



Hawaii Public Housing Authority
State of Hawaii

RFP CO-2009-29

Request for Proposals to Prepare the Fair Housing Analysis of
Impediments for the State of Hawaii

Note: If this Request for Proposals (RFP) was downloaded from the Hawaii Public Housing Authority's website, each interested offeror must provide the necessary contact information to the listed RFP Coordinator to be notified of any changes. For your convenience, you may download the RFP Sign-In, complete and email, fax or mail to the RFP Coordinator. The HPHA shall not be responsible for any missing addenda, clarifications, attachments or other information regarding this RFP if a proposal is submitted from an incomplete RFP.

Issued February 8, 2010



Notice to Offerors
(Chapter 103D, Hawaii Revised Statutes)

REQUEST FOR PROPOSALS (RFP) No. RFP CO-2009-29

Notice is hereby given that pursuant to Chapter 103D, Hawaii Revised Statutes (“HRS”); the Hawaii Public Housing Authority (“HPHA”), will be accepting sealed proposals from qualified firms and/or individuals to 1) prepare the fair housing analysis of impediments for the State of Hawaii; 2) identify the impediments in the State of Hawaii; 3) establish a baseline measure; 4) develop a plan for the State of Hawaii to remove any impediments identified through the analysis; and 5) provide the necessary supporting methodology and records reflecting the analysis and actions.

The Request for Proposals may be picked up at the HPHA’s Contract and Procurement Office on Oahu located at 1002 North School Street, Building D, Honolulu, Hawaii 96817 beginning on February 8, 2010.

The HPHA’s Contract and Procurement Office will conduct a Pre-Proposal Conference from 9:00 a.m. to 10:00 a.m. Hawaii Standard Time (HST) at the HPHA Building E Conference Room, 1002 North School Street, Honolulu, HI 96817 on Wednesday, February 17, 2010. The HPHA strongly recommends that all interested offerors attend.

Sealed proposals will be received at the HPHA’s Central Files Office at 1002 N. School Street, Bldg D, Honolulu, Hawaii 96817 until 4:00 p.m. HST on Thursday, March 11, 2010. Electronic mail and facsimile transmissions **shall not** be accepted. The official time shall be that which is recorded on the time stamp clock of the HPHA for hand-delivered proposals. Deliveries by private mail services, such as Federal Express, shall be considered hand deliveries. All mail-in proposals delivered/postmarked by the United States Postal Service **must be received** no later than 4:00 p.m. HST on Thursday, March 11, 2010.

The HPHA reserves the right to reject any or all proposals and to accept the proposals in whole or part in the best interest of the State. Questions relating to this solicitation shall be directed to Mr. Rick Sogawa at (808) 832-6038.

HAWAII PUBLIC HOUSING AUTHORITY

Barbara E. Arashiro
Acting Executive Director



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Section 1

Administrative Overview

Section 1

Administrative Overview

I. Authority

The Hawaii State Legislature established the Hawaii Public Housing Authority (hereinafter “HPHA”) under Chapter 356D, Hawaii Revised Statutes. The HPHA consolidates all low income housing and homeless functions and is administratively attached to the Department of Human Services. The HPHA is a public body and a body corporate and politic. The HPHA’s role is to address the housing needs of families in Hawaii.

The HPHA is requesting proposals from qualified firms and/or individuals to 1) prepare the fair housing analysis of impediments for the State of Hawaii; 2) identify the impediments in the State of Hawaii; 3) establish a baseline measure; 4) develop a plan for the State of Hawaii to remove any impediments identified through the analysis; and 5) provide the necessary supporting methodology and records reflecting the analysis and actions.

A determination has been made that the HPHA is unable to secure services through a low bid process. Factors include in the determination were 1) price is not the primary consideration in determining an award; 2) the specifications for the services cannot be sufficiently described through a low bid process; 3) oral or written discussions need to be conducted with interested offerors concerning their proposals; 4) interested offerors may need to revise their proposals, including price; and 5) the award needs to be based on a comparative evaluation in order to determine the most advantageous offering to the State. To that end, a low bid process is not practicable to the HPHA to secure a qualified firm and/or individual to prepare the fair housing analysis of impediments for the State of Hawaii

This Request For Proposals (hereinafter “RFP”) is issued under the provisions of Chapter 103D, Hawaii Revised Statutes, the related administrative rules, and the United States Department of Housing and Urban Development’s (hereinafter “HUD”) regulations. Interested offerors are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any interested offeror shall constitute admission of such knowledge on the part of such interested offeror.

II. RFP Organization

This RFP is organized into five (5) sections:

- Section 1 Administrative Overview – Provides interested offerors with an overview of the procurement and contracting process.
- Section 2 Scope of Work and Specifications – Provides interested offerors with a general description of the tasks to be performed, delineates interested offeror’s responsibilities, and defines deliverables (as applicable).
- Section 3 Proposal Form and Instructions – Describes the required format and

- content for the proposal.
- Section 4 Proposal Evaluation & Award– Describes how the proposals will be evaluated.
- Section 5 Attachments

III. Contracting Office

The Contracting Office is responsible for overseeing the procurement and the Contract resulting from this RFP. The Contracting Office is:

Hawaii Public Housing Authority
Contract and Procurement Office
1002 North School Street, Bldg. D
Honolulu, Hawaii 96817

Telephone: (808) 832-6038

For the purpose of this solicitation, the RFP Coordinator or his/her designated representative is listed below:

Rick Sogawa
Hawaii Public Housing Authority
Contract and Procurement Office
1002 North School Street, Bldg. D
Honolulu, Hawaii 96817

Telephone: (808) 832-6038

Fax: (808) 832-6039

The HPHA reserves the right to change the RFP Coordinator without prior written notice.

The Administrative Office responsible for administering and monitoring the Contract is the Compliance Office. For the purpose of this solicitation, the Contract Administrator or his/her designated representative is responsible for monitoring the activities performed under the Contract and is listed as follows:

Steven Chang
Hawaii Public Housing Authority
Compliance Office
1002 North School Street, Bldg. E
Honolulu, Hawaii 96817

Telephone: (808) 832-4680

Any changes to the Contract Administrator or his/her designated representative shall be provided in writing to the Successful Offeror. The HPHA reserves the right to make changes to the Contract Administrator. Once a Contract has been executed, all communications regarding approvals, reports, and requests will be directed to the Contract Administrator.

IV. Procurement Timeline

<u>Activity</u>	<u>Scheduled Dates</u>
Public notice announcing RFP	February 8, 2010
Distribution of proposal specs/proposal form	February 8, 2010
Pre-Proposal Conference	February 17, 2010
State response to written inquiries	February 24, 2010
Proposal submittal deadline	March 11, 2010
Proposal review	March 15-17, 2010
Notice of award	March 2010
Contract execution	March 2010
Start of services	April 1, 2010

The HPHA reserves the right to amend or revise the timetable without prior written notice when it is in the best interests of the State.

V. Pre-Proposal Conference

The HPHA's Contract and Procurement Office will conduct a Pre-Proposal Conference from 9:00 a.m. to 10:00 a.m. Hawaii Standard Time (HST) on Wednesday, February 17, 2010 at the HPHA, 1002 North School Street, Building E Conference Room, Honolulu, Hawaii 96817. The HPHA strongly recommends that all interested offerors attend.

Impromptu questions will be permitted at the Pre-Proposal Conference and informal answers provided at the HPHA's discretion. Verbal answers provided at the Pre-Proposal Conference are only intended as general direction. Formal official responses to substantive questions will be provided in writing to each interested offeror. No additional compensation will be allowed by reason of any misunderstanding or error regarding project layout or work to be performed.

VI. Submission of Questions

Interested offerors may submit questions to the RFP Coordinator identified in Section 1 of this RFP. The deadline for submission of written questions is 4:00 p.m. HST, February 19, 2010. All written questions will receive a written response from the HPHA. The HPHA does not guarantee receipt of questions submitted via electronic mail. The HPHA's responses to interested offeror's written questions will be sent by February 24, 2010 or as soon as practicable.

VII. Submission of Sealed Proposals

- A. **Forms/Formats** –Proposal forms and formats are included in the attachment section of this RFP.
- B. **Proposal Submittal** – Proposals must be postmarked by the United States Postal Service (USPS) or hand delivered by the date and time designated in this RFP.

Any proposals post-marked or received after the designated date and time shall be rejected. **Electronic submissions such as electronic mail and facsimile transmissions shall not be accepted.**

The register of proposals and proposals shall be open to public inspection after the award of the Contract.

- C. **Pre-opening Modification or Withdrawal** – Proposals may be modified or withdrawn prior to the deadline for submittal of proposals by submitting a written letter to modify or withdraw the proposal. A facsimile or electronic notice accompanying the actual modification submitted either by facsimile machine, electronic mail shall be accepted subject to the interested offeror submitting the actual written notice and modification within two working days of receipt of the facsimile or the electronic transmittal.

The written request must be submitted to the HPHA, Contract and Procurement Office, 1002 North School Street, Bldg D, Honolulu, Hawaii 96817 and time stamped by the HPHA. All requests for modifications shall be accompanied by the actual modifications to the proposals and signed by an authorized representative. Modifications and/or withdrawals shall be clearly marked and must be received by the HPHA no later than 4:00 p.m. HST on March 11, 2010.

- D. **Wages and Labor Law Compliance** – Prior to entering into a Contract in excess of \$25,000, an interested offeror shall certify that it complies with section 103-55, HRS, Wages, hours, and working conditions of employees of contractors performing services. Section 103-55, HRS provides that the services to be performed shall be performed by employees paid at wages not less than wages paid to public officers and employees for similar work. Interested offerors are further advised that in the event of an increase in wages for public employees performing similar work during the period of the Contract, the Contractor shall be obligated to provide wages not less than those increased wages.

Interested offerors shall complete and submit the attached Wage Certification certifying that the services required will be performed pursuant to section 103-55, HRS. See Attachment 1.

The Contractor shall be further obligated to notify his employees performing work under this Contract of the provisions of section 103-55, HRS, and of the current wage rates for public employees performing similar work. The Contractor may meet this obligation by posting a notice to this effect in the Contractor's place of business in an area accessible to all employees.

Interested offerors are strongly encouraged to account for salary increases as posted by the State Department of Labor and Industrial Relations. **The HPHA will not consider requests for increases as a result of wage increases to public officers and employees during the contract period or any option period.** It is the sole responsibility of the Contractor to comply with section 103-55, HRS.

- E. **Confidential Information** – If an interested offeror believes that any portion of a proposal contains information that should be withheld as confidential, the interested offeror 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 documents to facilitate eventual public inspection of the non-confidential sections of the proposal documents. Note that **price and the provision of the minimum required services is not considered confidential** and will not be withheld.

Interested offerors that chose to identify portions of their proposal as confidential, shall be responsible to ensure that the minimum services are not included. The HPHA will not make any determination of confidentiality for the interested offeror.

If a proposal is marked confidential in its entirety, the HPHA will not make a determination of confidentiality and will refer the request for information to the State's Office of Information Practices.

- F. **Exceptions** – Interested offerors shall list any exceptions taken to the terms, conditions, specifications, or other requirements listed herein. Interested offerors must reference the RFP section where the exception is taken, a description of the exception taken, and the proposed alternative, in any.

VIII. Discussion with Offerors Prior to Proposal Submission

Discussions may be conducted with interested offerors to promote understanding of the HPHA's requirements.

IX. Opening of Proposals

Upon receipt of proposals by the HPHA at the 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 shall not be 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. Sealed proposals shall not be opened at a public proposal opening.

X. Additional Materials and Documentation

Proposal samples or descriptive literature should not be submitted unless specifically requested within the RFP. Any unsolicited documentation, literature, samples, or brochures will not be examined or tested, and will not be deemed to vary any of the provisions of this RFP.

XI. RFP Amendments

The HPHA reserves the right to amend this RFP at any time prior to the closing date for the final revised proposals. Interested offerors will be notified of the availability of amendments through verbal or written communication.

XII. Additional Terms and Conditions

The HPHA reserves the right to add terms and conditions during contract negotiations and discussions. These terms and conditions may be within the scope of the RFP and will not affect the proposal evaluation.

XIII. Cancellation of the Request for Proposals

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 interests of the State.

XIV. Costs for Proposal Preparation

Any costs incurred by interested offerors in preparing or submitting a proposal are the interested offeror's sole responsibility. Any costs incurred by the Successful Offeror prior to the execution of a Contract are not eligible for reimbursement.

Costs incurred in connection with the review, inspection and verification of information provided in the RFP shall be the interested offeror's sole responsibility.

Interested offerors shall ensure that the HPHA is provided with the written authorization(s) necessary to verify information provided in the interested offeror's proposal.

XV. Mistakes in Proposals

While interested offerors are bound by their proposals, circumstances may arise where a correction or withdrawal of proposals is proper. An obvious mistake in a proposal may be corrected or withdrawn, or waived by the interested offeror to the extent that it is not contrary to the best interest of the HPHA or to the fair treatment of other interested offerors. Mistakes in proposals shall be handled as provided for in section 3-122, Hawaii Administrative Rules ("HAR").

XVI. Rejection of Proposals

The HPHA reserves the right to consider as acceptable only those proposals submitted in accordance with the requirements set forth in this RFP and which demonstrate an understanding of the service specifications.

Pursuant to section 3-122-97, HAR, any proposal offering may be rejected without further notice if it is:

1. Determined to be unreasonable in price, including not only the total price of the proposal, but the prices for individual items as well; or
2. Determined to offer a set of terms or conditions that are contradictory to the minimum requirements included in this RFP.

XVII. Notice of Award

Any Contract 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 as required by statute, regulation, rule, order or other directive.

The Successful Offeror shall receive a Notice of Award, which will indicate that the Successful Offeror has been selected to provide general accounting services under this RFP.

No work is to be undertaken by the Successful Offeror prior to the Contract commencement date. The HPHA is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Successful Offeror prior to the Contract starting date.

Offeror shall produce documents to the procurement officer to demonstrate compliance with section 3-122-112, HAR.

The Successful Offeror receiving award shall be required to enter into a formal written contract. The general conditions of the contract are attached and minimum service specifications are included herein.

XVIII. Protests

Pursuant to HRS §103D-71, an actual or prospective offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. An interested offeror may protest the solicitation or award of services only for a serious violation of procurement policies and operational procedures. Only the following matters may be protested:

- (1) A state purchasing agency's failure to follow procedures established by Chapter 103D, HRS;
- (2) A state purchasing agency's failure to follow any rule established by Chapter 103D, HRS; or

- (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 mailed by USPS or hand delivered to the head of the State Contracting Office conducting the protested procurement and the Procurement Officer who is conducting the procurement (as indicated below) within five (5) working days of the postmark of the Notice of Non-Award sent to the protestor; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the Contract. Delivery services other than USPS shall be considered hand deliveries and considered submitted on the date of actual receipt by the State Contracting Office.

Head of State Contracting Office		Procurement Officer	
Name:	Barbara E. Arashiro	Name:	Rick T. Sogawa
Title:	Acting Executive Director	Title:	Acting Procurement Officer
Mailing Address:	P.O. Box 17907 Honolulu, Hawaii 96817	Mailing Address:	P.O. Box 17907 Honolulu, Hawaii 96817
Business Address:	1002 N. School St, Bldg C Honolulu, Hawaii 96817	Business Address:	1002 N. School St, D Honolulu, Hawaii 96817

XIX. Availability of Funds

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

XX. Monitoring and Evaluation

The Successful Offeror's performance under the Contract will be monitored and evaluated by the Contract Administrator or his/her designated representative, the HPHA's auditors, and/or other designated representatives.

Failure to comply with all material terms of the Contract may be cause for suspension or termination as provided in the general conditions. The Successful Offeror may be required to submit additional written reports, including a corrective action plan, in response to monitoring conducted by the HPHA. These additional reports shall not be considered a change to the scope of work and shall continue for a duration of time as deemed necessary by the HPHA.

XXI. General and Special Conditions of Contract

The general conditions that will be imposed contractually are included as an attachment. The State's General Conditions set forth in Attachment 8, may be found on the State Procurement Offices' (SPO) website at www.spo.hawaii.gov.

Special conditions may also be imposed contractually by the HPHA, as deemed necessary. The HPHA reserves the right to make small or major modifications to the quantity of items or reporting requirements contingent upon conditions that it is unable to anticipate now.

XXII. Cost Principles

The HPHA shall utilize standard cost principles at section 3-123 HAR which are available on the State Procurement Office website. Nothing in this section shall be construed to create an exemption from any cost principle arising under federal law.

(END OF SECTION)

Section 2
Scope of Work & Specifications

Section 2

Scope of Work & Specifications

I. Introduction

A. Purpose and Background

The Hawaii State Legislature established the Hawaii Public Housing Authority (HPHA) under Chapter 356D, HRS. The HPHA is a public body and a body corporate and politic and is administratively attached to the Department of Human Services. The HPHA's role is to address the housing needs of low income families of Hawaii.

The State of Hawaii is required to submit a Consolidated Plan (CP) to HUD in order to receive funding under certain HUD programs. The CP incorporates into a single submission the planning and application aspects for the HOME Investment Partnership (HOME), Emergency Shelter Grant (ESG), Community Development Block Grant (CDBG), and Housing Opportunities for Persons with AIDS (HOPWA) Programs. The HPHA administers the public housing, Section 8, HOPWA, and ESG. The Hawaii Housing Finance and Development Corporation (HHFDC) administers the HOME program.

The purpose of the CP is to ensure that jurisdictions receiving federal assistance plan for the housing and related needs of very low-, low- and moderate-income families in a way that improves the availability and affordability of decent, safe, and sanitary housing in a suitable living environment.

In order to fulfill the fair housing requirements of the CP, the HPHA and HHFDC must certify that they are affirmatively furthering fair housing (AFFH) as required in 24 CFR 91.325(a)(1) and 24 CFR 91.225(a)(1) and 24 CFR 570.287(b), respectively. The HPHA and HHFDC must:

1. Conduct an analysis to identify impediments to fair housing choice for the State of Hawaii which includes the island of Oahu, Maui, Kauai and Hawaii;
2. Take appropriate actions to overcome the effects of any impediments identified through the analysis; and
3. Maintain records reflecting the analysis and actions in this regard.

In 1988, HUD developed Fair Housing Review Criteria (24 CFR 570.904 c) which described the activities deemed acceptable in reviewing grantees' AFFH performance. The criteria stated that, absent independent evidence to the contrary, if grantees conducted an Analysis of Impediments to Fair Housing Choice and took action to address any identified impediments, HUD would presume that the grantees had met their AFFH certification.

In addition, the Comprehensive Housing Affordability Strategy (“CHAS”) statute, enacted in 1990, required a certification by the jurisdiction that it affirmatively furthers fair housing. Such CHAS certification is defined by Section 104(21) to be:

1. A written certification;
2. Based on supporting evidence;
3. Available for inspection by HUD, its Inspector General, and the public; and
4. Deemed accurate unless HUD determines otherwise after: inspecting the evidence and providing opportunity for comment.

HUD notes that although the grantee’s AFFH obligation arises in connection with the receipt of Federal funding, its AFFH obligation is not restricted to the design and operation of HUD-funded programs at the State or local level. The AFFH obligation extends to all housing and housing-related activities in the grantee’s jurisdictional area whether publicly or privately funded.

B. Defining the Analysis of Impediments

The analysis of impediments is a review of impediments to fair housing choice in the public and private sector. The analysis of impediments involves:

1. A comprehensive review of the jurisdiction’s laws, regulations, and administrative policies, procedures, and practices;
2. An assessment of how those laws, etc., affect the location, availability, and accessibility of housing; and
3. An assessment of conditions, both public and private, affecting fair housing choice.

Impediments to fair housing choice are:

1. Any actions, omissions, or decisions taken because of race, color, religion, sex, sexual orientation, disability, familial status, HIV infection, age, national origin/ancestry or marital status which restrict housing choices or the availability of housing choices; and
2. Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, sex orientation, disability, familial status, HIV infection, age, or national origin/ancestry or marital status.

The objective of the analysis of impediments is broad, and needs to cover a full array of public and private policies, practices, and procedures affecting housing choice in order to:

1. Serve as the substantive, logical basis for the Fair Housing Plan;

2. Provide essential and detailed information to policy makers, administrative staff, housing providers, lenders, and fair housing advocates; and
3. Assist in building public support for fair housing efforts both in the jurisdiction's boundaries and beyond.

C. Funding source and period of availability

Funds are subject to appropriation by the State's Director of Finance and/or U.S. Congress and allocation by the Governor, State Legislature and/or the U.S. Department of Housing and Urban Development (HUD). Funding and period of availability may change upon notice by the HPHA.

It is understood that the Contract shall not be binding, unless the HPHA can document that there is available an unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the amount required by the Contract. Any Contract entered into as a result of this RFP is binding only to the extent that funds are certified as available and that the availability of funds in excess of the amount certified as available shall be contingent upon future appropriations or special fund revenues.

It has been determined that there are sufficient funds to pay for the initial term of the Contract and the funds necessary for the remaining terms of the Contract are likely to be available from HUD. Pursuant to Chapter 103D-315, HAR, the HPHA reserves the right to cancel the Contract when funds are not appropriate or otherwise made available to support continuation of performance in subsequent periods. Nothing in this RFP shall be interpreted to mean that the State shall be liable to pay for services at the federal public housing sites with State funds.

II. General Requirements

A. Qualifying Requirements

1. The Successful Offeror must be experienced in the areas of County and State land use planning, housing development, fair housing laws, real estate market, property management, residential financing and conducting surveys with at least a combined total of 15 years of experience in these areas.
2. The Successful Offeror shall comply with Chapter 103D, HRS Cost Principles for Purchase of Goods and Services.
3. The Successful Offeror must have no outstanding balances owing to the HPHA. Exceptions may be granted by the Executive Director of the HPHA for debts recently acquired and for debts which have a repayment plan approved by the Executive Director of the HPHA.

4. Interested offerors are advised that if awarded a Contract, the Successful Offeror must furnish proof of compliance with the requirements of section 3-122-112, HAR:

- Chapter 237, HRS, tax clearance;
- Chapter 383, HRS, unemployment insurance;
- Chapter 386, HRS, workers' compensation;
- Chapter 392, HRS, temporary disability insurance;
- Chapter 393, HRS, prepaid health care; and
- One of the following:

i. Be registered and incorporated or organized under the laws of the State of Hawaii (hereinafter referred to as a "Hawaii business").

Hawaii business. A business entity referred to as a "Hawaii business" is registered and incorporated or organized under the laws of the State of Hawaii. As evidence of compliance, the interested offeror shall submit a CERTIFICATE OF GOOD STANDING issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG). A Hawaii business that is a sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate. A Successful Offeror's status as sole proprietor or other business entity and its business street address indicated on the Successful Offeror's form page 1 will be used to confirm that the Successful Offeror is a Hawaii business.

ii. Be registered to do business in the State of Hawaii (hereinafter referred to as a "compliant non-Hawaii business").

Compliant non-Hawaii business. A business entity referred to as a "compliant non-Hawaii business," is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State. As evidence of compliance, the interested offeror shall submit a *CERTIFICATE OF GOOD STANDING*.

The above certificates should be applied for and submitted with the interested offeror's proposal to the HPHA. If a valid certificate is not submitted on a timely basis for award of a Contract, a proposal otherwise responsive and responsible may not receive the award.

5. **Business Office**

The Successful Offeror shall have a permanent office from where he/she conducts business and where he/she will be accessible to telephone calls from 7:45 a.m. to 4:30 p.m. HST for concerns or requests that need immediate attention. An answering service is not acceptable. A permanent office

location and phone number shall be stated in the interested offeror's proposal.

6. **Certifications of Eligibility**

Prior to award of a Contract, the Successful Offeror is required to submit the following documents to the HPHA to demonstrate compliance with State laws:

1. Tax Clearance, Form A-6;
2. Department of Labor and Industrial Relations, Application for Certificate of Compliance, Form LIR #27; and
3. Certificate of Good Standing issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG).

Alternately, instead of separately applying for these (paper) certificates at the various state/federal agencies, the applicant may choose to use the Hawaii Compliance Express (HCE), which allows business to register online through a simple wizard interface at:

<http://vendors.ehawaii.gov/hce/splash/welcome.html>

The HCE provides the applicant with a "Certificate of Vendor Compliance" with current compliance status as of the issuance date, accepted for both contracting purposes and final payment. Vendors that elect to use the new HCE services will be required to pay any annual fee of \$12.00 to the Hawaii Information Consortium, LLC (HIC).

7. **Insurance Requirements**

Prior to the execution of a Contract, the Successful Offeror shall furnish to the Contracting Officer certificate(s) of insurance as evidence of the existence of the following insurance coverage in amounts not less than the amounts specified. This insurance must be maintained during the entire performance period.

The Successful Offeror shall defend, indemnify, and hold harmless the State of Hawaii, the HPHA, its elected and appointed officials, officers, and employees from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the Successful Offeror or the Successful Offeror's officers, employees, agents or subcontractors.

i. Workers' Compensation

The Successful Offeror shall carry Workers' Compensation insurance in such form and amount to satisfy the applicable the State Workers' Compensation Law. Workers' Compensation must be issued by an admitted carrier authorized to do business in the State of Hawaii.

ii. Liability Insurance

The Successful Offeror shall maintain the following minimum insurance limits and coverage:

<u>Coverages</u>	<u>Limits</u>
Commercial General Liability	\$2,000,000 single limits per occurrence for bodily injury and personal property damage
Personal Injury Liability	\$1,000,000.00 single limits per occurrence. \$2,000,000.00 for general aggregate
Automobile Insurance	Bodily injury liability limits of \$1,000,000.00 each person and \$1,000,000.00 per accident and property damage liability limits of \$1,000,000.00 per accident OR \$2,000,000.00 combined single limit

A certificate of insurance evidencing such insurance is required prior to commencement of services. The insurance policy required by this Contract shall contain the following clauses:

- (a) "This insurance shall not be canceled, limited in scope of coverage or non-renewed until after 30 days written notice has been given to the State of Hawaii, Hawaii Public Housing Authority (HPHA), 1002 N. School Street, Bldg E, Honolulu, Hawaii 96817."
- (b) "The State of Hawaii, the HPHA, its elected and appointed officials, officers and employees" are added as additional insured with respect to operations performed for the State of Hawaii and the HPHA."
- (c) "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the Contract, including all Supplemental Contracts.

Upon execution of the Contract, the Successful Offeror agrees to deposit with the HPHA, certificate(s) of insurance necessary to satisfy the HPHA 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 HPHA during the entire term of this Contract. Upon request of the HPHA, the Successful Offeror shall be responsible for furnishing a copy of the policy or policies.

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

The procuring of such required insurance shall not be construed to limit the Successful Offeror's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance, the Successful Offeror shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.

iv. Other Additional Insurance

The Successful Offeror may, at its own expense, place additional insurance coverage for protection risks not insured by the HPHA subject to the HPHA's approval. Request for approval will include a description of the additional insurance coverage, premium and justification.

B. Type of Contract

1. The Successful Offeror shall be required to execute a Contract for Goods and Services Based on Competitive Sealed Proposals. See Attachments 2 – 7.

The Contract shall be on a reimbursement basis. All costs incurred must be supported by verifiable evidence that payment was made such as payroll records, invoices, receipts.

Subsequent to the award and within 10 days after the prescribed forms are presented for signature, the Successful Offeror shall execute and deliver to the HPHA a Contract in the form included in this RFP in such number of copies as required by the HPHA.

The Successful Offeror will be required to enter into a formal written contract with the HPHA in accordance with the laws, rules and regulations of the State of Hawaii. The stated requirements appearing elsewhere in this RFP shall become

part of the terms and conditions of the Contract as though incorporated into the Contract at length.

By submission of a proposal, interested offerors warrant and represent that they have read and are familiar with the contractual and service requirements set forth in the RFP and its attachments, the provisions of which are expressly incorporated into this RFP by reference as though fully set forth at length herein.

All proposals shall become the property of the HPHA. The Successful Offeror's proposal will be incorporated in the resulting Contract by reference.

2. Subcontracting

No work or services shall be subcontracted or assigned without the prior written approval of the HPHA. No subcontract shall under any circumstances relieve the Successful Offeror of his/her obligations and liability under contract with the HPHA. All persons engaged in performing the work covered by the Contract shall be considered employees of the Successful Offeror.

3. Contract Modification

The Contract may be modified only by a written document signed by the HPHA and personnel authorized to sign contracts on behalf of the Successful Offeror, as designated in the corporate resolution.

4. Additional Services and Fees

For work not described in the Contract, the Successful Offeror and the HPHA shall negotiate for additional needed services and fees which may arise during the course of the Contract. Any agreement shall be in writing, executed by all parties, and shall be attached to the Contract as an amendment to expire at the same time as the original Contract.

5. Laws, Rules, Ordinances and Regulations

Reference to federal, state, city and county laws, ordinances, rules and regulations and standard specifications shall include any amendments thereto effective as of the date of the RFP.

6. Bonds

No performance or payment bond is required.

C. Single or multiple contracts to be awarded

Single Multiple Single & Multiple

D. Single or multi-term contracts to be awarded

Single term (≤ 2 yrs) Multi-term (> 2 yrs.)

Initial term of contract: April 1, 2010 to June 30, 2010
Length of each extension: Up to three (3) months (may be less than three (3) months when it is in the best interests of the State)

The initial period shall commence on the Contract start date. The following conditions must be met for an extension:

- Contractor experienced cost savings and has unexpended funds available that can be used to provide additional goods and services; or
- The HPHA determines there is an ongoing need for the services and has funds to extend services not to exceed three (3) months. Contract extensions shall be awarded as agreed upon in the primary contract. Exceptions shall be granted upon satisfactory justification such as increase in cost of services or cost of living increase; and
- A Supplemental Contract must be executed prior to expiration of the Primary Contract; and
- The HPHA must obtain HUD approval in writing of the extension prior to execution of a Supplemental Contract; and
- The Contractor must obtain the HPHA approval in writing and a notice to proceed with the extension.

The option to extend the Contract will be at the sole discretion of the HPHA. The contract shall be extended at the same rates as proposed in the original proposal unless price adjustments are provided herein. Submission of a proposal constitutes acknowledgement of the interested offeror that the interested offeror is able and willing to contract for services up to the maximum allowable length of the Contract. If the Successful Offeror is unwilling or unable to fulfill the maximum allowable Contract, the HPHA reserves the right to assign the costs of procurement to any payments owed under the Contract.

The Successful Offeror shall provide the requested insurance information and a completed wage certificate. The Successful Offeror shall pay the State of Hawaii general excise tax and all other applicable taxes.

E. Contract price adjustments

Each proposal offered herein shall be firm for the Contract period.

III. CONTRACT MONITORING & REMEDIES

A. Monitoring

1. The satisfactory provision of goods and services shall be monitored by the Contract Administrator. Performance will be monitored on an ongoing basis by the HPHA through desk monitoring, site inspection and/or other methods by the Contract Administrator and his/her designated representative(s).
2. Should the Successful Offeror fail to comply with the requirements of the Contract, the HPHA may request a written corrective action plan that shall include the corrective actions to be taken, a timeline for implementation, and the responsible parties. The HPHA will monitor the Successful Offeror for implementation of the corrective action plan. The HPHA reserves the right to request regular or additional reports on progress towards compliance with the Contract and the corrective action plan.
3. Should the Successful Offeror continue to fail to comply with the requirements of the Contract, the HPHA reserves the right to engage the services of another company to perform the services, to remedy the defect or failure and to deduct such costs from monies due to the Successful Offeror or to assess the Successful Offeror directly.
4. In the event the Successful Offeror fails, refuses, or neglects to perform the services in accordance with the requirements of this RFP, and the Contract which is attached, the HPHA reserves the right to purchase in the open market, a corresponding quantity of services, and to deduct from the Successful Offeror this cost and from any moneys due or that may thereafter become due the Successful Offeror (the cost to the HPHA of procuring such services). In case money due to the Successful Offeror is insufficient for this purpose, the Successful Offeror shall pay the difference upon demand by the HPHA. The HPHA may also utilize all other remedies provided under the Contract and by law and rules.
5. In the event the Successful Offeror is not performing the required services as contracted, the HPHA reserves the right to extend the Contract for intervals of less than three (3) months. During this time, the HPHA will monitor the Successful Offeror's performance and/or improvement and the implementation of its corrective action plan to determine whether the HPHA will continue to Contract with the Successful Offeror.

B. Termination

The HPHA reserves the right to terminate any agreement without penalty for cause or convenience as provided in the general conditions.

IV. SCOPE OF WORK

A. Management Requirements

1. The Successful Offeror shall prepare the analysis of impediments to fair housing using, but not limited to, the following data sources:
 - Analysis of Impediment reports prepared for the Counties of Hawaii, Kauai, Maui, and the City and County of Honolulu;
 - Demographic data;
 - Income data;
 - Fair Housing complaint data;
 - Fair Housing testing data;
 - Home Mortgage Disclosure Act (HMDA) data;
 - Housing data;
 - Employment data;
 - Transportation data;
 - Education data;
 - Mapping software; and/or
 - Zoning/Land Use Policies

2. Interviews with community organizations, fair housing/civil rights organizations, housing providers, realtors, lenders, community planning officials and other interested parties.

3. The Successful Offeror shall consult with governmental agencies on each island to review and analyze, including but not limited to the following local building, occupancy, and health/safety codes affecting the availability of housing:
 - Accessibility standards that do not meet the accessibility requirements of the Fair Housing Act;
 - Local zoning laws and policies that place restrictions on the number or unrelated persons occupying dwellings, or that impose minimum lot size requirements for group homes in single-family areas;
 - Policies that restrict the provision of housing and community development resources to areas of minority concentration, or policies that discourage the employment of minorities and persons with disabilities;
 - Policies concerning the application of site and neighborhood standards for new construction activities;
 - Policies concerning activities causing displacement (such as neighborhood revitalization, property tax increases and demolition of subsidized housing), that may affect the opportunities to select housing inside or outside of areas of minority concentration or housing which are accessible;
 - Policies and practices relating to the provision of public transportation and social services which may affect housing opportunities;
 - Policies and practices that affect the representation of minorities and persons with disabilities on planning and zoning boards and commissions;
 - Policies regarding the equalization in the provision of government services;

- Policies and practices of public housing agencies (PHAs) and other housing assistance providers with respect to tenant selection and assignment, reasonable accommodation, delivery of services and maintenance, and accessibility; and
 - Any identified policies and practices that may be adopted to affirmatively further fair housing.
4. The Successful Offeror shall consult with private sector banking and financial institutions, property management companies, and realtor associations on each island to review and analyze the following activities to identify possible impediments in the private sector. Policies and procedures regarding the sale and rental of real estate, such as:
- Steering or blockbusting;
 - The discriminatory refusal to rent or sell property;
 - Conversions of property to "all adult";
 - Deed restrictions;
 - Inaccessible design;
 - Discriminatory occupancy standards;
 - Discriminatory lending policies or practices;
 - Discriminatory real estate brokerage services;
 - Discriminatory real estate appraisal practices; and
 - Discriminatory insurance underwriting practices.
5. The Successful Offeror shall consult with fair housing enforcement agencies as well as protected class advocacy organizations, such as the Legal Aid Society of Hawaii, Hawaii Civil Rights Commission, the Hawai'i Disability Rights Center, the Humane Society, and the State Adult Mental Health Division, to review housing discrimination assertions and complaints, violations, or suits against housing providers from July 1, 2002 to the present. Determine the nature, extent, and disposition of the housing discrimination.
6. Upon completion of items 1-5, the Successful Offeror shall analyze and identify the housing choice impediments for the State of Hawaii.
7. The Successful Offeror shall recommend specific actions, goals, and timelines that the State could undertake to remove the impediments, as well as appropriate measures of effectiveness of actions taken towards reaching the specified goals. Particular emphasis should be placed on any trends or patterns that emerge from the AI, to the extent to which new or revised fair housing actions may be needed because of such trends.

As a hypothetical example, if a trend is detected wherein non-English speaking residents are unaware of fair housing rights; it may warrant a conclusion that foreign language translations of fair housing literature should be distributed to such residents establish a goal of providing the literature statewide, and a suggested timeline for implementation of this action.

8. The Successful Offeror shall submit one (2) originals and four (4) copies of the draft, pre-final and final report to the HPHA and the HHFDC. The Successful Offeror shall submit the final report to the HPHA at the end of the Contract period. The Successful Offeror shall submit two (2) compact discs that contain, in Microsoft Word, the draft, pre-final and final report to the HPHA.
9. The Successful Offeror shall submit monthly status reports indicating the percentage of work completed to date, accomplishments during the reporting period, and objectives for the next month, current significant activities, critical actions/concerns requiring completion/resolution priority, and a summary status.
10. The Successful Offeror shall be available for questions until final payment is rendered.
11. At the completion of the analysis, the Successful Offeror shall provide the HPHA and HHFDC with all records, data, baseline data and methodology in determining the impediments and recommendations to remove the impediments.

B. Administrative Requirements & Qualifications (Minimum Requirements)

1. Administrative Policies

The Successful Offeror shall maintain its own written policies that, at a minimum, address the following:

- a. Drug Free Workplace Policy;
- b. Sexual Harassment Awareness in the Workplace Policy;
- c. Non-Violence in the Workplace Policy;
- d. Standards of Conduct;
- e. Fair Housing; and
- f. Americans with Disabilities Act.

The Successful Offeror shall maintain evidence that all staff were adequately informed of their requirements and obtain their agreement to comply with said policies. The Successful Offeror shall be solely responsible for the conduct of their employees and for their compliance with its administrative policies.

The Successful Offeror further agrees and will include in its contract that it does not and will not discriminate against any employee or applicant for employment.

Such action shall include, but not be limited to, the following:

- Employment, upgrading, demotion, or transfer.
- Recruitment or recruitment advertising.

- Layoff or termination.
- Rates of pay or other forms of compensation.
- Selection for training, including apprenticeship.

The Successful Offeror shall comply with requirements of the Department of Housing and Urban Development, pursuant to its regulations issued under Title VI of the Civil Rights Act of 1964; said regulations being set forth in 24CFR, Subtitle A, Part I.I et seq.

2. Payment

- a. Section 103-10, HRS provides that the HPHA shall have 30 calendar days after receipt of invoice or satisfactory delivery of goods or performance of the services to make payment. For this reason, the HPHA will reject any proposal submitted with a condition requiring payment within a shorter period. Further, the HPHA will reject any proposal submitted with a condition requiring interest payments greater than that allowed by Section 103-10, HRS, as amended.
- b. The HPHA shall reimburse the Successful Offeror for all salaries, wages, taxes and other related administrative expenses for preparing the analysis of impediments.
- c. The Successful Offeror shall submit invoices, one original and three (3) copies, for goods and services rendered to:

Hawaii Public Housing Authority
Compliance Office
P.O. Box 17907
Honolulu, Hawaii 96817

The date of the invoice shall be the latter of the two: 1) date of invoice or 2) postmark of original invoice received via USPS or other method of delivery.

All invoices shall reference the contract number assigned to the Contract. Payment shall be in accordance with Section 103-10, HRS, upon certification by the Contract Administrator that the Successful Offeror has submitted the receipts for the goods and services specified.

The Successful Offeror shall submit monthly invoices for payment, listing dates of services rendered for the previous month with an itemized breakdown of expense. The Successful Offeror shall clearly indicate any adjustments made to the billing statement for work not performed.

- d. The HPHA shall retain five percent (5%) of the total contract amount from each monthly billing as the withholding until final settlement of the Contract. Requests for payments shall detail the gross amount requested, the withholding amount and the net amount requested.

- e. For final payment, the Successful Offeror must submit a valid original tax clearance certificate "Certification of Compliance for Final Payment" (SPO Form-22). The Successful Offeror is required to submit a tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two (2) months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract. A valid HCE Certificate of Vendor Compliance, in lieu of the tax clearance, is acceptable.

(END OF SECTION)

Section 3
Proposal Forms and Instructions

Section 3

Proposal Forms and Instructions

I. General Instructions for Completing Forms

When an interested offeror submits a proposal, it shall be considered a complete plan for accomplishing the tasks identified in this RFP. The interested offeror's proposal must demonstrate an understanding of and the ability to meet and perform all contractual requirements listed in this RFP.

The submission of a proposal shall constitute an indisputable representation by the interested offeror of compliance with every requirement of the RFP, and that the RFP documents are sufficient in scope and detail to indicate and convey a reasonable understanding of all terms and conditions of performance of the work to interested offeror.

An interested offeror shall submit one (1) original proposal marked "ORIGINAL" and three (3) copies of the original marked "COPY." It is imperative to note that the interested offeror submit only one original and the required number of copies. The outer envelope or packaging of the proposals shall be sealed and clearly marked with the RFP number and title, along with the interested offeror's name, address, telephone and fax numbers.

Any and all corrections to a proposal shall be initialed in ink by the person signing the proposal for the interested offeror. Any illegible or otherwise unrecognizable corrections or initials may cause rejection of the proposal.

Before submitting a proposal, each interested offeror must:

- A. Examine the solicitation documents thoroughly. Solicitation documents include this RFP, any attachments, plans referred to herein, and any other relevant documentation.
- B. Become familiar with State, local, and federal laws, ordinances, rules and regulations that may in any manner affect cost, progress, or performance of the work.

Proposals shall be submitted to the HPHA in the prescribed format outlined in this RFP. A written response is required for each item unless indicated otherwise.

No supplemental literature, brochures or other unsolicited information should be included in the proposal packet.

II. Proposal Forms

- A. The proposal forms must be completed and submitted to the HPHA by the required due date and time, and in the form prescribed by the HPHA. Electronic

mail and facsimile transmissions shall not be accepted. Proposals submitted on compact disk or in electronic format shall not be accepted.

- B. Interested offeror shall submit its proposal under the interested offeror's exact legal name that is registered with the Department of Commerce and Consumer Affairs and shall indicate this exact legal name. Failure to do so may delay proper execution of the contract.
- C. Interested offeror's authorized signature shall be an original signature in black ink. If the proposal is unsigned or the affixed signature is a facsimile or a photocopy, the proposal shall be automatically rejected. If the proposal is not signed by an authorized representative as submitted on the corporate resolution, the proposal shall be automatically rejected.
- D. A proposal security deposit is not required for this RFP.
- E. A Transmittal Letter shall be attached to the proposal. See Attachment 9. The Transmittal Letter shall be in the form of a standard business letter on official business letterhead and signed by an authorized representative. The Transmittal Letter must include:
 - 1. A statement indicating that the interested offeror is a corporation or other legal entity and the taxpayer identification number of the legal entity.
 - 2. A statement that the interested offeror is or will be registered to do business in Hawaii and will obtain a State General Excise Tax License by the start of the work.
 - 3. A statement acknowledging and identifying that all addenda to this RFP issued by the HPHA have been received by the interested offeror. If no addenda have been received, a statement to that effect should be included.
- F. The numerical outline for the application, the titles/subtitles, and the interested offeror organization and RFP identification information on the top right hand corner of each page should be included.
- G. Page numbering of the Proposal Application should be consecutive, beginning with page one (1) and continuing through the complete proposal.
- H. Proposals may be submitted in a three (3) ring binder (optional). Tabbing of sections is required.

III. The Proposal Application comprises the following sections:

- *Title Page*
- *Table of Contents*
- *Background and Summary*
- *Experience and Capability*
- *Personnel: Project Organization and Staffing*
- *Service Delivery*
- *Financial*
- *Other*

A. Background and Summary

This section shall clearly and concisely summarize and highlight the contents of the proposal in such a way as to provide the HPHA with a broad understanding of the entire proposal. Include a brief description of the interested offerors' organization, the goals and objectives related to the service activity, and demonstrate familiarity with HUD rules and regulations of conducting the fair housing analysis of impediments.

B. Experience and Capability

1. Necessary Skills and Experience

The interested offeror shall demonstrate that it has the necessary skills, abilities, knowledge of, and experience relating to the delivery of the proposed services. The interested offeror shall also provide a listing of verifiable experience with projects or contracts for Public Housing Authorities within the last five (5) years. Identify the name of the Public Housing Authority, the nature and duration of the engagements, and primary accomplishments.

2. Quality Assurance and Evaluation

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

3. Professional References

The interested offeror shall provide a list of professional references for the last seven (7) years, including contact information.

C. Personnel: Project Organization and Staffing

1. Proposed Staffing

The interested offeror shall describe the staff necessary and specific time available to ensure the performance of work in an accurate and timely manner. Staff titles, qualifications and level of effort are to be included in the response.

2. Staff Qualifications

The interested offeror shall provide the minimum qualifications including experience for staff assigned to the program. Describe the knowledge and experience of your proposed project director and/or staff, including the day-to-day management. Attach resumes and relevant professional background/experience of each staff position.

3. Organization Chart

The interested offeror 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 "Project" organization charts shall be attached to the Proposal Application.

D. Service Delivery

The Service Delivery Section shall include a detailed discussion of the following:

1. Applicant's approach to applicable service activities and management requirements from Section 2, Item IV. Scope of Work, including study goals and objectives, work plan of all service activities and tasks to be completed, and related work assignments/responsibilities to include proposed methodology, sample size and how it was determined.
2. How the applicant's approach is the most advantageous in terms of meeting study goals and objectives, cost effectiveness, and reliability;
3. Description of research tools, instruments, or techniques to be used to obtain, gather, and analyze data;
4. Description of the final report and study findings, including any statistical tests to be performed on survey data; and
5. Timelines/schedules of all major service activities and tasks and dates of implementation and completion.

E. Financial

Interested offerors shall provide the estimate of contract cost for the contract period. Include a description of the basis for the cost of performing the requested work, including professional fees by labor category, other direct costs chargeable to the contract and general administration, overhead and profit.

Cost Reimbursement for All Costs Related to Personnel

The cost reimbursement pricing structure reflects a not to exceed purchase

arrangement in which the HPHA pays the contractor for budgeted costs that are actually incurred in delivering the services specified in the contract, up to a stated maximum obligation. Cost reimbursement shall apply, but not limited to, personnel salaries, wages, medical benefits, payroll taxes and other expenses such as liability insurance. The Successful Offeror shall be required to submit invoices detailing the amount(s) to be reimbursed.

Other Financial Related Materials

In order to determine the adequacy of the interested offeror's accounting system as described under the administrative rules, the interested offeror shall submit a copy of the most recent financial audit as part of the proposal application.

The interested offerors should also describe in a comprehensive manner the fiscal management structure, including but not limited to budgeting, fiscal controls, and accounting.

IV. General Conditions, State AG-008 Rev 4/15/2009

The General Conditions, State AG-008 Rev 4/15/2009 is provided for the interested offeror's information and reference. See Attachment 8.

(END OF SECTION)

Section 4
Proposal Evaluation & Award

Section 4 Proposal Evaluation & Award

I. Evaluation Criteria

A committee approved by the Executive Director will evaluate proposals. The evaluation will be based solely on the evaluation criteria set out in this RFP. The evaluation committee's primary responsibility shall be to review the technical aspects of the proposals submitted. The financial review will be conducted by the evaluation committee's chairperson. The review criteria will be as follows:

<u>Evaluation Categories</u>	<u>Possible Points</u>
Mandatory Requirements	
<i>Proposal Application</i> 100 Points	
The degree to which the Offeror/Respondent demonstrates its qualifications and experience in providing the requested services.	Max 30 points
The degree to which the Offeror/Respondent demonstrates its approach to the scope of work and management requirements.	Max 25 points
The degree to which the Offeror/Respondent demonstrates that it has the time and personnel to perform the requested services in an expeditious manner.	Max 20 points
The degree to which the Offeror/Respondent demonstrates that it will provide the requested services in an economical manner. The Offeror/Respondent proposing the lowest fee will be assigned the maximum points.	Max 15 points
Financial	Max 10 points
TOTAL POSSIBLE POINTS	100 Points

Proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable. Discussion may be conducted with priority listed successful offerors who submit proposals determined to be acceptable or potentially acceptable of being selected for award, but proposals may be accepted without discussions. The objective of these discussions is to clarify issues regarding the Successful Offeror's proposal before the best and final offer, if necessary.

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

II. Mandatory Requirements

The HPHA will conduct an initial review to ensure that all proposals meet the minimum threshold requirements. Proposals will be reviewed to ensure submittal of all required attachments, certifications, forms, and narrative sections.

Statements which indicate that mandatory certifications will be submitted upon contract award shall be unacceptable.

III. Price Proposal Review

The price proposal review will be evaluated for financial and contractual acceptability, and for reasonableness of the price proposal. The proposal with the lowest cost factor shall receive the highest available rating allocated to price. Each proposal that has a higher price factor than the lowest must have a lower rating for price.

The points allocated higher to higher priced proposals must be equal to the lowest proposal price multiplied by the maximum points available for price, divided by the higher proposal price as follows:

$$\frac{\text{Price of the lowest price proposal} \times 10}{\text{Price of the proposal being rated}}$$

IV. Technical Review

The Successful Offeror's proposal shall be in the form prescribed by this solicitation and shall contain a response to each of the areas identified that affects the evaluation factors for award.

- A. The technical proposal will be evaluated to determine if the Successful Offeror possesses the capability to successfully perform the requirements of the solicitation. The technical criteria are shown below:
 - Experience and Capability;
 - Personnel and Staffing; and
 - Approach to Scope of Services.
- B. Proposals will be evaluated for technical and contractual acceptability. Proposals shall be prepared in accordance with the instructions given in the RFP and shall meet all requirements set forth in this RFP.
- C. All proposals will be reviewed for reasonableness. Those offers that are not within the competitive range will be notified that their proposals are unacceptable, negotiations/discussions with them are not contemplated, and any revisions of their proposals will not be considered.

- D. Award will be made to the responsible offeror whose proposal, conforming to the solicitation, will be most advantageous to the HPHA, considering price and other factors indicated below.

Pursuant to section 3-122-59 HAR , if for a given request for proposals, there is only one responsible offeror submitting an acceptable proposal, an award may be made to the single offeror, rejected and new requests for proposals solicited or cancelled

- E. The HPHA reserves the right to award a Contract on the basis of the initial offers received without discussion. Offers are solicited on an “all or none” basis. Failure to submit offers for all items and quantities listed shall be cause for rejection. Proposals should be submitted initially on the most favorable terms of a price and technical standpoint, which the interested offeror can submit to the HPHA.
- F. All proposals submitted will be evaluated on the basis of the evaluation criteria listed herein. Proposals shall conform to all terms and conditions contained in the Request for Proposals. Proposals which do not conform to all requirements expressed in this solicitation may be rejected without further evaluation, deliberation or discussion.

Section 5

Attachments

1. Wage Certificate for Service Contracts
2. Sample Contract for Goods or Services Based Upon Competitive Sealed Proposals
3. Sample Contract – Attachment S1, Scope of Services
4. Sample Contract – Attachment S2, Compensation and Payment Schedule
5. Sample Contract – Attachment S3, Time of Performance
6. Sample Contract – Attachment S4, Certificate of Exemption fro Civil Service
7. Sample Contract – Attachment S5, Special Conditions
8. General Conditions, State AG-008 Rev 4/15/2009
9. Competitive Sealed Proposals Application Identification Form

WAGE CERTIFICATE FOR SERVICE CONTRACTS

SUBJECT: PROPOSAL NO. RFP CO-2009-29

DESCRIPTION OF PROJECT

CONDUCT FAIR HOUSING ANALYSIS OF IMPEDIMENTS - STATEWIDE

Pursuant to Section 103-55, HRS, I hereby certify that if awarded the contract in excess of \$25,000.00 the services will be performed under the following conditions:

1. The services shall be performed by employees at wages or salaries not less than wages or salaries paid to public officers and employees doing similar work.

2. All applicable laws of the Federal and State governments relating to worker's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

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

OFFEROR: _____

BY: _____
Signature of Person Authorized to Sign this Offer.

Please Print

NAME: _____

TITLE: _____

DATE: _____



STATE OF HAWAII
CONTRACT FOR GOODS OR SERVICES
BASED UPON
COMPETITIVE SEALED PROPOSALS

This Contract, executed on the respective dates indicated below, is effective as of
April 1, 2010, between Hawaii Public Housing Authority,
(Insert name of state department, agency, board or commission)
State of Hawaii ("STATE"), by its Acting Executive Director,
(Insert title of person signing for State)
(hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")),
whose address is 1002 North School Street, Honolulu, Hawaii 96817
_____ and _____
("CONTRACTOR"), a _____
(Insert corporation, partnership, joint venture, sole proprietorship, or other legal form of the Contractor)
under the laws of the State of _____, whose business address and federal
and state taxpayer identification numbers are as follows: _____

RECITALS

A. The STATE desires to retain and engage the CONTRACTOR to provide the goods or services, or both, described in this Contract and its attachments, and the CONTRACTOR is agreeable to providing said goods or services or both.

B. The STATE has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.

C. The solicitation for proposals and the selection of the CONTRACTOR were made in accordance with section 103D-303, Hawaii Revised Statutes ("HRS"), Hawaii Administrative Rules, Title 3, Department of Accounting and General Services, Subtitle 11 ("HAR"), Chapter 122, Subchapter 6, and applicable procedures established by the appropriate Chief Procurement Officer ("CPO").

D. The CONTRACTOR has been identified as the responsible and responsive offeror whose proposal is the most advantageous for the STATE, taking into consideration price and the evaluation factors set forth in the request.

E. Pursuant to Section 356D-4, HRS, the STATE
(Legal authority to enter into this Contract)
is authorized to enter into this Contract.

F. Money is available to fund this Contract pursuant to:

(1) _____
(Identify state sources)

or (2) n/a
(Identify federal sources)

or both, in the following amounts: State \$ XX,XXX.XX
Federal \$ -0-

NOW, THEREFORE, in consideration of the promises contained in this Contract, the STATE and the CONTRACTOR agree as follows:

1. **Scope of Services.** The CONTRACTOR shall, in a proper and satisfactory manner as determined by the STATE, provide all the goods or services, or both, set forth in the request for competitive sealed proposals number CO-2009-29 ("RFP") and the CONTRACTOR'S accepted proposal ("Proposal"), both of which, even if not physically attached to this Contract, are made a part of this Contract.

2. **Compensation.** The CONTRACTOR shall be compensated for goods supplied

or services performed, or both, under this Contract in a total amount not to exceed
xxxxxxx Thousand xxxxxxxx Hundred and xx/100----- DOLLARS
(\$ xx,xxx.xx), including approved costs incurred and taxes, at the time and in the manner set
forth in the RFP and CONTRACTOR'S Proposal.

3. Time of Performance. The services or goods required of the CONTRACTOR
under this Contract shall be performed and completed in accordance with the Time of Performance set
forth in Attachment-S3, which is made a part of this Contract.

4. Bonds. The CONTRACTOR is required to provide or is not required to
provide: a performance bond, a payment bond, a performance and payment bond in the
amount of n/a DOLLARS (\$ n/a).

5. Standards of Conduct Declaration. The Standards of Conduct Declaration of the
CONTRACTOR is attached to and made a part of this Contract.

6. Other Terms and Conditions. The General Conditions and any Special
Conditions are attached to and made a part of this Contract. In the event of a conflict between the
General Conditions and the Special Conditions, the Special Conditions shall control. In the event of a
conflict among the documents, the order of precedence shall be as follows: (1) this Contract, including
all attachments and addenda; (2) the RFP, including all attachments and addenda; and (3) the Proposal.

7. Liquidated Damages. Liquidated damages shall be assessed in the amount of
\$50.00----- DOLLARS
(\$ 50.00) per day, in accordance with the terms of paragraph 9 of the General Conditions.

8. Notices. Any written notice required to be given by a party to this Contract
shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice to
the STATE shall be sent to the HOPA'S address indicated in the Contract. Notice to the
CONTRACTOR shall be sent to the CONTRACTOR'S address indicated in the Contract. A notice shall
be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever
is earlier. The CONTRACTOR is responsible for notifying the STATE in writing of any change of
address.

IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the
dates below, to be effective as of the date first above written.

STATE

(Signature)
Barbara E. Arashiro

(Print Name)
Acting Executive Director

(Print Title)

(Date)

CONTRACTOR

(Name of Contractor)

(Signature)

(Print Name)

(Print Title)

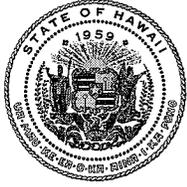
(Date)

CORPORATE SEAL
(If available)

APPROVED AS TO FORM:

Deputy Attorney General

* Evidence of authority of the CONTRACTOR'S representative to sign this Contract for the CONTRACTOR must be attached.



STATE OF HAWAII

CONTRACTOR'S ACKNOWLEDGMENT

STATE OF _____)
) SS.
_____ COUNTY OF _____)

On this _____ day of _____, _____ before me appeared _____ and _____, to me known, to be the person(s) described in and, who, being by me duly sworn, did say that he/she/they is/are _____ and _____ of _____, the CONTRACTOR named in the foregoing instrument, and that he/she/they is/are authorized to sign said instrument on behalf of the CONTRACTOR, and acknowledges that he/she/they executed said instrument as the free act and deed of the CONTRACTOR.

(Notary Stamp or Seal)

(Signature)

(Print Name)

Notary Public, State of _____

My commission expires: _____

Doc. Date: _____ # Pages: _____

Notary Name: _____ Circuit _____

Doc. Description: _____

(Notary Stamp or Seal)

Notary Signature Date

NOTARY CERTIFICATION



STATE OF HAWAII
CONTRACTOR'S
STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of _____, CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR is * is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

* Reminder to Agency: If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By _____
(Signature)

Print Name _____

Print Title _____

Name of Contractor _____

Date _____



STATE OF HAWAII
SCOPE OF SERVICES

Contractor: _____

Project: Fair Housing Analysis of Impediments – Statewide

1. It is understood and agreed that the following documents, and any amendments or addenda thereto, comprise the Contract between the parties and are fully a part of this Contract governing the work to be performed by the CONTRACTOR to conduct the Fair Housing Analysis of Impediments - Statewide: (1) CONTRACTOR'S accepted proposal and clarifications dated _____, 2009; (2) Request for Proposals No. CO-2009-29 and all addendums; (3) State General Conditions (AG-008 Rev. 4/15/2009); (4) Special Conditions (AG-015 Rev. 11/15/2005); (5) Federal General Conditions for Non-Construction Contracts (Form 5370-C); and (6) this Contract. These documents are collectively referred to as the "Contract Documents".
2. The CONTRACTOR shall furnish in strict accordance with the Contract Documents all labor and other means necessary to conduct the Fair Housing Analysis of Impediments – Statewide as set forth in the Contract Documents. If there is a conflict between the CONTRACTOR'S accepted proposal and this Contract, the Contract shall prevail.
3. Management Requirements
 - A. The CONTRACTOR shall prepare the analysis of impediments to fair housing using, but not limited to, the following data sources:
 - Analysis of Impediment reports prepared for the Counties of Hawaii, Kauai, Maui, and the City and County of Honolulu
 - Demographic data
 - Income data
 - Fair Housing complaint data
 - Fair Housing testing data
 - Home Mortgage Disclosure Act (HMDA) data
 - Housing data
 - Employment data
 - Transportation data
 - Education data
 - Mapping software
 - Zoning/Land Use Policies
 - B. Interviews with community organizations, fair housing/civil rights organizations, housing providers, realtors, lenders, community planning officials and other interested parties.
 - C. The CONTRACTOR shall consult with governmental agencies on each island to review and analyze, including but not limited to the following local building, occupancy, and health/safety codes affecting the availability of housing:
 - Accessibility standards that do not meet the accessibility requirements of the Fair Housing Act.



STATE OF HAWAII

SCOPE OF SERVICES

- Local zoning laws and policies that place restrictions on the number or unrelated persons occupying dwellings, or that impose minimum lot size requirements for group homes in single-family areas.
- Policies that restrict the provision of housing and community development resources to areas of minority concentration, or policies that discourage the employment of minorities and persons with disabilities.
- Policies concerning the application of site and neighborhood standards for new construction activities.
- Policies concerning activities causing displacement (such as neighborhood revitalization, property tax increases and demolition of subsidized housing), that may affect the opportunities to select housing inside or outside of areas of minority concentration or housing which are accessible.
- Policies and practices relating to the provision of public transportation and social services which may affect housing opportunities.
- Policies and practices that affect the representation of minorities and persons with disabilities on planning and zoning boards and commissions.
- Policies regarding the equalization in the provision of government services.
- Policies and practices of public housing agencies (PHAs) and other housing assistance providers with respect to tenant selection and assignment, reasonable accommodation, delivery of services and maintenance, and accessibility; and
- Any identified policies and practices that may be adopted to affirmatively further fair housing.

D. The CONTRACTOR shall consult with private sector banking and financial institutions, property management companies, and realtor associations on each island to review and analyze the following activities to identify possible impediments in the private sector. Policies and procedures regarding the sale and rental of real estate, such as:

- Steering or blockbusting;
- The discriminatory refusal to rent or sell property;
- Conversions of property to "all adult";
- Deed restrictions;
- Inaccessible design;
- Discriminatory occupancy standards;
- Discriminatory lending policies or practices;
- Discriminatory real estate brokerage services;
- Discriminatory real estate appraisal practices; and
- Discriminatory insurance underwriting practices.

E. The CONTRACTOR shall consult with fair housing enforcement agencies as well as protected class advocacy organizations, such as the Legal Aid Society of Hawaii, Hawaii Civil Rights Commission, the Hawaii Disability Rights Center, the Humane Society, and the State Adult Mental Health Division, to review housing discrimination assertions and complaints, violations, or suits against housing providers from July 1, 2002 to the present. Determine the nature, extent, and disposition of the housing discrimination.



STATE OF HAWAII
SCOPE OF SERVICES

- F. Upon completion of items A-E, the CONTRACTOR shall analyze and identify the housing choice impediments for the State of Hawaii.
- G. The CONTRACTOR shall recommend specific actions, goals and timelines that the State could undertake to remove the impediments, as well as appropriate measures of effectiveness of actions taken towards reaching the specified goals. Particular emphasis should be placed on any trends or patterns that emerge from the AI, to the extent to which new or revised fair housing actions may be needed because of such trends.
- H. The CONTRACTOR shall submit two (2) original and four (4) copies of the draft, pre-final and final report to the HPHA. The CONTRACTOR shall submit the final report to the HPHA at the end of the Contract period.
- I. The CONTRACTOR shall submit monthly status reports indicating the percentage of work completed to date, accomplishments during the reporting period, and objectives for the next month, current significant activities, critical actions/concerns requiring completion/resolution priority, and a summary status.
- J. The CONTRACTOR shall be available for questions until final payment is rendered.
- K. At the completion of the analysis, the CONTRACTOR shall provide the HPHA with all records, data, baseline data and methodology in determining the impediments and recommendations to remove the impediments.



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

Contractor: _____

Project: Fair Housing Analysis of Impediments – Statewide

1. Subject to the receipt of Federal funds under the Annual Contributions Contract and Section 161 of the Housing & Community Development Act of 1992 (HCDA 1992), Public Law 102-550, approved October 28, 1992, the STATE agrees to pay the CONTRACTOR, for services satisfactorily performed under this CONTRACT, a sum of money not to exceed _____ **and no/100 dollars (\$xxx,xxx.xx)** for the Contract period.
2. Federal funds are subject to appropriation by the U.S. Congress and allocation by the U.S. Department of Housing and Urban Development (HUD). Funding and period of availability may change upon notice by HUD to the STATE. If there should be insufficient funds for any portion of the remainder of the contract period beyond the initial 3-month period ending May 31, 2010, the STATE may terminate the Contract or revise the amount/quantity of services required without penalty.
3. Upon execution of this Contract, payments shall be paid in accordance with and subject to the following:
 - a. The CONTRACTOR shall submit a monthly invoice, one (1) original, and three (3) copies for goods and services rendered to:
Hawaii Public Housing Authority
Compliance Office
P.O. Box 17907
Honolulu, HI 96817
 - b. Section 103-10, HRS, provides that the STATE shall have thirty calendar days after receipt of invoice or satisfactory delivery of goods or performance of the services to make payment. The date of the invoice shall be the latter of the two: 1) date of invoice or 2) postmark of original invoice received via United States Postal Service or hand delivery.
 - c. All invoices shall reference the Contract number assigned to this Contract. Payment shall be in accordance with Section 103-10, HRS, upon certification by the Contract Administrator that the CONTRACTOR has satisfactorily performed the services specified.
 - d. Once a month the Contract Administrator will submit a report to the CONTRACTOR listing any discrepancies or Contract violation(s) that need correction. These discrepancies or Contract violation(s) must be corrected by the next reporting period for payment adjustment purposes.



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

- e. For final payment, the CONTRACTOR must submit a valid original tax clearance certificate “Certification of Compliance for Final Payment” (SPO Form-22). If the CONTRACTOR fails to provide a valid tax clearance certificate within six months of the termination date of this Contract, the STATE shall assign the final payment in an amount not to exceed the tax liability to the Department of Taxation or the Internal Revenue Service; provided that the debt owed to the Department of Taxation shall be offset first. a valid original tax clearance certificate “Certification of Compliance for Final Payment” (SPO Form-22).



STATE OF HAWAII

TIME OF PERFORMANCE

Contractor: _____

Project: Fair Housing Analysis of Impediments – Statewide

1. The term of this Contract to conduct the Fair Housing Analysis of Impediments - Statewide shall be for a three (3) month period beginning on April 1, 2010, and ending on June 30, 2010.
2. No services shall be performed on this Contract prior to April 1, 2010.
3. The option to extend the Contract will be at the sole discretion of the STATE. The Contract may be extended, without the necessity of rebidding, at the same rates as proposed in the original proposal, unless price adjustments are made and approved as provided herein:

Initial term of Contract:	3 months
Length of each extension:	Up to 3 months; may be less than 3 months
Maximum length of Contract:	6 months

4. The initial period shall commence on the Contract start date. The following conditions must be met for an extension:
 - a. The CONTRACTOR experienced cost savings and has unexpended funds available that can be used to provide additional services; or
 - b. The STATE determines there is an ongoing need for the services and has funds to pay for the extension of contracted services, not to exceed a 3-month period. Contract extensions shall be awarded at the same or comparable rates as the Primary Contract; and
 - c. A Supplemental Contract must be executed prior to expiration of the Primary Contract; and
 - d. The CONTRACTOR must obtain HPHA approval in writing and a notice to proceed with the extension; and
 - e. The STATE has determined that the CONTRACTOR has satisfactorily provided services over the current Contract term and
 - f. The STATE may be required to obtain HUD approval in writing of the extension prior to execution of a Supplemental Contract.



STATE OF HAWAII

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development (“DHRD”).*

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

(Signature)
Barbara E. Arashiro
(Print Name)
Acting Executive Director
(Print Title)

(Date)

* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
(2) There is no employee-employer relationship; and
(3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to §76-16, HRS.

(Signature)
(Print Name)
(Print Title, if designee of the Director of DHRD)

(Date)



STATE OF HAWAII
SPECIAL CONDITIONS

Contractor: _____

Project: Fair Housing Analysis of Impediments – Statewide

1. The CONTRACTOR shall maintain insurance acceptable to the STATE in full force and effect throughout the term of this Contract. The policies of insurance maintained by the CONTRACTOR shall provide the following coverages:

<u>Coverage</u>	<u>Limit</u>
General Liability Insurance (occurrence form)	\$2,000,000.00 combined single limit per occurrence for bodily injury and property damage.
Automobile Insurance covering all owned, non- owned and hired automobiles.	Bodily injury liability limits of <u>\$1,000,000.00</u> each person and <u>\$1,000,000.00</u> per accident and property damage liability limits of <u>\$1,000,000.00</u> per accident OR \$2,000,000.00 combined single limit.
Workers' Compensation as required by laws of the State of Hawaii.	Insurance to include Employer's Liability. Both such coverages shall apply to all employees of the CONTRACTOR and to all employees of sub-contractors in case any sub-contractor fails to provide adequate similar protection for all his employees.

- a. The State of Hawaii the HPHA, its elected and appointed officials, and employees shall be designated as additional insured with respect to operations performed under this Contract. The CONTRACTOR agrees to provide the STATE before the effective date of the Contract, 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. The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the Contract, including Supplemental Contracts. Upon request by the STATE, the CONTRACTOR shall furnish a copy of the policy or policies.
- b. Failure of the CONTRACTOR to provide and keep in force such insurance shall be regarded as material default under this Contract and shall entitle the STATE to exercise any or all of the remedies provided in this Contract for default of the CONTRACTOR.
- c. The procuring of such required policy or policies of insurance shall not be construed to limit the CONTRACTOR's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Notwithstanding said policy or policies of insurance,



STATE OF HAWAII
SPECIAL CONDITIONS

the CONTRACTOR shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this Contract.

- d. The insurer shall notify the STATE in writing of any cancellation or change in provisions thirty calendar days prior to the effective date of such cancellation or change.
2. The work to be performed under this Contract is subject to the requirement of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
3. The STATE shall monitor the performance of work on an ongoing basis through desk monitoring, site inspection and/or other appropriate methods.
5. Should the CONTRACTOR fail to comply with the requirements of the Contract, the STATE reserves the right to engage the services of another company to perform the services, to remedy the defect or failure and to deduct such costs from monies due to the CONTRACTOR or to directly assess the CONTRACTOR.
6. In the event the CONTRACTOR fails, refuses, or neglects to perform the services in accordance with the Contract, the STATE reserves the right to purchase in the open market, a corresponding quantity of services, and to deduct the cost of procuring such services from the CONTRACTOR this cost and from any monies due or that may thereafter become due the CONTRACTOR. In case money due to the CONTRACTOR is insufficient for the purpose, the CONTRACTOR shall pay the difference upon demand by the STATE. The STATE may also utilize all other remedies provided under the Contract and by law and rules.
7. The CONTRACTOR shall employ a principle broker on staff and shall provide proof of said employment. This Contract is contingent upon the CONTRACTOR's satisfaction of this provision.
8. If there is a conflict between the general conditions from HUD 5370-C (05/2006) and general conditions AG-008 (4/15/2009) both of which are attached hereto, the more restrictive of the two shall apply.

GENERAL CONDITIONS

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GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.

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

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

3. Personnel Requirements.

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

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

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

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

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

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

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

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

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

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

- (1) Cancel the stop performance order; or
- (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.

b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:

- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
- (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.

d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

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

b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

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

14. Termination for Convenience.

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

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

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

d. Compensation.

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

supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

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

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

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:
- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.
- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.
- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

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

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.

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

17. Payment Procedures; Final Payment; Tax Clearance.

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

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

19. Modifications of Contract.

- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
- b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.
- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:

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

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

21. Price Adjustment.

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

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

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

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

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
 - (5) Method of shipment or packing of supplies; or
 - (6) Place of delivery.
- b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
 - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
 - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
 - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.

24. Confidentiality of Material.

- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
- b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.

25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.

26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.

27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

- a. The cost or pricing data, and
- b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. Records Retention.

(1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

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

32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.

33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.

35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-205.5, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
 - (2) Driver's license number or Hawaii identification card number; or
 - (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

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

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

b. Confidentiality of Material.

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

c. Security Awareness Training and Confidentiality Agreements.

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

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

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or

- (2) Immediately terminate this Contract.

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

e. Records Retention.

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

RFP CO-2009-29

Competitive Sealed Proposal Application Identification Form

Hawaii Public Housing Authority
Contract and Procurement Office
1002 North School Street, Bldg. D
Honolulu, HI 96817

To Whom It May Concern:

The undersigned has carefully read and understands the terms and conditions specified in the Competitive Sealed Proposal and hereby submits the following proposal to perform the work specified.

That the undersigned further understands and agrees that by submitting this Competitive Sealed Proposals, 1) it is declaring its Proposal is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, 2) it is certifying that the price(s) submitted was (were) independently arrived at without collusion and 3) Received all addenda pertaining to this IFB.

Date: _____

Telephone No.: _____

Fax No.: _____

Payment address, if other than street address at right:

Hawaii General Excise Tax Lic. I.D. No.:

Social Security or Federal I.D. No.:

Hawaii Pest Control Operator License No.:

Expiration Date:

Respectfully Submitted,

Legal Name of Offeror

Authorized Signature (Original)

Title

Street Address

City, State, Zip Code

Applicant is: Individual Partnership Corporation Joint Venture

State of Incorporation: Hawaii * Other _____

*If "other", is corporate seal available in Hawaii? Yes No

Offeror shall list below business firms and/or government agencies to which he has provided similar or identical services to those required by the RFP.

	<u>Firm or Agency</u>	<u>Contact Person</u>	<u>Telephone No.</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

Applicant's Office Address: _____

Name of Person to Contract: _____

Telephone Number: _____ Fax Number: _____

Insurance coverage to be provided by:

Commercial General Liability: _____

Name of Agent: _____

Telephone Number: _____

Workers Comp: _____

Automobile Insurance: _____

Authorized Representative Signature _____

Name and Title _____

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