

Notice for the Professional Services of Private Contractors Review of Documents and Information Submitted for Registration of Condominium Property Regimes Pursuant to Chapters 514A and 514B, Hawaii Revised Statutes

The Director of the Department of Commerce and Consumer Affairs of the State of Hawaii plans to use professional services of private contractors for the review of documents and information submitted to the Hawaii State Real Estate Commission (Commission) for the registration of condominium property regimes (CPRs) pursuant to Chapters 514A and 514B, Hawaii Revised Statutes (HRS), beginning July 1, 2024, to June 30, 2026.

A. SCOPE

The scope of the professional services includes (See attachment 1 for a more detailed description of the scope of services):

1. Timely reviewing, editing, and, where necessary, rewriting developers' public reports of proposed CPR projects pursuant to HRS §§ 514A-38, and 514B-64 (including any updates and changes), to facilitate the developers' adequate disclosure of material facts about the condominium projects to which the developers' public reports relate. Among other tasks, the review shall include examining the developers' supporting documents and information, ensuring that all statutory registration requirements have been met, and evaluating the adequacy of disclosures included in the developers' public reports.

The review of developers' public reports also includes the review and rewrite of any updates and changes to the developers' public reports.

2. Timely making recommendations to the Commission for the issuance or non-issuance of effective dates for developers' public reports based on the Contractor's review of the developers' submitted documents and information indicating compliance with the requirements of HRS Chapter 514A or Chapter 514B.

3. Timely informing the Commission, directly or through the Commission's Condominium Review Committee Chair, about recurring CPR public report issues, problems, and violations involving HRS Chapters 514A and 514B which are under the jurisdiction of the Commission. Contractor further agrees to recommend to the Commission for its consideration possible solutions for any recurring CPR public report issues, problems, and violations involving HRS Chapters 514A and 514B.

4. Serving as the primary and direct contact to the State/Commission and its staff for the review. Contractor and his or her firm commit qualified and sufficient numbers of staff to the review.

5. Being available to consult with the Commission and its staff by telephone, facsimile, electronic, or other means of communication and arranging to be available

during working hours of the State. Contractor shall also be available to answer questions about the registration application after the CPR project is registered and the Commission has issued effective dates for the various developers' public reports. Furthermore, Contractor shall be available upon request to provide professional guidance to the Commission, legislature, county agencies, and industry groups about various issues and concerns relating to the registration of CPR projects and the governance of the associations.

6. Other services as needed by the Commission with the registration of condominium projects pursuant to HRS Chapters 514A and 514B.

B. QUALIFICATIONS NEEDED

Candidates shall meet various minimum specifications including, but not limited to, the following:

1. Experience and Professional Qualifications of Contractor

Specialized knowledge of developers' CPR project registration documentation, including material facts disclosure about projects, evidence of title, encumbrances against title, escrow agreements, sales contracts, and other pertinent documents; and knowledge of historical issues peculiar to Hawaii CPR registrations pursuant to HRS Chapters 514A and 514B.

Specialized knowledge of statutes, rules, and practices relating to Hawaii CPR project registrations, including provisions relating to real estate and time share law, ordinances and codes for all counties, relevant federal and state issues, statutes, regulations, and court decisions, and federal, state, and county agency procedures, policies and decisions.

Working knowledge of governance, management, and operation of a condominium association of apartment owners, including but not limited to alternative dispute resolution methods, reserve studies, and funding.

Other pertinent knowledge as determined by the Real Estate Commission.

2. Past Performance

Prior experience within the immediate past five years of reviewing CPR projects for registration pursuant to HRS Chapter 514A or HRS Chapter 514B, or other projects of similar scope; or the equivalent of such past experience.

3. Communications

Ability of Contractor and staff to provide clear and responsive analyses, opinions, and advice regarding documents such as court decisions, county, state, and federal agency decisions, policies, and provisions.

Candidates shall also provide the professional services subject to the General Conditions of the State's Contract for Professional Services and the following terms and conditions:

C. TIME OF PERFORMANCE

Duration of the Contract is from the execution of the Contract and ending on June 30, 2026, with one option to automatically renew for up to two fiscal years thereafter, subject to the Commission's receipt of funds paid by developers for the review of condominium project filings.

Timely review of the developers' applications for registration of the CPR with the Commission is essential and Commission may assign, rotate, and even reassign the assignments amongst the Contractors for such purposes. The Commission may set a different deadline for each CPR review, depending upon the complexity of the CPR application and/or updates.

D. COMPENSATION

Compensation shall not exceed **ONE THOUSAND FIVE HUNDRED AND NO DOLLARS (\$1,500.00) for each initial review** by the CONTRACTOR of a developer's registration application plus any approved expenses incurred in connection with the review. A developer's registration application includes all documents and information which a developer submits as part of the initial registration application. For any subsequent review of additional and/or supplemental documents and/or information which a developer is required to submit to complete the registration application and for any subsequent review of developer's rewrites of the developer's public report, an additional hourly amount of **TWO HUNDRED DOLLARS (\$200.00)** not to exceed a total of **TWO THOUSAND AND NO DOLLARS (\$2,000.00)** plus any approved expenses incurred in connection with the subsequent review. Such additional amounts, if any, shall be subject to the recommendation of the CONTRACTOR and approval of the Commission. Additionally, the developer shall submit the recommended and approved amount to the STATE prior to the CONTRACTOR continuing with the review of the developer's registration application.

Compensation shall not exceed **ONE HUNDRED FIFTY AND NO DOLLARS (\$150.00)** for the review, after issuance of an effective date for the developer's public report, of any non-complex updates including non-complex pertinent changes and/or changes involving up to two material changes. Such updates and changes include those submitted as a short form abbreviated supplementary developer's public report or as an amendment to a developer's public report. For the review of any updates and/or changes to the registration application relating only to updates/changes to the names of "persons connected to the (condominium) project" and other non-substantive stylistic updates and/or changes, payment shall be up to **ONE HUNDRED AND NO DOLLARS (\$100.00)**.

Compensation shall not exceed **ONE THOUSAND FIVE HUNDRED AND NO DOLLARS (\$1,500.00)** plus any approved expenses incurred in connection with the review, after issuance of an effective date for the developer's public report, of complex updates and/or changes to the registration application involving more than two material changes. Such updates and changes include those submitted as a full developer's supplementary public report or as an amended developer's public report. For any subsequent review of additional and/or supplemental documents and/or information which a developer is required to submit to complete the review of complex updates and/or changes to the registration application involving more than two material changes and for any subsequent review of developer's rewrites of the developer's public report, an additional hourly amount **TWO HUNDRED DOLLARS (\$200.00)** not to exceed a total of **TWO THOUSAND AND NO DOLLARS (\$2,000.00)** plus any approved expenses incurred in connection with the subsequent review. Such additional amounts, if any, shall be subject to the recommendation of the CONTRACTOR and approval of the Commission. Additionally, the developer shall submit the recommended and approved amount to the STATE prior to the CONTRACTOR continuing with the review of the developer's complex updates and/or changes to the registration application involving more than two material changes, and any subsequent developer's rewrites of the developer's public report.

The maximum contract price shall be not more than **NINETY THOUSAND AND NO DOLLARS (\$90,000.00)**, for the first fiscal year of the contract and shall be not more than **NINETY-FIVE THOUSAND AND NO DOLLARS (\$95,000.00)** for the second fiscal year and any subsequent contract renewal and is further conditioned upon the receipt of CPR project registration applications, fees, costs, and expenses the STATE receives from developers in the fiscal year.

Additional amounts, such as itemized expenses incurred in the performance of services, as approved by the Commission.

Pursuant to HRS §§ 514A-38 and 514B-64, cost, fees, and expenses of the review are borne by the developer. The Commission serves as a conduit for developers' payment. No state monies are involved.

Those that are interested and capable of providing the professional services shall submit no later than 4:30 p.m., **May 24, 2024**, a letter of interest and a resume to the Hawaii State Real Estate Commission, 335 Merchant Street, Room 333, Honolulu, Hawaii 96813, Attention: Dathan Choy, Condominium Specialist.

Resumes should include a description of their individual statement of qualifications and related experiences as they relate to this proposal.

SCOPE OF SERVICES

CONTRACTOR agrees to provide the following services, subject to the following terms and conditions:

1. **Services applicable to HRS Chapters 514A and 514B.**
 - (a) Examine, review, and evaluate the developer's prepared public report including any changes and amendments thereto; and the developer's supporting documents and information as to whether the developer's prepared public report and any changes and amendments submitted to the Real Estate Commission ("Commission"):
 - (1) Provides adequate and accurate disclosures pursuant to HRS §§ 514A-37 and 514A-42, and HRS §§ 514B-57 and 514B-60, in particular;
 - (2) Includes the disclosures and information required by HRS Chapter 514A or Chapter 514B in general; and
 - (3) Satisfies all other requirements for issuance of an effective date by the Commission pursuant to HRS Chapter 514A or HRS Chapter 514B (including any amendments thereto).
 - (b) Edit, rewrite, review, or direct the developer to edit, rewrite, and amend the developer's public report to include any additional disclosures, omitted disclosures, and amendments of any included disclosures.
 - (c) Evaluate and describe in the developer's recommendation whether the developer's condominium property regime ("CPR") project satisfies HRS Chapter 514A or Chapter 514B (including any amendments thereto), requirements for registration of the CPR project with the Commission.
2. **Specific services applicable to HRS Chapter 514A project application and developer's public report.** Review, edit, and, where needed, rewrite or direct a developer's rewrite of the developer's preliminary, contingent final, or final public report (including any updates, changes, amendments, supplementary public report) relating to the proposed CPR project's registration, to facilitate the developer's adequate disclosure of ***all material facts*** pursuant to HRS §514A-36 about the CPR project to which the developers' public reports relate and other disclosures and information required by HRS Chapter 514A.
3. **Specific services applicable to HRS Chapter 514B project application and developer's public report.** Review, edit, and, where needed, rewrite or direct a developer's rewrite of the developer's public report (including

any updates, changes, and amendments) relating to the proposed CPR project registration, to facilitate the developer's adequate and accurate disclosure pursuant to HRS §514B-57 of the disclosures and information required by HRS Chapter 514B. Among other tasks, the review shall include an evaluation of material facts pursuant to HRS §514B-67(a) (4), material and pertinent changes pursuant to HRS §514B-60 which the developer has included in its proposed public report or omitted from in its proposed public report, and other facts, documents, or information that may have a material impact on the use or value of a unit or any limited common element or amenity, or as required by the Commission pursuant to HRS §514B-83(a) (8) to assure adequate and accurate disclosures to prospective purchasers.

4. **CONTRACTOR'S recommendation.** Make recommendations to the Commission for the issuance or non-issuance of effective dates for developers' public reports based on the CONTRACTOR'S review of the developers' submitted disclosures, documents, and information indicating compliance with the applicable requirements of HRS Chapter 514A or HRS Chapter 514B.
5. **Recurring CPR registration and CPR public report issues, problems, and violations involving HRS Chapters 514A and 514B.** Inform the Commission, directly or through the Commission's Condominium Review Committee Chair or Commission's staff, about recurring CPR issues, problems, and violations involving HRS Chapters 514A and 514B, which are under the jurisdiction of the Commission. CONTRACTOR further agrees to recommend to the Commission for its consideration possible solutions for any recurring CPR registration and condominium public report issues, problems, and violations involving HRS Chapters 514A and 514B.
6. **CONTRACTOR the primary and direct contact.** Serve as the primary and direct contact to the State/Commission and its staff for the review; CONTRACTOR and his or her firm commits qualified and sufficient numbers of staff for the review.
7. **CONTRACTOR'S availability.** Be available to consult with the Commission and its staff by telephone, facsimile, or other means of communication and arrange to be available during working hours of the State. CONTRACTOR shall also be available to answer questions about the registration application and the developers' public reports even after the CPR projects are registered and the Commission has issued effective dates for the developers' public reports. CONTRACTOR shall also be available upon request to provide professional guidance to the Commission and its staff, the legislature, county agencies, and industry

groups about various issues and concerns relating to the registration of CPR projects and the governance of the associations.

8. **Timely review.** Timely review developers' applications for registration of the CPR Projects including developers' proposed public reports, supporting documents and information, and any changes and amendments. CONTRACTOR agrees that time is of the essence in completing the review of CPR applications including proposed developers' public reports. Thus, CONTRACTOR agrees that the Commission may set different deadlines, for each CPR review, depending upon the complexity of the CPR application, updates, changes and or amendments; and may assign, rotate, or even reassign assignments amongst the CONTRACTORS for such purposes.
9. Other services as requested by the Commission.

COMPENSATION AND PAYMENT SCHEDULE

The State, upon CONTRACTOR'S submittal of a statement or invoice of professional services rendered to the STATE, pursuant to HRS §§ 514A-38 and 514B-64, shall facilitate payment to CONTRACTOR for each developer's project registration application the CONTRACTOR reviewed or worked on for the COMMISSION, as follows:

1. **ONE THOUSAND FIVE HUNDRED AND NO DOLLARS (\$1,500.00)** for each initial review by the CONTRACTOR of a developer's registration application plus any approved expenses incurred in connection with the review. A developer's registration application includes all documents and information which a developer submits as part of the initial registration application. For any subsequent review of additional and/or supplemental documents and/or information which a developer is required to submit to complete the registration application and any subsequent review of developer's rewrites of the developer's public report, an additional hourly amount of **TWO HUNDRED DOLLARS (\$200.00)** not to exceed a total of **TWO THOUSAND AND NO DOLLARS (\$2,000.00)** plus any approved expenses incurred in connection with the subsequent review. Such additional amounts, if any, shall be subject to the recommendation of the CONTRACTOR and approval of the Commission. Additionally, the developer shall submit the recommended and approved amount to the STATE prior to the CONTRACTOR continuing with the review of the developer's registration application.
2. **ONE HUNDRED FIFTY AND NO DOLLARS (\$150.00)** for the review, after issuance of an effective date for the developer's public report, of any non-complex updates including non-complex pertinent changes and/or changes involving up to two material changes. Such updates and changes include those submitted as a short form abbreviated supplementary developer's public report or as an amendment to a developer's public report. For the review of any updates and/or changes to the registration application relating only to updates/changes to the names of "persons connected to the (condominium) project" and other non-substantive stylistic updates and/or changes, payment shall be up to **ONE HUNDRED AND NO DOLLARS (\$100.00)**.
3. **ONE THOUSAND FIVE HUNDRED AND NO DOLLARS (\$1,500.00)** plus any approved expenses incurred in connection with the review of complex updates and/or changes to the registration application involving more than two material changes. For any subsequent review of additional and/or supplemental documents and/or information which a developer is required to submit to complete the review of complex updates and/or changes the

registration application and any subsequent review of developer's rewrites of the developer's public report, an additional hourly amount of **TWO HUNDRED DOLLARS (\$200.00)** not to exceed a total of **TWO THOUSAND AND NO DOLLARS (\$2,000.00)** plus any approved expenses incurred in connection with the subsequent review. Such additional amounts, if any, shall be subject to the recommendation of the CONTRACTOR and approval of the Commission. Additionally, the developer shall submit the recommended and approved amount to the STATE prior to the CONTRACTOR continuing with the review of the developer's complex updates and/or changes to the registration application involving more than two material changes, and any subsequent developer's rewrites of the developer's public report.

4. The amount as specified in paragraphs 1, 2, and 3 above for services rendered by the CONTRACTOR where the Commission has deemed a registration application abandoned in accordance with §514B-52, HRS, or §436B-9, HRS, **and Commission policy (March 2020)**.
5. Additional amounts, such as itemized expenses incurred in the performance of services, as approved by the Commission.
6. The maximum contract price shall be not more than **NINETY THOUSAND AND NO DOLLARS (\$90,000.00)**, for the first fiscal year of the contract and shall be not more than **NINETY-FIVE THOUSAND AND NO DOLLARS (\$95,000.00)** for the second fiscal year and any subsequent contract renewal and is further conditioned upon the receipt of CPR project registration applications, fees, costs, and expenses the STATE receives from developers in the fiscal year.
7. The State retains the sole right to determine whether an update and or change is complex or not. The State's reasonable determination of whether an update or change is complex shall be final.
8. All payments to the CONTRACTOR are conditioned upon and subject to the STATE'S receipt of developers' CPR project registration applications, fees, costs, and expenses in the fiscal year.

TIME OF PERFORMANCE

- 1 This Contract shall be effective from the time of execution and remain in force to and including June 30, 2026, with the State's option to renew as set forth in paragraph 2 below, unless sooner terminated as provided in this Contract.
- 2 The Commission shall have one option to automatically renew the contract for up to two fiscal years, subject to the Commission's continuing receipt of funds paid by developers for the review of condominium project filings, pursuant to HRS §§514A-38 and 514B-64.