

Hawaii Health Systems Corporation

**REQUEST FOR PROPOSALS
KAUAI REGION FY 18-03**

TO PROVIDE

SECURITY GUARD SERVICES

FOR

*KAUAI VETERANS MEMORIAL HOSPITAL
4643 Waimea Canyon Drive, Waimea, HI 96796*

West Kauai Clinics

AND

*SAMUEL MAHELONA MEMORIAL HOSPITAL
4800 Kawaihau Road, Kapaa, HI 96746*

AN AGENCY OF THE STATE OF HAWAII

Due date for Proposals in response to this solicitation:

February 20, 2018 3:00 P.M. HST

TO: All Applicants
FROM: Hawaii Health System Corporation, Kauai Region
SUBJECT: Request for Proposal No: 18-03

The Hawaii Health System Corporation, Kauai Region (Kauai Veterans Memorial Hospital, West Kauai Clinics and Samuel Mahelona Memorial Hospital), is requesting competitive sealed proposals from qualified applicants to provide Security Guard Services.

Attached is a packet of materials, which outlines the requirements for proposal applications. It includes administrative requirements, service specifications, application form, and other information.

Persons or organizations must submit one (1) original and three (3) copies as well as one (1) electronic copy of their completed proposals and must be **received before 3:00 pm HST on February 20, 2018** to the following address:

Kauai Veterans Memorial Hospital
Cora Shirai, Contract Manager
4643 Waimea Canyon Drive
P.O. Box 337
Waimea, HI 96796
Ph: (808) 338-9454
Fax: (808) 240-5518

Proposals delivered after the above date and times will be disqualified.

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SECTION ONE —GENERAL NOTICE

1.1 INTRODUCTION

This RFP is issued by the Kauai Region (Kauai Veterans Memorial Hospital/West Kauai Clinics/Samuel Mahelona Memorial Hospital) of the Hawaii Health Systems Corporation. Hawaii Health Systems Corporation is an Agency of the State of Hawaii. This RFP is not governed by Chapter 103D, HRS. The rationale for this bid is to promote and ensure the fairest, most efficient means to obtain the benefits of the most qualified responsive and responsible offer. In order for the KAUAI REGION to evaluate your response in a timely manner, please follow the instructions presented in each section of this document. All prospective applicants are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid proposal by any prospective applicant shall constitute admission of such knowledge on the part of the prospective applicant.

Campaign contributions by State and County Contractors. Contractors are hereby notified of the applicability of Section 11-205.5, HRS, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. For more information, please consult with the Campaign Spending Commission, or visit its website: www.hawaii.gov/campaign."

1.2 DESIGNATED OFFICIALS

The Officials identified in the following paragraphs have been DESIGNATED by the Head of the Purchasing Agency to be KAUAI REGION's Procurement Officials responsible for execution of this RFP, award of Contract, and coordination of CONTRACTOR satisfactory completion of Contract requirements.

1.3 ISSUING OFFICER

The Issuing Officer is responsible for administrating/facilitating all requirements of the RFP solicitation process and is the sole point of contact for Applicant's from the date of release of the RFP until the selection of a proposal. The Issuing Officer will also serve as the Contract Administrator responsible for "contractual actions" throughout the term of the contract. The Issuing Officer is:

Cora Shirai, Contract Manager
Ph: (808) 338-9454
Fax: (808) 240-5518

1.4 TECHNICAL REPRESENTATIVE

Technical Representatives are responsible for overseeing the successful completion of contract requirements, including monitoring, coordinating and assessing CONTRACTOR performance; and approving completed work/services with verification of same for CONTRACTOR's invoices. Technical Representative also serves as the point of contact (POC) for the CONTRACTOR for "Technical" matters (non-contractual) from award to contract completion. The Technical Representative is:

John Pimental, Regional Facilities Director
Ph: (808) 645-0530

1.5 PROCUREMENT TIMETABLE

The timetable set out herein represents KAUAI REGION's best estimate of the schedule that will be followed in the RFP process. If an activity of the timetable, such as "Closing Date for Receipt of Proposals" is delayed, the rest of the timetable dates may be shifted by the same number of days. Applicants will be advised, by addendum to the RFP, of any changes to the timetable.

<u>Activity</u>	<u>Scheduled Date</u>
RFP Announcement.....	January 19, 2018
Submission Deadline for Questions & Clarification Requests.....	January 30, 2018
KAUAI REGION's Response to Questions & Clarifications.....	February 6, 2018
Closing Date for Receipt of Proposals	February 20, 2018
Offer Selection/Award Notification (on/about).....	February 27, 2018
Anticipated Contract Commencement Date	April 29, 2018

1.6 SUBMISSION OF QUESTIONS AND CLARIFICATION REQUESTS

Offerors are encouraged to submit written questions and requests for clarifications pertaining to the RFP. Questions must be submitted in writing via hand delivery, electronic mail, facsimile or postal mail to the Issuing Officer no later than the "Submission Deadline for Questions & Clarification Requests", identified above, in order to generate an official answer.

Vendors may request changes and/or propose alternate language to the attached "General Terms and Conditions" during this phase only, all requests will be presented to the HHSC Legal Department for review. No requests to change the General Terms and Conditions will be entertained after the proposals have been submitted or during the contracting process. All written questions and/or approved changes will receive an official written response from the KAUAI REGION and shall be recorded as addenda to the RFP. The only official position of the KAUAI REGION is that which is stated in writing and issued in the RFP as addenda thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response/statement and may not be relied upon.

Contractors must also request, in writing, during this phase only, permission to use any Contractor agreements in addition to the Sample Agreement included in Exhibit D. The proposed Contractor agreement must be submitted for legal review by HHSC. It is important to note that as a State Agency, the KAUAI REGION cannot indemnify any other agency. Proposed Contractor agreements must either delete any reference to indemnification or propose alternative language.

No requests to change the General Terms and Conditions or use an alternative agreement (e.g. agreement from a Contractor) will be entertained after the proposals have been submitted or during the contracting process.

SECTION TWO— SCOPE OF WORK

2.1 HHSC ORGANIZATIONAL INFORMATION

The **MISSION** of Hawaii Health Systems Corporation is to provide and enhance accessible, comprehensive health care services for our communities; to serve all in need within our resources; and to emphasize excellence, value and human sensitivity in all that we do.

Hawaii Health Systems Corporation operates a 4,000-employee, 12-hospital, 1,285-bed acute, long-term and rural health care system. It is the fourth-largest public hospital system in the nation. It is the largest provider for Neighbor Island resident's i.e., Kauai, Lanai, Maui, and the Big Island. Hawaii Health Systems Corporation is organized into five operational regions and provides a multitude of health care services.

2.2 FACILITY INFORMATION

The mission of HHSC is to provide and enhance accessible, comprehensive healthcare services that are quality-driven, customer-focused, and cost-effective. The vision of HHSC is to be the provider of choice for the communities it serves, employer of choice for its staff, and system of choice for its physicians. To further the development of its delivery system, HHSC works closely with physician organizations and other healthcare providers in the planning and implementation of joint business strategies. Physicians, community leaders and employee representatives are involved in local as well as corporate decision-making. The following facility is requesting services:

- **Samuel Mahelona Memorial Hospital-SMMH**
4800 Kawaihau Road
Kapaa, Kauai, Hawaii 96746

Samuel Mahelona Memorial Hospital (SMMH) is the oldest operating hospital on Kauai. Founded in 1917 as a tuberculosis hospital, it received its name from a member of the Wilcox family who died of TB as a young man. In the 1960's, with the cure from TB well established, SMMH gradually transitioned to providing acute psychiatric, skilled nursing facility and TB

services. SMMH is currently a critical access hospital licensed with 80 beds (5 acute, 9 psychiatric, and 66 LTC). SMMH also provides a number of outpatient services.

The hospital currently employs approximately 145 people. Its services continue to develop to meet the changing needs of the community. Currently, patient services includes:

- Outpatient Services
 - Psychiatric Services
 - Long-Term Care
 - Support for all Services
 - 24 hour Emergency Department Services
 - Radiology
 - Acute/Swing Beds
-
- **West Kauai Medical Center-KVMH**
4643 Waimea Canyon Road
Waimea, Kauai, Hawaii 96796

KVMH was completed in October 1957 and dedicated in memory of all Kauai Veterans. KVMH was built to meet the increasing medical needs for the people of the surrounding communities. Today, the hospital is licensed for 45 beds (25 acute, and 20 snf/icf LTC), employs approximately 276 and provides such patient services as:

- Critical and Intensive Care
- Physical and Occupational
- Respiratory Therapy, Pulmonary Function Testing, pulmonary stress testing
- Radiology, CT Scan, Ultrasound, Mammography, full-time Radiologist. Currently, approximately 25 reads per month are sent to teleradiology contractor.
- Skilled Nursing Care, Intermediate Nursing Care
- Laboratory Services, Pharmacy
- Dietary Counseling, Social Services
- 24-hour Board Certified Emergency Care
- Outpatient Surgery, Surgery
- Orthopedic Services;
- Obstetrics/Gynecology
- Pediatrics
- Orthopedic Surgery
- Ophthalmological Surgery

The **Kawaiola Medical Office Building** (also known as, West Kauai Clinic) was completed and dedicated November 1996. Kawaiola was the outcome of a collaborated Hospital and Community Strategic Plan for health care for the West Kauai communities. Physicians of various specialties occupy the MOB. The Physicians are member of various professional groups that serve KVMH. Services presently being provided in the MOB are:

- Family Practice, Internal Medicine, Obstetrics and Gynecology
- Hemodialysis

- Retail Pharmacy; Hospital Gift Shop
- Hospital Lab Draw Site and Radiology Services
- Pediatrics; Orthopedics; Cardiology
- Federal Qualified Health Clinic Services
- Telemedicine capabilities

2.3 SCOPE OF SERVICES

2.3.1 The CONTRACTOR shall provide Aloha print uniformed security guards to perform "Security Guard Services" described below, at West Kauai Medical Center/West Kauai Clinic and Mahelona Memorial Hospital (hereinafter each a "HOSPITAL") throughout the term of the Agreement.

2.3.2 The Security Guard Services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

2.3.3 The CONTRACTOR shall provide and update, when necessary, an Approved Security Guard List which must include, but not limited to:

- a. Full name: First, Middle, Last
- b. Current Photo: Face
- c. Address: Residence
- d. Phone numbers: Contact
- e. HI Drivers License: Current copy

*Security Guard shall only be placed on the Approved Security Guard List after they have received all clearances, training, and testing as required by the HOSPITAL herein.

2.3.4 The CONTRACTOR shall not place any security guard at any post who is not listed on the Approved Security Guard list.

2.3.5 The CONTRACTOR shall ensure that security guards assigned to HOSPITAL have at least 12 months experience working as a security guard or similar position. The Security Guard shall have strong customer service skills and a proven ability to handle difficult and stressful circumstances. The Security Guard shall be professional at all times. Security Guards that do not meet these and other standards listed within may be removed from duty after a meeting and/or discussion between the HOSPITAL and CONTRACTOR.

2.3.6 Progress meetings shall be held at the discretion of the HOSPITAL for the purpose of discussing any and all issues relevant to the performance and/or administration of the Security Guard Services. The HOSPITAL shall notify the CONTRACTOR in writing by email or memo to schedule. However, in emergency cases, advance notice is not required. A Contractor representative authorized to act on behalf of the CONTRACTOR must be present at all meetings scheduled by the HOSPITAL.

2.3.7 Hardware and Supplies

A. The CONTRACTOR shall provide:

- An operable Communication System for each Security Guard on duty, Switchboard Operator (KVMH), Emergency Department (KVMH and SMMH), Medical Surgical Unit (KVMH), Obstetrics Unit (KVMH), Medical Office Building receptionist(or as determined), Business office (SMMH), Psychiatric Unit (SMMH), Nurses Station land 2 (SMMH) and the Safety Officer. The system shall include all back-up batteries, and bear the cost of all maintenance and repairs to said PTT for the duration of the Agreement.
- A Scan Patrol System, an RFID system that allows for electronic verification and logging of security rounds and also for the replacement of the system in the event that a Security Guard misplaces, loses or breaks those that are provided by the CONTRACTOR.
- All office supplies that are required to perform the duties detailed in this Scope of Services.
- It shall be the CONTRACTOR's responsibility and cost, to provide its Security Guards all necessary other tools and equipment to successfully complete their responsibilities contained herein.
- Identification badges that, at a minimum, shall include the Security Guard's first initial and last name, and the name of their employer (e.g., "ABC SECURITY Guard J. Doe"), which shall be worn at all times throughout the duration of their shift.
- A copy of all Contractor forms used in the performance of the Security Guard's duties for review and approval. The items provided shall include, but not be limited to:
 - Incident Report Forms
 - Security Guards handbook
 - Security Guards Code of Conduct
 - Personnel Performance Evaluation Form
 - Post Orders for the locations identified in Section 2.3.8.
 - Relevant Policies and Procedures applicable to healthcare security.
 - SOP (standard operating procedures) on daily checks and guard duties.
- Flashlights and batteries as necessary.

2.3.8 Post Locations and Quantity of Security Guards required

- a. Provide (1) guard 24 hours a day, 7 days a week for Samuel Mahelona Memorial Hospital.

- b. Provide one (1) security guard M-F from 7:00 p.m. to 07:00 a.m. at Kauai Veterans Memorial Hospital/West Kauai Clinic and;
- c. Provide one (1) security guard 24 hours a day on weekends and holidays at Kauai Veterans Memorial Hospital/West Kauai Clinic.
- d. Posting orders shall be determined by the SOP and can be assigned by the House Supervisor, Charge Nurse or Safety Officer. Documentation is recommended for any changes of post other than in an emergency situation by using the PTT communications system.

2.3.9 As Needed - Provide security guard services on an "as needed" basis for psychiatric, suicidal, high-risk and/or combative patients as required by HOSPITAL's Nursing Department or Administration to ensure the public's safety while on the HOSPITAL's campus. As needed security guard services may include, but is not limited to, assistance with traffic flow, special events, and ensuring safety during construction projects.

Requests for security guards may be made for a portion of, or a full, twenty-four (24) hour period. The number of security guards required may vary based on HOSPITAL's needs. The CONTRACTOR may be called to provide services with as little notice as one (1) hour in advance of the need for service. However, whenever feasible, HOSPITAL will notify the CONTRACTOR of its need for services as far in advance of its need as possible.

2.3.10 General Duties and Responsibilities

- a. Provides surveillance of all buildings, parking lots, and grounds, logging security rounds utilizing the Scan Patrol System on an hourly bases.
- b. Issues parking citations when needed, and assists with security during the collection of parking citation fees when called upon to do so.
- c. Assists in the initiation and towing of vehicles.
- d. Accompanies staff to their personal vehicle upon request.
- e. Assists staff and physicians with argumentative, belligerent and combative individuals, especially where there is imminent danger to staff, physicians, patients and/or visitors.
- f. Security Guards shall physically restrain individuals only as a last resort, when all other means of de-escalating a situation have been exhausted. Such actions may occur without the authorization of a clinician. A minimum amount of force shall be used in all situations, and only if necessary, to safely bring a situation under control.
- g. Applies restraints at the direction of professional medical or nursing staff.

- h. The Security Guard will not engage in medical, counseling or behavioral health interventions with the patients.
- i. Uses CONTRACTOR provided PTT for communication amongst security staff and, when necessary.
- j. Assists in the morgue duties including, but not limited to:
 - Unlocking the morgue entrance when mortuaries arrive to remove a body or when the body removal individuals come to place a body in the morgue. Upon house supervisor and charge nurses orders.
 - Upon requests, assists clinical or laboratory staff with placing deceased bodies into the morgue or removing deceased bodies from the morgue.
- k. Assists with securing the Facilities/Grounds as written in the SOP generated by the Hospital representative and CONTRACTOR.
- l. Wears an Aloha print uniform provided by the CONTRACTOR, which shall also include an identification badge that, at a minimum, shall include the Security Guard's first initial and last name, and the name of their employer, and shall be worn throughout the duration of the shift. The uniform to be worn will be specified by the Security Guard's employer and be compatible with the professional standards set by the HOSPITAL. All security guards shall be neat and well groomed in appearance and will follow standards written in CONTRACTOR employee guidelines.
- m. Aggressively enforces HOSPITAL's no smoking policy and Hawaii Revised Statutes, Chapter 328J, with employees, patients and visitors.
- n. Documents all incidents and discrepancies on CONTRACTOR's Incident Report Form.
- o. Shall not leave assigned post location unless physically relieved by another Security Guard.
- p. Assists with duties including, but not limited to, assistance with traffic flow, special events, ensuring safety during constructions projects, and/or securing the premises during disasters.
- q. Follows, implements, and enforces Health Insurance Portability and Accountability Act (HIPAA) and other federal, state, county, Joint Commission, CMS and HHSC/Kauai Region rules and regulations.
- r. Security Guards shall participate and document (in compliance with Joint Commission/CMS standards and guidelines) the following events conducted by the Hospital, on all shifts, including, but not limited to:
 - Emergency preparedness drills

- Fire drills
 - Infant abduction drills
 - Resident elopement drills
- s. Security Guards shall participate in tabletop and live drills regarding Emergency preparedness conducted by outside (affiliate, and federal, state, and local government) agencies.

2.3.11 Specific Duties and Responsibilities for each Hospital:

A. Emergency Department (KVMH and SMMH):

- a. Performs crowd control in the lobby/waiting areas and adjacent interior and exterior spaces.
- b. Monitors waiting room throughout to control visitor(s) to one (1) person per room at all times as established by the HOSPITAL's policies or a variation thereof if authorized by the emergency Department manager (or clinical coordinator in her absence).
- c. Utilizing Non-Crisis Intervention® Program (NCI) and Applied Physical Training (APT) skills as trained, assists with aggressive, belligerent and combative patients only when requested to do so by unit staff or if the patient presents imminent physical danger to individuals.
- d. Assists with the application of patient restraints at the direction of medical or nursing staff as a last resort, when all other means of managing the situation have been exhausted. A minimum amount of force necessary only to safely bring a situation under control shall be utilized at all times.
- e. The Security Guards shall not engage in medical counseling or behavioral health interventions with patients.
- f. Maintains a professional attitude at all times.

B. Psychiatric Unit (SMMH):

- a. Receives orders and directions from the Charge Nurse on duty, and shall abide by the Psychiatric Units Security Guard responsibilities and SOP.
- b. Utilizing Non-Crisis Intervention® Program (NCI) and Applied Physical Training (APT) skills as trained, assists with aggressive, belligerent and combative patients only when requested to do so by unit staff or if the patient presents imminent physical danger to individuals.

- c. Assists with the application of patient restraints at the direction of medical or nursing staff as a last resort, when all other means of managing the situation have been exhausted. A minimum amount of force necessary only to safely bring a situation under control shall be utilized at all times.
- d. Assist with placing patients in seclusion under the supervision of the Nurse Manager or Charge Nurse. The Security Guard shall be trained and shall familiarize himself/herself on the application of restraints by reading the Use of Restraints in the Acute Care Setting policy and SOP.
- e. The Security Guard shall not engage in medical counseling or behavioral health interventions with patients.
- f. Maintains a professional attitude at all times.

C. Business office (SMMH) and Acute Care Unit (KVMH):

- a. Enforces HOSPITAL's Visitation policy.
- b. Acknowledges and screens all individuals entering the Facility.
- c. Verifies with each nursing unit if visitors are allowed to visit with the patient.
- d. Documents all visitors in the Visitor Log.
- e. Maintains a professional attitude at all times.

2.3.12 Reassignment of Security Guard

- a. Security Guards may be reassigned by the Safety Guard or the House Supervisor, Charge Nurse after hours.
- b. If necessary, Security Guards may also be relocated to perform their duties and responsibilities at any of the satellite outpatient clinics within the area.

2.3.13 Clearances, Orientation, Training and Testing:

A. All security guards shall receive instruction/direction on the topics identified below prior to commencement of contract services. Training will be provided by the HOSPITAL as detailed below. However, the CONTRACTOR shall be responsible for the payment of all security guard salaries while they are receiving initial training and annual recertification for the duration of this Agreement.

B. Human Resources, Employee Health and Orientation Clearance - All Security Guards must be cleared by the HOSPITAL's Human Resources Department before starting employment, and shall receive an initial orientation to the HOSPITAL's practices, policies and procedures prior to being scheduled to work.

C. Health, Insurance and Confidentiality requirements: CONTRACTOR must ensure that personnel have the required health clearances and that all health, insurance and confidentiality requirements are maintained before starting work to include:

a. Facility will perform:

- State and Federal background checks at a cost of \$20 per individual billable to the Contractor. The Facility will bill the Contractor for the amount of checks performed. The Contractor should make prior arrangements with the Facility's HR Department to coordinate the checks and continued work is contingent upon satisfactory clearance of the background checks.
- OIG/GSA clearance

b. CONTRACTOR will provide satisfactory evidence of the following:

- TB clearance-2 step TST or historical documentation of a 2-step TST and a current skin test within 30 days of start date or in the case of a positive TST, chest x-ray with no evidence of active TB within the past (12) months.
- Drug screen-10 panel drug screen, marijuana, cocaine, opiates, amphetamines (including crystal methamphetamine), phencyclidine (PCP), barbiturates, propoxyphene, methaqualone, benzodiazepine, and methadone which is required within (30) days of start date.

All costs incurred as a result of the human resources and employee health clearance processes including, but not limited to, immunizations, vaccinations, criminal background checks, Respirator Fit-Testing, etc., shall be at the CONTRACTOR's expense.

D. Department Specific Orientation — Each newly assigned Security Guard shall be oriented and receive specific training to the HOSPITAL's campus' and posts *prior* to being assigned onto the work schedule. The newly assigned Security Guard shall work in each post a minimum of 3 hours. This is to allow the security guard to become familiar with the working conditions and environment. Orientation training shall be a minimum of sixteen (16) hours.

E. Respirator Fit-Testing - All Security Guards shall complete and pass HOSPITAL's Respirator Medical Evaluation Questionnaire and respirator qualitative fit-testing. Failure to pass the Medical Evaluation Questionnaire or the respirator qualitative fit-testing is automatic grounds for dismissal from the HOSPITAL. In accordance with the HOSPITAL's Respirator Protection Program in Infection Control, facial hair is prohibited based on OSHA's guidelines that facial hair must not interfere with the face-piece seal.

F. Non-Crisis Intervention® Program (NCI) - All Security Guards shall attend and pass the Non-Crisis Intervention® Program's One-Day Seminar (8 hours) conducted by the Crisis Prevention Institute, Inc., within sixty (60) days of commencement of contract services, and its ongoing eight (8) hour annual re-certification. Security Guards shall attend and pass an additional four hour Applied Physical Trainingsm (APT) training session within ninety (90) days, with an eight (8)

hour annual recertification class thereafter. Security Guards must demonstrate knowledge, skill and ability in reducing tension of an agitated person or situation and exhibit nonverbal, paraverbal, verbal and physical intervention skills to the satisfaction of the HOSPITAL's Safety Officer and course instructors. The CONTRACTOR's Operations Manager /Supervisor assigned to HOSPITAL and Department Head will provide clearance to work in the Psychiatric Unit and Emergency Department. Failure to pass these courses and demonstrate knowledge, skill and ability in reducing tension of an agitated person or situation is automatic grounds for dismissal from the HOSPITAL's duty.

CONTRACTOR shall work with the HOSPITAL's Safety Officer to ensure that the course material offered by NCI is acceptable to the HOSPITAL. The cost of the instruction and materials for initial and re-certification training for both the Non-Crisis Intervention® Program and Applied Physical Trainingsm, including any and all travel, meals, per diem, and lodging for the instructor(s) to conduct training in Hawaii, and/or security guards sent to attend this course out of state shall be solely at the CONTRACTOR's expense.

G. Joint Commission Certification Fairs — Shall complete one (1) hour certification program within sixty (60) days of commencement of contract services and four (4) half-hour (1/2) re-certification classes annually, thereafter.

H. Customer Service Training — All Security Guards shall participate in training courses that teach professional, positive and courteous interaction with patients, family member(s), employees, and others associated with the hospital.

I. Emergency Medical Treatment and Active Labor Act (EMTALA) —Each security guard shall read the EMTALA law and be able to verbally demonstrate its effects on security at the HOSPITAL. Appropriate books/documents pertaining to EMTALA shall be provided by the HOSPITAL.

J. Return to Work — If a Security Guard is reassigned to another contract or is absent from HOSPITAL for a period of (6) months or longer, the Security Guard shall attend the next available Basic and Advance Orientation and NCI Recertification course prior to being placed on the HOSPITAL's work schedule. In addition, the Security Guard shall review all applicable security policies and procedures and make-up any missed educational safety fairs. The CONTRACTOR shall be responsible for payment of security guard salaries during training.

K. Miscellaneous (All Other) Training — All Security Guards shall attend other training courses as deemed necessary by the HOSPITAL for patient, visitor, physician, and staff safety purposes. Total estimated time shall not exceed twelve (12) hours per Security Guard on an annual basis. The CONTRACTOR shall be responsible for payment of security guard salaries during training.

L. Each Security Guard shall be able to verbalize and demonstrate job specific competencies as it relates to security.

M. Security guards must meet the requirements of Hawaii Revised Statutes Chapter 46310.5 (9).

2.4 OTHER REQUIREMENTS:

A. CONFIDENTIAL INFORMATION REQUIREMENTS:

It is acknowledged and agreed that all of the trade secrets, business plans, marketing plans, know how, data, contracts, documents, scientific and medical concepts, billing records, personnel records, medical records of any kind, and referral resources for existing or future services, products, operations, management, business, pricing, financial status, valuations, business plans, goals, strategies, objectives and agreements of Hawaii Health Systems Corporation and any of its facilities, affiliates or subsidiaries, and all patient information, in any form, whether written, verbal, or electronic, are confidential ("Confidential Information"); provided, however, that Confidential Information, with the exception of patient information, shall not include information that is in the public domain.

SECTION THREE— GENERAL AND SPECIAL PROVISIONS

3.0 FUNDING

Funding amounts are not being stated at this time. Applicants should propose funding amounts in their proposals based on their best estimate of the cost of providing the services described in the specifications. **In the event that all proposals exceed available funds, HHSC/KAUAI REGION is authorized to negotiate an adjustment to the scope of services for the sole purpose of reducing the dollar amount bringing the proposal within the amount of available funds. These negotiations may include a reduction to the proposed scope of services or the negotiation of only specific items within the scope of services.**

3.1 CANCELLATION OF RFP/REJECTION OF PROPOSALS

The RFP may be canceled and any or all proposals may be rejected when it is determined to be in the best interests of HHSC/KAUAI REGION.

3.2 RFP AMENDMENTS

HHSC/KAUAI REGION reserves the right to amend this RFP any time prior to the ending date for proposal review/evaluation period.

3.3 INFORMAL PROTESTS

It is the policy of the Kauai Region to work cooperatively with all vendors to the end of fair and fiscally sound procurement decisions. In the event a vendor or prospective vendor feels that a procurement decision has been made or is about to be made that is not in accordance with applicable law or policies, the vendor is encouraged to contact the Technical Representative and/or the Issuing Officer for a debriefing.

3.4 GENERAL AND SPECIAL CONDITIONS

The **GENERAL CONDITIONS** (Exhibit E) and the **SPECIAL CONDITIONS**; if any is attached and shall become part of the contract document. Proposals must acknowledge that the General Conditions will become part of any contract or Contractor agreement unless otherwise approved by HHSC legal by the "Closing Date for Receipt of Questions".

3.5 COSTS FOR PROPOSAL PREPARATION

Any and all costs incurred in the development of proposals, i.e. preparing and submitting, on-site product/service demonstrations, on-site visits, oral presentations, travel & lodging, etc. shall be the sole responsibility of Applicant. Additionally, HHSC will not assume responsibility for any costs associated with mechanical failures or other events, which interfere with any product and/or service demonstrations.

3.6 DISQUALIFICATION OF PROPOSALS

HHSC/KAUAI REGION reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP and which demonstrate an understanding of the scope of services. **Any proposal offering any other set of terms and conditions contradictory to those included in the RFP may be disqualified without further notice.** HHSC/KAUAI REGION reserves the right to ask for clarification of any item in the proposal.

An applicant will be disqualified and the proposal automatically rejected for any one or more of the following reasons:

- Proof of collusion among applicant's, in which case all proposals involved in the collusive action will be rejected.
- The applicant's lack of responsibility and cooperation as shown by past work or services.
- The proposal shows noncompliance with applicable law.
- The proposal is conditional, incomplete, or irregular in such a way as to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- The proposal has any provision reserving the right to accept or reject award, or to enter into a contract pursuant to an award, or provisions contrary to those required in the solicitation.
- Proof of exclusion from participation in federal health care programs, as defined in the Social Security Act (section 1128 and 1128A), and other federal laws and regulations relating to health care.

SECTION FOUR— PROPOSAL EVALUATION

4.0 PROPOSAL EVALUATION COMMITTEE

The evaluation committee members will be selected from Hawaii Health System facilities to perform all evaluation requirements. The committee will be composed of individuals with experience in, knowledge of, and program responsibility for the requirements identified in the RFP. HHSC/KAUAI REGION reserves the right to request information (from applicant) to clarify proposals.

4.1 EVALUATION PHASES

Evaluation(s) will be conducted as follows:

- Phase 1 ... Evaluation of Mandatory Requirements
- Phase 2 ... Establishment of Priority-List of proposals (**if necessary**)
- Phase 3 ... Preliminary Review of Proposals
- Phase 4 ... Submittal of Revised Proposals (**optional**)
- Phase 5 ... Evaluation of Proposals
- Phase 6 ... Best and Final Offers (**optional**)
- Phase 7 ... Recommendation for Contract Award

4.2 PHASE 1 — EVALUATION OF MANDATORY REQUIREMENTS

The evaluation of the mandatory requirements, as listed below, shall be based upon a "pass/no pass" basis. The purpose of this phase is to determine whether a proposal is sufficiently responsible and responsive to RFP requirements to permit a complete evaluation. That is, is the application responsible in terms of "Does the applicant have the capability to perform fully the "Scope of Services" requirements"; and responsive in terms of "Were proposal documents, as identified below, received and contain the required information"? Failure to meet any mandatory requirement ("no pass") will be grounds for deeming the proposal non-responsible, nonresponsive or both to the RFP and disqualification thereof. Only those proposals meeting all mandatory requirements ("pass"), or as favorably determined by the evaluation committee, will proceed to Phase 2.

Proposal "Mandatory Requirements":

- Proposal Submission Checklist
- Proposal Cover Letter
- Application Includes
 - Background and Experience
 - Service Delivery Plan
 - Cost Proposal

4.3 PHASE 2 — ESTABLISHMENT OF PRIORITY LIST OF PROPOSALS

All applicants who pass Phase 1, above, shall be classified as "acceptable". If there are more than eight (8) "acceptable" applicants, the evaluation committee shall rank proposals by determining a preliminary score (scoring system to be determined by HHSC/KAUAI REGION) by evaluating one or more proposal categories. A priority-list of acceptable proposals shall be established and limited to no more than the eight (8) who received the highest preliminary scores. The proposals on the priority-list will continue the evaluation process.

4.4 PHASE 3 — PRELIMINARY REVIEW OF PROPOSALS

HHSC/KAUAI REGION will conduct a preliminary review of the proposals on the priority-list. The review will determine if proposals clearly and adequately understood/addressed "Scope of Services" requirements; and, identify concerns/issues requiring further information, clarification, data, etc.; and, if discussions with applicants are required.

4.5 PHASE 4 — SUBMITTAL OF REVISED PROPOSALS (Optional)

Applicants may be requested to submit revised proposals for clarification, if discussions (Phase 4) are conducted. If revised proposals are requested but not submitted, the previous proposal submitted will be construed as the revised proposal.

4.6 PHASE 5 — EVALUATION OF PROPOSALS

Evaluation of the written proposals will be conducted using the categories and the value weight as outlined in this proposal.

4.7 PHASE 6 — BEST AND FINAL OFFERS (Optional)

Applicants may be requested to submit a "Best and Final" offer. "Best and Final" offers will be evaluated and proposal "ranking" adjusted, accordingly. If a "Best and Final" offer is requested but not submitted, the previous submittal will be construed as the "Best and Final" offer.

4.8 PHASE 7 — RECOMMENDATION FOR CONTRACT AWARD

The Evaluation Committee will prepare a report summarizing proposal evaluation rankings/findings and provide recommendation for award of contract(s) to the CEO.

4.9 EVALUATION CATEGORIES AND VALUE WEIGHT PERCENTAGES

The content of each proposal category will be evaluated and scored for completeness by a team of evaluators. The specific information solicited for each category and the corresponding percentage weighting of the category is listed below.

4.9.1 PROPOSAL INFORMATION

4.9.2 Experience and Expertise of the Firm and Key Personnel

The Offeror's experience and past performance will be evaluated on the extent of its success in managing and integrating work relevant to that defined in the Scope of Services. Therefore, the Offeror is advised to submit any and all information which documents successful and reliable experience in past performances as related to this RFP.

References: References should be verifiable and be able to comment on the Offeror's related experience. The Offeror should submit, at a minimum, three (3) professional services references for services provided over the last two (2) years that would demonstrate the Offeror possesses an understanding of and experience in providing the required service. As these references may be checked, ensure all information is current and accurate and that prior permission to use is obtained from each reference.

Quality of staff will be an area considered. The firm's clients' assessment of the quality of staff provided will be an element specifically sought after during reference verifications.

The qualifications of the key personnel proposed by the Offeror to perform the requirements of this solicitation will be considered in the evaluation. Therefore, the Offeror should submit detailed information related to the experience, technical expertise and qualifications for each key personnel; clerical staff is not considered key personnel.

The Offeror should provide an organizational chart which clearly shows the reporting and lines of authority, to include all proposed key personnel and any proposed subcontractors. The organizational chart should identify the prime point of contact between the Offeror and Kauai Region.

The Offeror may submit any other pertinent information that would substantiate that the firm and its key personnel possess the experience, expertise and capability to provide the required services.

4.9.3 Proposed Method of Approach

Proposals will be evaluated based on the Offeror's distinctive plan for providing these specialized services. Since the evaluators have already read the Scope of Services described, it is not necessary for the Offeror to repeat the exact language, or to present a paraphrased version, as an original idea for a technical approach.

The Offeror may utilize a written narrative or any other printed technique to demonstrate his ability to satisfy the Scope of Services. When appropriate, the narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The usage of technical language should be minimized and used only to describe a technical process.

4.9.4 Cost

The evaluation of the category of Cost shall be based on the prices, as indicated on the Cost Proposal Form (Exhibit C) submitted with Offeror's proposal. In order to determine the maximum liability to the State of Hawaii, any percentage increases proposed for extension option periods shall be also included in the cost evaluation.

4.9.5 Additional Information

The Offeror may submit any other pertinent information that would substantiate the Offeror has the experience, expertise and capability to provide the required services.

CATEGORIES AND WEIGHT:

Mandatory Requirements	Pass/No Pass
	<u>Value Weight</u>
Technical Proposal	
Experience and Expertise of Firm & Key Staff	40%
Proposed Method of Approach to Scope	30%
Cost Proposal	30%
Total	100%

The maximum number of points available for scoring is one thousand (1000) per evaluator. The proposal receiving the highest number of points is considered statistically the best proposal and the best value to HHSC/KAUAI REGION; and will be recommended for award of contract, unless otherwise determined and justified by the evaluation committee.

The evaluation categories are assigned a value weight percentage, as determined by HHSC/KAUAI REGION, totaling One Hundred percent (100%). Each member of the evaluation committee will rate each category between one (1) and ten (10), with ten being the highest (the best rating). The OFFERORS total score (see note below) will be determined by: a) multiplying the assigned weight value of each category by the numerical rating provided by the evaluation committee member to determine the score for each category; b) totaling the score for all categories of each evaluation committee member; and c) **totaling** the score of all evaluators.

Note: In determining the total score, the OFFERORS cost proposal with the lowest cost will receive the highest available rating allocated to costs. Each proposal that has a higher cost than the lowest will have a lower rating for costs. The points allocated to higher priced proposals will be equal to the lowest proposal price multiplied by the maximum points available for price, divided by the higher proposal price.

SECTION FIVE— CONTRACT DOCUMENTATION AND INFORMATION

5.0 AWARD OF CONTRACT

Award of contract(s) shall be made to the most responsible and responsive proposal who is judged/determined (by the Evaluation Committee) to be the most advantageous to HHSC/KAUAI REGION, considering all evaluation reviews, results, and proposed cost.

5.1 CONTRACT AWARD NOTIFICATION

The Issuing Officer will inform the successful applicant(s) of contract award selection additionally, an official "notice of award" letter will be provided to the successful OFFEROR; and, a "notice of non-award" letter shall be provided to all un-successful OFFERORS, at the earliest date.

The notice of award, if any, resulting from this solicitation shall be posted on the HHSC/KAUAI REGION website (www.HHSC/Kauai Region.org) under the Kauai Region.

5.2 CONTRACTUAL DOCUMENT

Contract(s) will be awarded by executing an **"Agreement for Goods or Services Based Upon Competitive Sealed Proposals"** ("CONTRACT") by HHSC/KAUAI REGION and the successful applicant(s) ("CONTRACTOR"). This document will serve as the official, legal contractual instrument between both parties. This document will incorporate (by attachments or reference) the RFP, with any and all addendums; GENERAL CONDITIONS and SPECIAL CONDITIONS, if any; and, the accepted proposal, with any and all addendums /changes / negotiated agreements/etc; all of which becomes part and whole of the "contract". A "sample" contract is attached. **Do not complete or execute the "Sample"**.

5.3 CONTRACT AWARD DEBRIEFING

If requested, HHSC/KAUAI REGION shall provide a contract award debriefing. The purpose of a debriefing is to inform the non-selected OFFERORS of the basis for the source selection decision and contract award. A written request to the Issuing Officer for a debriefing shall be made within three (3) working days after receipt of non-award of contract letter from HHSC/KAUAI REGION and/or posting of the award of the contract.

5.4 COMPENSATION

The contract compensation (if applicable) provision shall include a **"Not To Exceed (NTE)"** fixed total amount representing the maximum payment limit of the contract. The NTE shall be computed and determined by HHSC/KAUAI REGION inconsonant with the estimated annual FACILITY(s) requirements and the CONTRACTOR's accepted proposal. The NTE amount shall be fixed, at a sufficient level, to meet anticipated CONTRACTOR's compensation requirements.

Any and all compensation, above the NTE amount shall be subject to HHSC/KAUAI REGION's approval and execution of a Supplemental Agreement (contract amendment).

SECTION SIX— PROPOSALS

6.0 INTRODUCTION

Applicants shall prepare a written proposal in accordance with requirements of Section 2 and this Section; and, provide the proposal to HHSC/KAUAI REGION by cover letter. Applicants shall submit all data and information specified/requested and provide proposals on an "all or none" basis to qualify proposal for evaluation and consideration for award. Non-compliance may be deemed sufficient cause for disqualification of the proposal.

Proposals must contain all components. Each Applicant may submit only one (1) written proposal, in accordance with instructions of SECTION 2, of this RFP. Alternate proposals will not be accepted. **The Contract Manager must receive ONE (1) original, THREE (3) copies, and ONE (1) electronic copy of proposals no later than 3:00 pm, HST, FEBRUARY 20, 2018 at the location identified below, on the "Closing Date For Receipt of Proposals", **Proposals received after this time/date will not be considered and be returned to the applicant.** The original shall be clearly marked "ORIGINAL" and copies shall be clearly marked "COPY". Mail or deliver all proposals to the following address:**

Cora Shirai
Contract Manager
Issuing Officer — RFP 18-03
4643 Waimea Canyon Drive
P.O. Box 337
Waimea, HI 96796

The outside cover of the package containing the proposal should be noticeably marked:

RFP # HHSC/KAUAI REGION FY 18-03

6.1 REQUIRED CERTIFICATES

GENERAL EXCISE TAX LICENSE

Pursuant to Section 237-9, HRS, successful applicant(s) are required to obtain and/or possess a valid General Excise Tax License from the Hawaii State Department of Taxation prior to executing a contractual agreement with a State Agency (reference paragraph 2.e. of the GENERAL CONDITIONS). HHSC/KAUAI REGION enforces this requirement. Refer to the next paragraph for procedures in obtaining Department of Taxation forms and information.

Work to be performed under this solicitation is a business activity taxable under Chapter 237, Hawaii Revised Statutes (HRS), and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii contractors are advised that the gross receipts derived from this solicitation are subject to the general excise tax imposed by Chapter 237, HRS, and where applicable to tangible property imported into the State of Hawaii for resale, subject to the use tax imposed by Chapter 28, HRS.

6.2 CONTRACT PERIOD

The term of the contract will be for a period of one (1) year beginning on or about April 29, 2018 thru April 28, 2019 with options to renew for three (3) additional one year periods subject to appropriation and allotments.

6.3 PUBLIC INSPECTION

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and applicants' proposals shall be open to public inspection after the contract is executed by all parties.

Applicant(s) shall request in writing nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the proposal and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. HHSC/KAUAI REGION cannot guarantee that designated data will be kept confidential. The proposals are subject to disclosure rules set forth in Chapter 92F, H.R.S. The applicant bears the burden of establishing that the designated data is exempted from the disclosure requirements set forth in chapter 92F.

All proposals and other material submitted by applicant become the property of HHSC/KAUAI REGION and may be returned only at HHSC/KAUAI REGION's option.

6.4 PROPOSAL TRANSMITTAL COVER LETTER

The proposal transmittal cover letter must be on the applicants official business letterhead; signed by an individual authorized to legally bind the applicants; affixed with the corporate seal or notarized; and minimally include information, as written/requested, on the "sample" letter in Attachment "A".

6.5 CONTRACTOR "OPTIONAL SERVICES"

CONTRACTOR "optional services" are defined as services (and/or goods) that are included in the "Scope of Services" and would be considered enhancements, thereof. Costs for CONTRACTOR "optional services", selected by HHSC/KAUAI REGION, will be added to the total amount of the Agreement (Contract) or be included in the Agreement as an optional service item, to be exercised by HHSC/KAUAI REGION, if and when elected.

Provide brief description and detailed/total costs for CONTRACTOR "optional services" offered, if any, relative to "Scope of Services" requirements (include all worksheets and supporting documentation necessary to verify computations).

6.6 NON APPLICABLE PROPOSAL REQUIREMENT(S)

If any proposal requirement(s) are not applicable to the applicant and therefore will not be provided, explain reason(s) why, by attachment to the proposal. HHSC/KAUAI REGION reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the RFP.

6.7 NON ACCEPTANCE OF "SCOPE OF SERVICES" REQUIREMENTS

If any "Scope of Services" requirement(s) are not acceptable to the applicant, provide detailed explanation of the reason(s) why, by attachment to the proposal. (HHSC/KAUAI REGION reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the "Scope of Services").

6.8 PROPOSAL SUBMISSION CHECKLIST

The proposal submission checklist is designed to be used as a tool to insure that all required documents/information is being submitted with the proposal; and, as a supplementary means of performing evaluation of the "Mandatory Requirements", as set forth in paragraph 4.2. The checklist is required to be completed and included (as the last document) in the proposal package. The proposal submission checklist is EXHIBIT B.

**SAMPLE
PROPOSAL TRANSMITTAL COVER LETTER**

Cora Shirai, Issuing Officer, RFP # 18-03
HHSC/Kauai Region
4643 Waimea Canyon Drive
P.O. Box 337
Waimea, HI 96796

Ms. Shirai:

We propose to provide any and all goods and services as set forth in "Request for Proposals for Competitive Sealed Proposals" to provide Security Guard Services at Kauai Veterans Memorial Hospital/West Kauai Clinic and Samuel Mahelona Memorial Hospital, **RFP # 18-03** for which prices have been set. The price(s) offered herein shall apply for _____
_____. (insert applicable period of time)

It is understood and agreed that we have read HHSC/KAUAI REGION's Scope of Services and the attached General and Special Conditions and it is further understood that only during the question phase (Section 3.1) shall any requested changes be accepted and considered.

By signing this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such Scope of Services.

We agree, if awarded the contract, to provide the goods and services set forth in the RFP; and comply with all terms and conditions indicated in the RFP; and at the price set forth in this proposal.

You may contact the following individual(s) regarding this proposal:

Company information, as requested, follows:

- Business telephone #:
- Facsimile #:
- E-mail address (optional):
- Federal Tax Identification #:
- Hawaii General Excise Tax #:

(Authorized Offeror's Signature, Printed Name/Title)

Encl: Proposal

PROPOSAL SUBMISSION CHECKLIST

***Please Check Off
Items For
Submitted HHSC Use**

<input type="checkbox"/>	<input type="checkbox"/>	Proposal Received "On-Time"
<input type="checkbox"/>	<input type="checkbox"/>	One Original & Copies of Proposals
<input type="checkbox"/>	<input type="checkbox"/>	Proposal Transmittal Cover Letter:
<input type="checkbox"/>	<input type="checkbox"/>	Official Business Letterhead
<input type="checkbox"/>	<input type="checkbox"/>	Authorized Signature
<input type="checkbox"/>	<input type="checkbox"/>	Corporate Seal or Notarized
<input type="checkbox"/>	<input type="checkbox"/>	Required Information
<input type="checkbox"/>	<input type="checkbox"/>	Technical Proposal
<input type="checkbox"/>	<input type="checkbox"/>	Experience and Expertise of Firm & Key Staff
<input type="checkbox"/>	<input type="checkbox"/>	Proposed Method of Approach to Scope
<input type="checkbox"/>	<input type="checkbox"/>	Cost Proposal
<input type="checkbox"/>	<input type="checkbox"/>	CONTRACTOR Optional Services (optional)
<input type="checkbox"/>	<input type="checkbox"/>	Non Applicable Proposal Requirements (optional)
<input type="checkbox"/>	<input type="checkbox"/>	Non-Acceptance of "Scope of Services" Requirements (optional)
<input type="checkbox"/>	<input type="checkbox"/>	All Data and Information Required of the RFP
<input type="checkbox"/>	<input type="checkbox"/>	Proprietary Documents (optional)
<input type="checkbox"/>	<input type="checkbox"/>	Others (optional)
<input type="checkbox"/>	<input type="checkbox"/>	Proposal Submission Checklist
<input type="checkbox"/>	<input type="checkbox"/>	General Excise License

***IF SPECIFIC ITEM(S) ARE NOT APPLICABLE, MARK WITH "N/A"---DO NOT LEAVE BLANK**

COST PROPOSAL FORM

CONTRACT PERIOD: YEAR 1 April 29, 2018 – April 28, 2019

	Direct Cost Per Hour	Indirect Cost Per Hour	Hours / Year	Total Cost Per Hour
KVMH				
Security Guard	<u> \$ </u>	<u> \$ </u>	5944	<u> \$ </u>
SMMH				
Security Guard	<u> \$ </u>	<u> \$ </u>	8760	<u> \$ </u>

TOTAL FIRST YEAR OFFER: _____

SAMPLE
HAWAII HEALTH SYSTEMS CORPORATION
KAUAI REGION
AGREEMENT FOR GOODS OR SERVICES
BASED UPON COMPETITIVE SEALED PROPOSALS
AGREEMENT #:

THIS AGREEMENT, executed on the respected dates of signatures of the parties shown hereafter, between Hawaii Health Systems Corporation, Kauai Region, Kauai Veterans Memorial Hospital/West Kauai Clinic and Samuel Mahelona Memorial Hospital, an Agency of the State of Hawaii (hereinafter "HHSC/Kauai Region"), by its Regional Chief Executive Officer (hereinafter "RCEO"), whose address is 4643 Waimea Canyon Drive, Waimea, HI 96796, and, (hereinafter "CONTRACTOR"), a _____, under the laws of the State of _____ whose business address and taxpayer identification number are as follows:

RECITALS

F. The HHSC/KAUAI REGION is in need of the goods or services, or both, described in this Agreement and its attachments.

G. The HHSC/KAUAI REGION has issued a request for competitive sealed proposals, and has received and reviewed proposals submitted in response to the request.

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

I. The HHSC/KAUAI REGION desires to retain and engage the CONTRACTOR to provide the goods or services, or both, as the case may be, and the CONTRACTOR is agreeable to providing said goods or services, or both.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the HHSC/KAUAI REGION and the CONTRACTOR agree as follows:

1. Scope of Services. The CONTRACTOR shall, in a proper and satisfactory manner as determined by the HHSC/KAUAI REGION, provide all the services set forth in the request for competitive sealed proposals, **RFP # FY 18-03** ("REQUEST"), and the CONTRACTOR's accepted proposal, including any and all revisions/addendum's/negotiated agreements thereto (collectively "PROPOSAL"), both of which, even if not physically attached to this Agreement, are hereby made a part of this Agreement.

2. Time of Performance. The performance required of the CONTRACTOR under this Agreement shall be executed in accordance with the time period set forth in the REQUEST.

3. Compensation. The CONTRACTOR shall be compensated for goods supplied or services performed, or both, under this Agreement in a total amount not to exceed _____ DOLLARS (\$ _____), including taxes and expenses incurred.

4. Bonds. The CONTRACTOR is not required to provide a performance and/or payment bond.

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

6. Other Terms and Conditions. The General Conditions and any Special Conditions are attached hereto and made a part of this Agreement (or, Any Special Conditions are attached hereto and made a part of this Agreement). 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) Agreement, including all attachments and addenda; (2) Request, including all attachments and addenda; and (3) Proposal.

7. Liquidated Damages. Liquidated damages shall be assessed per incident, in accordance with the terms of paragraph 9 of the General Conditions.

8. Notices. Any written notice required to be given by any party to this Agreement shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid. Notice required to be given to the RCEO shall be sent to: Kauai Veterans Memorial

Hospital, P.O. Box 337, Waimea, HI 96796. Notice to the "head of the purchasing agency" and/or "Agency Procurement Officer" as denoted in the General Conditions shall be sent to: Kauai Veterans Memorial Hospital, Attn: Procurement Office, P.O. Box 337, Waimea, HI 96796. Notice to the CONTRACTOR shall be sent to the CONTRACTOR's address as indicated in this Agreement. A notice shall be deemed to have been received three (3) days after mailing or at the time or actual receipt, whichever is earlier. The CONTRACTOR is responsible for notifying the SMMH in writing of any change of address.

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

HHSC/KAUAI REGION

SIGNATURE: _____

PRINTED NAME: Peter Klune

TITLE: RCEO — Kauai Region

DATE: _____

***CONTRACTOR**

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

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

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"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 percent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State or HHSC/KAUAI REGION, 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.

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

1. CONTRACTOR IS or IS NOT a legislator or an employee or a business in which a legislator or an employee has a controlling interest.*
2. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of the Agreement, if the legislator or employee had been involved in the development or award of the Agreement.
3. CONTRACTOR has not been assisted or represented for a fee or other compensation in the award of this Agreement by a State or HHSC/KAUAI REGION employee or, in the case of the Legislature, by a legislator.
4. CONTRACTOR has not been represented or assisted personally on matters related to the Agreement by a person who has been an employee of the State or HHSC/KAUAI REGION within the preceding two (2) years and who participated while in state office or employment on the matter with which the Agreement is directly concerned.
5. CONTRACTOR has not been represented or assisted on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, has been a State or HHSC/KAUAI REGION employee, or in the case of the Legislature, a legislator.
6. CONTRACTOR has not been represented or assisted in the award of this Agreement for a fee or other consideration by an individual who, 1) within the past twelve (12) months, served as a State or HHSC/KAUAI REGION employee or in the case of the Legislature, a legislator, and b) participated while an employee or legislator on matters related to this Agreement.

CONTRACTOR understands that the Agreement to which this document is attached is voidable on behalf of the State or HHSC/KAUAI REGION if this Agreement 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 or HHSC/KAUAI REGION.

CONTRACTOR

By: _____

Title: _____

Date: _____

*Reminder to FACILITY: if "is" is circled, YOUR FACILITY is required, under section 84-15, Hawaii Revised Statutes, to file with the State Ethics Commission, ten (10) days before the Agreement is entered into, a written justification as to why the Agreement was not required to be competitively bid

SCOPE OF SERVICES

TIME OF PERFORMANCE

COMPENSATION

HAWAII HEALTH SERVICES CORPORATION GENERAL CONDITIONS
(PURCHASE OF GOODS AND SERVICES - NON-HEALTHCARE SERVICE PROVIDERS)
(FOR NON-HRS 103D AGREEMENTS)

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1. **COORDINATION OF SERVICES BY HHSC.** The "head of the purchasing agency" (through the Technical Representative(s) or other designee as specified in the Agreement) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in this Agreement. The CONTRACTOR shall maintain communication with the head of the purchasing agency through the Technical Representative(s) or other designee at all stages of the CONTRACTOR's work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Agreement. "Purchasing agency" as used in these General Conditions means and includes any HHSC region or facility which is authorized to enter into contracts for the procurement of goods and services. The term "HHSC" refers to HHSC and the region or facility entering into this Agreement. The term, "CONTRACTOR" includes all employees, agents, subcontractors, and other entities and persons utilized by the CONTRACTOR to fulfill the obligations of this Agreement. It will be the responsibility of CONTRACTOR to ensure that those other persons and entities follow the terms of this Agreement.

2. **RELATIONSHIP OF PARTIES: INDEPENDENT CONTRACTOR STATUS AND RESPONSIBILITIES, INCLUDING TAX RESPONSIBILITIES.**

- a. In the performance of services required under this Agreement, 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 agreement; however, HHSC shall have a general right to inspect work in progress to determine whether, in HHSC's opinion, the services are being performed by the CONTRACTOR in compliance with this Agreement. Unless otherwise provided by special condition, it is understood that HHSC does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to provide services to other individuals or entities.
- b. The CONTRACTOR and the CONTRACTOR's employees and agents are not by reason of this Agreement, agents or employees of HHSC for any purpose, and the CONTRACTOR and the CONTRACTOR's employees and agents shall not be entitled to claim or receive from HHSC any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to HHSC employees.
- c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR's performance under this Agreement. 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 Agreement, 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 Agreement, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes and (iii) general excise taxes. Unless provided otherwise by agreement between the parties, the CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.
- 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.
- 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.

3. **PERSONNEL REQUIREMENTS.**

- a. The CONTRACTOR shall secure, at the CONTRACTOR's own expense, all personnel required to perform this Agreement.
- 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 Agreement, 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. Where the facility is Joint Commission accredited, CONTRACTOR agrees to meet all applicable Joint Commission standards.

4. **CONTRACTOR EXCLUSION FROM FEDERAL PROGRAMS.** CONTRACTOR affirmatively states that it and none of its employees, agents or subcontractors performing services or providing goods pursuant to this Agreement are excluded from participation in federal health care programs, as defined in the Social Security Act (Section 1128 and 1128A), and other federal laws and regulations relating to health care. CONTRACTOR has an affirmative duty to verify the accuracy of this statement at least monthly and to inform HHSC in the event it is discovered that it is no longer true. HHSC reserves the right to verify that the above statements are true and to immediately cancel this Agreement in the event they are not true.

5. **NONDISCRIMINATION.** No person performing work under this Agreement, 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 or regulation.

6. **CONFLICTS OF INTEREST.** The CONTRACTOR represents that neither the CONTRACTOR, nor any employees or agents 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 Agreement.

7. **SUBCONTRACTS AND ASSIGNMENTS: CHANGE OF NAME.**

- a. **No assignment without consent.** The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Agreement and no such assignment or subcontract shall be effective unless the CONTRACTOR obtains the prior written consent of HHSC. Additionally, no such assignment or subcontract shall be effective unless the contractors assignee or subcontractor obtains a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with Section 237-9 HRS.
- b. **Recognition of a successor in interest.** When in the best interests of HHSC, a successor in interest may be recognized in an assignment agreement in which HHSC, 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 Agreement but waives all rights under this Agreement as against HHSC; and
 - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
- c. **Change of name.** When the CONTRACTOR asks to change the name under which it holds this Agreement with HHSC, the contract officer of the purchasing agency shall, upon receipt of a

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

8. INDEMNIFICATION AND DEFENSE. The CONTRACTOR shall defend, indemnify and hold harmless HHSC, the contracting facility, and their directors, employees and agents from and against all liability, loss, damage, cost and expense, including all attorneys' fees and costs, and all claims, suits and demands therefor, arising out of or resulting from any acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents or subcontractors under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement for any reason.

9. LIQUIDATED DAMAGES. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 11 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to HHSC the amount, if any, set forth in this Agreement per calendar day from the date set for cure until either (i) HHSC reasonably obtains similar goods or services, or both, if the contract is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the contract is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 11.d (Excuse for Nonperformance or Delayed Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR shall remain liable for damages caused other than by delay. This paragraph is of no force and effect unless the amount of liquidated damages is specified in the Agreement.

10. SUSPENSION OF AGREEMENT. HHSC reserves the right at any time and for any reason to suspend this Agreement for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.

a. Order to stop performance. The head of the purchasing agency 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 Agreement. This order shall be for a specified period of time not exceeding sixty (60) days unless the parties agree to a different 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 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 Agreement 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 other period to which the parties shall have agreed, the head of the purchasing agency 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 Agreement.

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 or performance schedule or contract price, or both, and the Agreement 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 Agreement and

(2) The CONTRACTOR asserts a claim for such adjustment within thirty (30) days after the end of the period of performance stoppage provided that if the head of the purchasing agency 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 Agreement.

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 provisions of this Agreement.

11. TERMINATION FOR DEFAULT.

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

b. CONTRACTOR'S duties. Notwithstanding termination of the Agreement and subject to any directions from the head of the purchasing agency, the CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the CONTRACTOR in which the State of Hawaii or HHSC has an interest.

c. Compensation. Payment for completed goods and services delivered and accepted by HHSC shall be at the price set forth in the Agreement. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the head of the purchasing agency. If the parties fail to agree, the head of the purchasing agency shall set an amount. HHSC may withhold from amounts due the CONTRACTOR such sums as the head of the purchasing agency deems to be necessary to protect HHSC against loss because of outstanding liens or claims and to reimburse HHSC for the excess costs expected to be incurred by HHSC 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 Agreement 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 failure arises out of causes such as: acts of God; acts of a Public enemy; acts of the State of Hawaii 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 Agreement. Upon request of the CONTRACTOR, the head of the purchasing agency 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 Agreement, the delivery schedule shall be revised accordingly, subject to the rights of HHSC under this Agreement. 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 11.d, "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 12.
- 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 Agreement.

12. TERMINATION FOR CONVENIENCE BY HHSC.

- a. Termination for convenience of goods and services agreements. The head of the purchasing agency may, when the interests of HHSC so require, terminate this Agreement in whole or in part, for the convenience of HHSC. HHSC shall give written notice of the termination to the CONTRACTOR specifying the part of the Agreement terminated and when such termination becomes effective. HHSC shall exercise its rights under this paragraph in good faith and only when circumstances subsequent to the signing of this Agreement are changed to the extent that continuation of the Agreement is not in the best interest of HHSC. Such termination shall not be arbitrary or capricious.
- b. CONTRACTOR'S obligations. The CONTRACTOR shall mitigate the cost of termination and incur no further obligations in connection with the terminated performance. The CONTRACTOR will stop performance to the extent specified on the date(s) set in the notice of termination. 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. The head of the purchasing agency may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to HHSC. 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 head of the purchasing agency may require the CONTRACTOR to transfer title and deliver

to HHSC in the manner and to the extent directed by the head of the purchasing agency:

- (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 Agreement; and
 - (3) The CONTRACTOR shall, upon direction of the head of the purchasing agency, protect and preserve property in the possession of the CONTRACTOR in which HHSC has an interest. If the head of the purchasing agency 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 HHSC has breached the Agreement by exercise of the termination for convenience provision.
- d. Compensation. The CONTRACTOR may submit a termination claim specifying the unavoidable costs incurred because of the termination for convenience. This claim is in addition to any claim for payment for goods or services already performed prior to the termination. The head of the purchasing agency shall review the termination claim and respond to the CONTRACTOR with written objections or full payment within 60 days, provided that the claim is substantiated with invoice documentation. The amount paid for a termination claim shall be determined by the head of the purchasing agency but in no event shall exceed the amount remaining on the contract.

13. CHANGE ORDERS TO GOODS AND SERVICES AGREEMENTS. A change order is a written order signed by the head of the purchasing agency, directing the CONTRACTOR to make changes which the below "change clause" authorizes the head of the purchasing agency to order without the consent of the CONTRACTOR.

- a. Change clause. By written order, at any time, and without notice to any surety, the head of the purchasing agency may, unilaterally, order:
 - (1) Changes in the work within the scope of the Agreement; and
 - (2) Changes in the time of performance of the Agreement that do not alter the scope of the work of the Agreement.
- b. Adjustment 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 Agreement, an adjustment shall be made and the Agreement modified in writing accordingly. Any adjustment in Agreement price made pursuant to this clause shall be determined, where applicable, as negotiated. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Agreement as changed, provided that the head of the purchasing agency promptly and duly makes the provisional adjustments in payment or time for the direct costs of the work as HHSC deems reasonable. The right of the CONTRACTOR to dispute the Agreement price or time required for performance or both shall not be waived by its performing the work, provided however, that it follows the written notice requirements for disputes and claims established in the Agreement or in these rules.
- c. Time period of claim. Within ten (10) days after receipt of a written change order, unless the period is extended by the head of the purchasing agency in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response cannot be waived and shall be a condition precedent to the assertion of a claim.

- d. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written response is not given prior to final payment under this Agreement.
- e. Claims not barred. In the absence of a change order, nothing in the clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Agreement or for breach of contract.

14. MODIFICATIONS OF AGREEMENT.

- a. In writing. Any modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be made by written amendment to this Agreement signed by the CONTRACTOR and HHSC. Change orders shall be made in accordance with paragraph 13 herein. Notice to any surety is not required.
- b. No oral modification. No oral modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be permitted or acknowledged.
- c. Adjustment 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 Agreement, an adjustment shall be made and this Agreement modified in writing accordingly. Any adjustment in price made pursuant to this clause shall be determined, where applicable, in accordance with the terms of this Agreement or as negotiated.
- d. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Agreement and the claims are not made prior to final payment under this Agreement.
- e. Claims not barred. In the absence of a written modification to the Agreement, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Agreement or for breach of contract.

15. VARIATION IN QUANTITY FOR DEFINITE QUANTITY AGREEMENTS.

Upon the agreement of HHSC and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in the Agreement, 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 head of the purchasing agency makes a written determination that such an increase will either be more economical than awarding another Agreement or that it would not be practical to award another agreement.

16. CLAIMS BASED ON THE HEAD OF THE PURCHASING AGENCY'S ACTIONS OR OMISSIONS.

- a. Change in scope. If any action or omission on the part of the head of the purchasing agency (which term includes the designee of such officer) requiring performance changes within the scope of the Agreement 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 Agreement in compliance with the directions or orders of proper officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages or extension of time for completion, provided:

- (1) Written notice required. The CONTRACTOR shall give written notice to the head of the purchasing agency:
 - (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission; or
 - (B) Written 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 head of the purchasing agency 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 head of the purchasing agency, upon receipt of such a notice, may rescind such action, remedy such omission or take such other steps as may be deemed advisable.

- (3) Basis must be explained. The notice required by this paragraph must describe 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 head of the purchasing agency within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to HHSC, 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 collusion or bad faith in causing the issuance of or performing change orders which are clearly not within the scope of the Agreement.

17. COSTS AND EXPENSES. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Agreement shall be subject to the following guidelines, unless otherwise stated in the Agreement:

- a. Reimbursement for air transportation shall be for actual cost or coach class airfare, 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 head of the purchasing agency is obtained, reimbursement for subsistence allowance (i.e., hotel and meals) shall be \$145 per day, which consists of \$85 for hotel and \$60 for food, computed on quarter days. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by HHSC, other than those items listed in subparagraphs a and b, above. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the HHSC technical representative.
- d. CONTRACTORS with an office located on the same island as the site of the services to be provided pursuant to this Agreement are not entitled to per diem or transportation expense reimbursement unless explicitly specified in the Agreement.

18. PAYMENT PROCEDURES.

- a. Original invoices required. All payments under this Agreement shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Agreement have been performed by the CONTRACTOR according to the Agreement.
- b. Payment only for work under contract. HHSC is not responsible to pay for work performed by CONTRACTOR or its subcontractors that is not in this Agreement and any amendments or change orders thereto. All CONTRACTORS must follow paragraph 14, Modifications of Agreement or paragraph 13, Change Orders to Goods and Services Agreements and must have proper

authorization before performing work outside the original Agreement.

19. PROMPT PAYMENT OF SUBCONTRACTORS.

a. Generally. Any money paid to a CONTRACTOR shall be disbursed to subcontractors within ten 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 regarding payment.

b. Final payment. Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

c. Penalty. The procurement officer or the CONTRACTOR, as applicable, will be subject to a penalty of one and one-half per cent per month upon outstanding amounts due that were not timely paid by the responsible party under the following conditions. Where a subcontractor has provided evidence to the CONTRACTOR of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in paragraph (d), and:

(1) Has provided to the CONTRACTOR an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the State, as provided in Section 103-32.1, HRS; or

(2) The following has occurred:

(A) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to CONTRACTOR and the surety, as provided for in Section 103D-324, HRS (reference of HRS 103D-324 provision does not intend to imply that this contract is governed by that chapter or the implementing rules and regulations); and

(B) The subcontractor has provided to the CONTRACTOR, an acceptable release of retainage bond, executed by a surety company authorized to do business in the State, in an amount of not more than two times the amount being retained or withheld by the CONTRACTOR; any other bond acceptable to the CONTRACTOR; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the CONTRACTOR and subsequently, upon receipt from the procurement officer, by the CONTRACTOR to the subcontractor within the applicable time periods specified in paragraph (b) and Section 103-10, HRS. The penalty may be withheld from future payment due to the CONTRACTOR, if the CONTRACTOR was the responsible party. If a CONTRACTOR has violated paragraph (2) three or more times within two years of the first violation, the contractor shall be referred by the procurement officer to the contractors license board for action under Section 444-17(14), HRS.

d. A properly documented final payment request from a subcontractor, as required by paragraph (c), shall include:

(1) Substantiation of the amounts requested;

(2) A certification by the subcontractor, to the best of the subcontractor's knowledge and belief, that:

(A) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;

(B) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(C) The payment request does not include any amount that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and

(3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the CONTRACTOR within seven days after receipt, with a statement identifying the defect.

e. This section shall not be construed to impair the right of a CONTRACTOR or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under paragraph (c); provided that any such payments withheld shall be withheld by the procurement officer.

20. CONFIDENTIALITY OF MATERIAL.

a. All material given to or made available to the CONTRACTOR by virtue of this Agreement, 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 HHSC. It is acknowledged and agreed that all of the trade secrets, business plans, marketing plans, know how, data, contracts, including this Agreement, documents, scientific and medical concepts, billing records, personnel records, medical records of any kind, and referral sources for existing or future services, products, operations, management, business, pricing, financial status, valuations, goals, strategies, objectives and agreements of HHSC and any of its facilities, affiliates or subsidiaries, and all patient information in any form, whether written, verbal or electronic are confidential ("Confidential Information"); provided, however, that Confidential Information, with the exception of patient information, shall not include information that is in the public domain.

b. All information, data, or other material provided by the CONTRACTOR to the HHSC is subject to the Uniform Information Practices Act, chapter 92F, HRS, as modified by chapter 323F HRS.

21. CORPORATE COMPLIANCE PROGRAM. A description of the Corporate Compliance Program of HHSC, including orientation materials, is posted on the HHSC internet site (www.hhsc.org). The CONTRACTOR, by signing this contract, acknowledges that it has read said description, and that the CONTRACTOR knows of the fact and substance of the Corporate Compliance Program, which governs operations at all facilities of the HHSC. The CONTRACTOR understands and agrees that employees, agents, contractors and subcontractors performing any services at any of the HHSC facilities shall be fully subject to the Corporate Compliance Program, as may be amended from time to time, as well as all federal program requirements and applicable policies and procedures of HHSC and its facilities. The Corporate

Compliance Program requires periodic training, including an orientation program, of all people who provide financial, business office, personnel, coding, medical records information systems and clinical services in the facility. The CONTRACTOR agrees to cause its employees, agents and contractors who provide financial, business office, personnel, coding, medical records information systems and/or clinical services at any of the HHSC facilities to review the posted orientation materials and participate in any compliance training programs HHSC may require.

- 22. BUSINESS ASSOCIATE ADDENDUM.** By signing this Agreement, CONTRACTOR acknowledges that CONTRACTOR may be a Business Associate of HHSC within the meaning of the federal privacy and security laws as stated in 45 C.F.R. Parts 160 and 164, Subparts A, C, and E. CONTRACTOR further acknowledges that CONTRACTOR has read the Business Associate Addendum, which is posted on the HHSC internet site (www.hhsc.org/BAA). If CONTRACTOR is a Business Associate as defined in the above laws, said Business Associate Addendum is hereby incorporated by reference and made a part of this Agreement as if fully repeated herein. By signing this Agreement, CONTRACTOR agrees to fully comply with, and be bound by, all terms set forth in the Business Associate Addendum, as it may be amended from time to time.
- 23. PUBLICITY.** The CONTRACTOR shall not refer to the HHSC or any office, agency, or officer thereof, or any HHSC employee, including the head of the purchasing agency, the Agency procurement officer, the HHSC Board of Directors, or to the services or goods, or both, provided under this Agreement, in any of the CONTRACTOR's brochures, advertisements, or other publicity of the CONTRACTOR without the explicit written consent of HHSC. All media contacts with the CONTRACTOR about the subject matter of this Agreement shall be referred to the head of the purchasing agency.
- 24. OWNERSHIP RIGHTS AND COPYRIGHT.** HHSC shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled or conceived by the CONTRACTOR pursuant to this Agreement and all such material shall be considered "works for hire." All such materials shall be delivered to HHSC upon expiration or termination of this Agreement. HHSC, 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 Agreement.
- 25. INSURANCE.** During the term of this Agreement, CONTRACTOR shall maintain at all times or cause to be maintained general and professional liability insurance coverage for CONTRACTOR and its employees rendering services to HHSC under this Agreement. The insurance policies shall be issued by a company or companies authorized to do business in Hawaii and approved by HHSC, with combined single limits of not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and THREE MILLION DOLLARS (\$3,000,000) in the aggregate, or such greater amount as may be required from time to time by HHSC. HHSC shall receive not less than thirty (30) days notice prior to any cancellation or material change or reduction in coverage. No such material change or reduction may be made without approval from HHSC. HHSC shall be listed as an additional insured on all policies. Prior to the commencement of this Agreement, CONTRACTOR shall provide HHSC with a certificate of insurance. Thereafter, prior to the expiration of each policy period, the CONTRACTOR shall provide HHSC with certificates of insurance evidencing the foregoing coverage and provisions. HHSC reserves the right to request a certified copy of the policies. CONTRACTOR shall also carry workers' compensation insurance for CONTRACTOR'S employees in the amounts required by applicable law. Failure to maintain the necessary insurance in accordance with the provisions set forth herein shall constitute a material breach of this Agreement and HHSC shall

thereafter have the option of pursuing remedies for such breach and/or immediate termination of this Agreement.

26. LIENS AND WARRANTIES.

- a. Liens. All products provided under this Agreement shall be free of all liens and encumbrances.
- b. Warranties for products and services. In the event this Agreement is for the provision of products (goods or equipment), CONTRACTOR warrants that it has all rights, title and interest in and to all products sold, leased or licensed to HHSC. CONTRACTOR also warrants that the products shall substantially conform to all descriptions, specifications, statements of work and representations set forth in the Agreement, schedules, publications of CONTRACTOR and/or any order(s), and will be free from defects in materials, performance, workmanship and design. CONTRACTOR further warrants that it will perform any services required with promptness, diligence and in accordance with prevailing standards in the industry to the reasonable satisfaction of HHSC. The Warranty period shall commence after Acceptance, as defined in this Agreement. Any specific warranty periods shall be as set forth in the proposals, schedules, orders or Special Conditions pertaining to this Agreement but in any event such warranty period shall not be less than one (1) year.

27. ACCESS TO BOOKS AND RECORDS AND AUDIT BY HHSC. If the value or cost of Services rendered to HHSC pursuant to this Agreement is Ten Thousand Dollars (\$10,000.00) more over a twelve-month period, CONTRACTOR agrees as follows:

- a. Until the expiration of four (4) years after the furnishing of such services, CONTRACTOR shall, upon written request, make available to the Secretary of the Department of Health and Human Services (the "Secretary"), the Secretary's duly-authorized representative, the Comptroller General, or the Comptroller General's duly- authorized representative, such books, documents, and records as may be necessary to certify the nature and extent of the cost of such Services; and
- b. If any such Services are performed by way of subcontract with another organization and the value or cost of such subcontracted Services is Ten Thousand Dollars (\$10,000.00) or more over a twelve month period such subcontract shall contain and CONTRACTOR shall enforce a clause to the same effect as paragraph 26.a, above.
- c. The availability of CONTRACTORS' books, documents and records shall be subject to all applicable legal requirements, including such criteria and procedures for obtaining access that may be promulgated by the Secretary. The provisions of paragraph 26.a and 26.b shall survive the expiration or other termination of this Agreement regardless of the cause of such termination.
- d. HHSC may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor or prospective subcontractor which are related to this Agreement. HHSC may utilize third-party agents to conduct an audit and/or analysis of CONTRACTOR'S records related to quotes, proposals, orders, invoices, sales reports, expenses charged to HHSC, sales reports, and discounts related to this Agreement and or proposed amendment to this Agreement. Any such agents will be bound by the same confidentiality clauses as stated in this Agreement.

28. ANTITRUST CLAIMS. The HHSC 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 HHSC any and all claims for overcharges as to goods and materials purchased in connection with this Agreement, except as to overcharges which result from violations

commencing after the price is established under this Agreement and which are not passed on to the HHSC under an escalation clause.

- 29. DISCOUNT AND REBATE.** CONTRACTOR hereby acknowledges its obligations to comply with any and all requirements imposed upon it as a seller under 42 U.S.C. Sec. 1320a-7b(b)(3)(A) and 42 C.F.R. Sec. 1001.952(h) Discounts.
- 30. GOVERNING LAW.** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, 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 Agreement shall be brought in a State court of competent jurisdiction in Hawaii.
- 31. 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 Agreement. Other laws which may be applicable to contractors include, but are not limited to: HRS Chapters 383, 386, 387, and 393. It shall be the responsibility of the CONTRACTOR to determine applicability and comply with the law.
- 32. ACCESS TO HHSC NETWORK AND SYSTEMS.** CONTRACTOR may be given access to some of the HHSC computer network and systems in order to fulfill the terms of the Agreement. CONTRACTOR agrees to follow and to require all agents, employees and subcontractors to also follow the Information Technology and Confidentiality policies summarized and posted on the HHSC Procurement internet site (www.hhsc.org/GC) and to comply with such other instructions as provided by HHSC in the use of HHSC computer systems. CONTRACTOR shall not use the HHSC systems or data for any purpose other than to fulfill its duties under this Agreement.
- 33. CAMPAIGN CONTRIBUTIONS.** CONTRACTOR acknowledges that it is unlawful under Section 11-355, Hawaii Revised Statutes, unless specifically permitted under that law, for CONTRACTOR at any time between the execution of this Agreement through the completion of the Agreement to: (a) directly or indirectly make any contribution or to promise expressly or impliedly to make any contribution to any political party, committee or candidate or to any person for any political purpose or use; or (b) knowingly solicit any such contribution from any person for any purpose during any period.
- 34. ENTIRE AGREEMENT.** This Agreement sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the HHSC and the CONTRACTOR relative to this Agreement. This Agreement 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 HHSC and the CONTRACTOR other than as set forth or as referred to herein.
- 35. COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile/electronic executions or a combination thereof, shall be construed together and shall constitute one and the same Agreement.
- 36. SEVERABILITY.** In the event that any provision of this Agreement is declared invalid or unenforceable by a court, such invalidity or non-enforceability shall not affect the validity or enforceability of the remaining terms of this Agreement.
- 37. WAIVER.** The failure of HHSC to insist upon strict compliance with any term, provision, or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of HHSC's right to enforce the same in accordance with this Agreement. The fact that HHSC specifically refers to one provision of the law, and does not include other provisions shall not constitute a waiver or relinquishment of HHSC's rights or the CONTRACTOR's obligations under the law.
- 38. ACCEPTANCE OF GOODS AND SERVICES.** HHSC shall accept goods and services or give CONTRACTOR notice of rejection within a reasonable time, notwithstanding any payment, prior test, or inspection. No inspection, test, delay or failure to inspect or test, or failure to discover any defect or other nonconformance with the specifications, shall relieve CONTRACTOR of any obligations under this Agreement or impair any rights or remedies of HHSC.
- 39. OBSOLETE PARTS/LONG TERM PARTS AVAILABILITY (Goods and Equipment Agreements Only).** CONTRACTOR shall timely report on the status of end of life (EOL) hardware that has been procured for the purchased or leased product. EOL hardware includes the following: electronic components/piece parts and mechanical hardware. CONTRACTOR shall provide advanced notification in writing to the Technical Representative of any changes to tooling, facilities, materials, availability of parts, or processes that could affect the contracted product. This includes but is not limited to fabrication, assembly, handling, inspection, acceptance, testing, facility relocation, or introduction of a new manufacturer. CONTRACTOR shall notify the HHSC Technical Representative of any pending or contemplated future action to discontinue articles purchased or replacement parts for the articles purchased pursuant to this Agreement and shall work with HHSC to determine the need to stockpile any parts for the likely life of the product and offer those parts to HHSC prior to the actual discontinuance. CONTRACTOR shall extend opportunities to HHSC to place last time buys of such articles with deliveries not to exceed twelve months after the last time buy date.
- 40. DISPUTES.** Prior to resorting to any remedies allowed by law, disputes between the CONTRACTOR and HHSC arising out of this Agreement shall first be addressed in a telephonic or in-person meeting between the HHSC Technical Representative or designee and the CONTRACTOR'S representative. If the issue is not resolved to the mutual satisfaction of the Parties, a HHSC Regional CFO shall hold a telephonic or in-person meeting with the manager of the CONTRACTOR'S representative. Both Parties shall discuss and attempt to resolve the issues in good faith.

END OF GENERAL CONDITIONS
