and Agribusiness Development
28 Corporation, Report No. 21-01;
29

30 (2) To examine the recommendations made in those audits;
31 and
32

33 (3) For purposes of improving the operations and
34 management of these state agencies, their funds, and
35 any other matters; and
36

37 BE IT FURTHER RESOLVED that the investigating committee
38 shall have every power and function allowed to an investigating
39 committee by law, including without limitation the power to:
40

41 (1) Adopt rules for the conduct of its proceedings;
42



- 1 (2) Issue subpoenas requiring the attendance and testimony
2 of witnesses and subpoenas duces tecum requiring the
3 production of books, documents, records, papers, or
4 other evidence in any matter pending before the
5 investigating committee;
6
- 7 (3) Hold hearings appropriate for the performance of its
8 duties, at times and places as the investigating
9 committee determines;
10
- 11 (4) Administer oaths and affirmations to witnesses at
12 hearings of the investigating committee;
13
- 14 (5) Report or certify instances of contempt as provided in
15 section 21-14, Hawaii Revised Statutes;
16
- 17 (6) Determine the means by which a record shall be made of
18 its proceedings in which testimony or other evidence
19 is demanded or adduced;
20
- 21 (7) Employ professional, technical, clerical, or other
22 staff and expend such funds appropriated for the House
23 of Representatives operating expenses for 2021 as
24 necessary for the proper performance of its duties;
25
- 26 (8) Provide for the submission, by a witness's own counsel
27 and counsel for another individual or entity about
28 whom the witness has devoted substantial or important
29 portions of the witness's testimony, of written
30 questions to be asked of the witness by the chair; and
31
- 32 (9) Exercise all other powers specified under chapter 21,
33 Hawaii Revised Statutes, and the Rules of the House of
34 Representatives, with respect to an investigating
35 committee; and
36

37 BE IT FURTHER RESOLVED that the investigating committee
38 shall consist of at least five members, including a chair and
39 vice chair, to be appointed by the Speaker of the House of
40 Representatives exclusively from the membership of the House of
41 Representatives; and
42



H.R. NO. 164

1 BE IT FURTHER RESOLVED that the Speaker of the House of
2 Representatives may, from time to time, refer to the
3 investigating committee specific matters that fall within the
4 scope of the investigating committee's jurisdiction, and the
5 investigating committee shall work in cooperation with the
6 Speaker of the House of Representatives for the purposes stated
7 in this Resolution; and

8
9 BE IT FURTHER RESOLVED that the investigating committee
10 shall submit its written findings and recommendations, including
11 any proposed legislation, to the House of Representatives prior
12 to the convening of the Regular Session of 2022 and cease to
13 exist upon the adjournment sine die of the Regular Session of
14 2022 unless extended; and

15
16 BE IT FURTHER RESOLVED that certified copies of this
17 Resolution be transmitted to the Speaker of the House of
18 Representatives, Chairperson of the Board of Land and Natural
19 Resources, and Chairperson of the Board of Directors of the
20 Agribusiness Development Corporation.

21
22
23 OFFERED BY: Paul A. Bulthi

APR 29 2021

