OFFICE OF ELECTIONS

LEGAL AD DATE: June 1, 2010

REQUEST FOR PROPOSAL
No. RFP-10-010-SW
SEALED OFFERS
FOR
PRECINCT OPERATIONS ELECTION ASSISTANT
PERSONAL SERVICES CONTRACT
Department of Accounting and General Services, Office of Elections

WILL BE RECEIVED UP TO AND OPENED AT 10:00 A.M. ON

JUNE 15, 2010

IN THE OFFICE OF ELECTIONS, 802 LEHUA AVENUE, PEARL CITY, HAWAII 96782. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO AARON H. SCHULANER, TELEPHONE (808) 453-8683, FACSIMILE (808) 453-6006, OR E-MAIL AT ELECTIONS@HAWAII.GOV.

AARON H. SCHULANER
Procurement Officer

Name

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SECTION ONE

INTRODUCTION AND KEY DATES

1.01 TERMS AND ACRONYMS USED THROUGHOUT THE SOLICITATION

CPO	=	Chief Procurement Officer
Procurement Officer	=	The contracting officer for the State of Hawaii, Office of Elections.
OE	=	Office of Elections
State	=	State of Hawaii, including each departments and political subdivisions
DAGS	=	Department of Accounting and General Services
BAFO	=	Best and Final Offer
HAR	=	Hawaii Administrative Rules
HRS	=	Hawaii Revised Statutes
RFP	=	Request for Proposals
GC	=	General Conditions, issued by the Department of the Attorney General, Form AG-008, Rev. 4/15/2009
Offeror	=	Any individual submitting an offer in response to this solicitation.

1.02 INTRODUCTION

The Office of Elections is soliciting proposals from individuals to be precinct operations election assistants under personal service contract workers for the 2010 elections. This work is integral to the successful execution of the 2010 elections.

1.03 CANCELLATION

The RFP may be cancelled and any or all proposals rejected in whole or in part, without liability, when it is determined to be in the best interest of the State.

1.04 RFP SCHEDULE AND SIGNIFICANT DATES

The schedule set out herein represents the State's best estimate of the schedule that will be followed. All times indicated are Hawaii Standard Time (HST). If a component of this schedule, such as "Proposal Due" date is delayed, the rest of the schedule will likely be shifted by the same number of days. The approximate schedule is as follows:

Advertising of Request for Proposals	May 17, 2010 June 1, 2010
Deadline to Submit Written Questions	May 24, 2010 June 8, 2010
State's Response to Written Questions	May 26, 2010 June 10, 2010
Proposals Due and Opened	**June 15, 2010 at 10:00 a.m.**
Proposal Evaluations	June 15 -16, 2010
Estimated Contract Award	On or after June 15, 2010
Contract Start Date	On or after June 15, 2010, as determined by the Chief Election Officer

SECTION TWO

BACKGROUND AND SCOPE OF WORK

2.01 OVERVIEW

The Office of Elections is soliciting proposals from individuals to be personal service contract workers for the 2010 elections. The personal services contract will detail the expectation of the parties. The contract will include, among other things, work duties, compensation terms, the length of the contract, general conditions, special conditions, and a standards of conduct declaration. The positions are as follows:

(a) one precinct operations election assistant;

2.02 SPECIFICATIONS/WORK DUTIES/SCOPE OF WORK

A full description of the position is found in Exhibit A which correspond to the position title indicated above. The position description, depending on the position, may include the following: (a) major duties and responsibilities; (b) controls exercised over the work; (c) required licenses, certificates, etc.; and (d) recommended qualifications. These position descriptions are incorporated into the RFP and are made a part of the specifications of the RFP. The Offeror must review the applicable position description and must meet the mandatory requirements of said description. The Offeror must provide all of the information requested in the Personal Services Contract Application (Attachment 1). The submission of the Personal Services Contract Application shall constitute a representation that the Offeror meets the requirements of the RFP and is able to perform the duties/specifications indicated in the position description.

2.03 COMPENSATION

The compensation is as follows:

(a) precinct operations election assistant at $ 11.00 per hour;

The contractor's pay shall be processed through the State's central payroll system, as specified below, upon presentation of applicable time sheets, mileage, and travel reimbursement forms received from the contractor. The presented documents shall specify that the work under the Agreement has been performed in conformance with the Agreement and the contractor is entitled to receive the amount requisitioned under the terms of this Agreement. The documents shall be presented semi-monthly generally on the 15th and 30th/31st day of the month.

In accordance with Comptroller's Memorandum 2006-10 on Determining Status of Individuals Hired to Perform Services for Departments and Agencies, applicable federal and state employment taxes shall be withheld from contract payments and remitted to the appropriate tax jurisdiction.

While it is the expectation that the contractors for these position will work approximately 40 hours a week, subject to additional hours as the election gets closer, the State reserves the right to authorize less than 40 hours a week for a contractor. All hours must be authorized by the Chief Election Officer or his designee before the work can be done. Any work which is done, which was not authorized will not be compensated.

2.04 RELATIONSHIP OF THE PARTIES

Notwithstanding the fact that the personal services contract worker may be compensated through the State's payroll system and employment taxes are withheld and remitted to the appropriate tax jurisdiction, the personal services contract worker shall not be considered to be an employee of the State in the provision of services under the contract. Further, the personal services contract worker shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, unemployment insurance, or other benefits provided to state employees.

2.05 TERM OF CONTRACT

The tentative contract terms would be from execution of the contract through December 31, 2010. However, the actual beginning and ending date of each contract will ultimately be determined by the State. The State reserves the right to unilaterally determine a later start date or end date during the term of the contract. The State is unilaterally able to cancel or terminate the contract for any reason at any time.

SECTION THREE

PROPOSAL FORMAT AND CONTENT

One of the objectives of this RFP is to make proposals preparation easy and efficient, while giving Offerors ample opportunity to highlight their proposals. The evaluation process must also be manageable and effective. With this in mind, the proposals shall consist of the Offer Form and the Personal Services Contract Worker Application. See Attachment 1 to the RFP. This form should be filled out by all Offerors and submitted to the Office of Elections in accordance with this RFP. Multiple proposals may be submitted by an Offeror. While multiple awards are envisioned, as these are personal service contract awards, ultimately an individual can only be awarded one contract.

SECTION FOUR

EVALUATION CRITERIA AND CONTRACTOR SELECTION

4.010 GENERAL INFORMATION

Evaluation Committee. Evaluation of the proposals shall be within the sole judgment and discretion of the Evaluation Committee. As discussed in 4.020 Evaluation Criteria, there are three criteria areas (i.e. 1. Experience - 40 Points; 2. Educational Background – 15 points; 3. Licenses/Certificates/Other Qualifications – 15 points; and 4. Interview – 30 Points).

Initial Evaluation (Criteria 1, 2, and 3). The initial evaluation of all proposals received will be evaluated against criteria 1, 2, and 3 only. The maximum number of points possible in the initial evaluation phase is seventy (70) points.

In the event there is only one proposal, the Evaluation Committee may award the contract to any offeror who scores a minimum of sixty (60) points. If there is more than one proposal, then any offeror scoring at least sixty (60) points will be offered the ability to interview for an additional thirty (30) points.

Interview (Criteria 4). The Evaluation Committee may elect to conduct the interview by telephone. The maximum number of points possible for the interview (criteria 3) is thirty (30) points.

Award. An award may only be made to an offeror who scores at least 60 points.

4.020 EVALUATION CRITERIA

Evaluation criteria and the associated points are listed below. The awards will be made to the responsible Offerors whose proposals are determined to be the most advantageous to the State based on the evaluation criteria listed in this section. While multiple awards are envisioned, as these are personal service contract awards, ultimately an individual can only be awarded one contract.

1. Experience Criteria (40 points)

An evaluation and judgment will be made of the probability of the success of, and the risks associated with, the Offeror based on the Offeror's previous work experience. Work experience includes paid and non-paid work such as volunteer work. Prior experience in elections will be weighed heavily. The Offeror's work experience must be shown to involve skills that the Evaluation Committee believes will allow the Offeror to be successful in performing the services called for in the RFP. For example, progressively responsible experience in administrative, professional, technical, analytical, or other responsible work which required the knowledge and ability to organize work effectively, solve problems, write reports, speak and deal with people effectively, and working knowledge of governmental organization and functions, may be beneficial depending on the position being sought.

2. Educational Background (15 points)

An evaluation and judgment will be made of the probability of the success of, and the risks associated with, the Offeror based on the Offeror's educational background. The educational background may reflect technical, analytical, or other skills that may be beneficial in performing the duties for the position sought. With this in mind, it should be noted that for certain positions, the possession of degrees beyond a high school diploma, will not necessarily result in a significantly higher score, while for other positions it may make a difference depending on the duties involved in the position.

3. Licenses/Certificates/Other Qualifications (15 points)

An evaluation and judgment will be made of the probability of the success of, and the risks associated with, the Offeror based on the Offeror's licenses, certificates, or other qualifications noted on the Offeror's application. For example, the ability to speak more than one language may be valuable if the position sought involves interactions with members of an identified language minority group.

4. Interview Criteria (30 points)

An evaluation and judgment will be made of the probability of the success of, and the risks associated with, the Offeror based on the Offeror's performance at the interview. The Evaluation Committee is looking for Offeror to orally demonstrate his or her ability to successfully perform the duties in the position that he or she is seeking. This may include a consideration of interpersonal skills, analytical skills, knowledge of elections, and other matters that may be relevant for the position being sought.

SECTION FIVE

SPECIAL PROVISIONS

5.01 SCOPE

All personal services by the contract worker provided to the Office of Elections shall be in accordance with this RFP, including the special provisions in this section, the Scope of Work specified herein, and the Department of the Attorney General's General Conditions, Form AG-008, Rev. 4/15/2009.

5.03 OFFEROR QUALIFICATIONS

Offeror shall meet all of the qualifications required by this RFP. Failure to meet all qualifications will likely have an adverse affect on Offeror's proposal evaluation.

5.04 TERM OF CONTRACT

Successful Offeror shall be required to enter into a formal written contract to commence work.

The contract term will be from approximately the execution of the contract through December 31, 2010. The actual contract period will start on the official commencement date of the Notice to Proceed. The ending date of each contract will ultimately be determined by the State. The State reserves the right to unilaterally determine a later start date or end date during the term of the contract. The State is unilaterally able to cancel or terminate the contract for any reason at any time, with no penalty to the State.

5.05 OVERVIEW OF THE RFP PROCESS

a. The RFP is issued pursuant to Subchapter 6 of HAR Chapter 3-122, implementing HRS Section 103D-303.

b. The procurement process begins with the issuance of the RFP and the formal response to any written questions or inquiries regarding the RFP. Changes to the RFP will be made only by Addendum.

c. Proposals shall not be opened publicly, but shall be opened in the presence of two (2) or more procurement officials. The register of proposals and Offerors' proposals shall be open to public inspection after posting of the award.

All proposals and other material submitted by Offerors become the property of the State and may be returned only at the State's option.

d. The Procurement Officer, or an evaluation committee selected by the Procurement Officer, shall evaluate the proposals in accordance with the evaluation criteria in Section Four. The proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable.

e. Proposals may be accepted on evaluation without discussion. However, if deemed necessary, prior to entering into discussions, a "priority list" of responsible Offerors submitting acceptable and potentially acceptable proposals shall be generated. The priority list may be limited to a minimum of three responsible Offerors who submitted the highest-ranked proposals. The objective of these discussions is to clarify issues regarding the Offeror's proposal before the BAFO is tendered.

f. If during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or change. Addenda to the RFP shall be distributed only to priority listed Offerors who submit acceptable or potentially acceptable proposals.

g. Following any discussions, Priority Listed Offerors will be invited to submit their BAFO, if required. The Procurement Officer or an evaluation committee reserves the right to have additional rounds of discussions with the top three (3) Priority Listed Offerors prior to the submission of the BAFO.

h. The date and time for Offerors to submit their BAFO, if any, is indicated in Section 1.04, RFP Schedule and Significant Dates. If Offeror does not submit a notice of withdrawal or a BAFO, the Offeror's immediate previous offer shall be construed as its BAFO.

i. After receipt and evaluation of the BAFOs in accordance with the evaluation criteria in Section Four, the Procurement Officer or an evaluation committee will

make its recommendation. The Procurement Officer will award the contract to the Offeror whose proposal is determined to be the most advantageous to the State taking into consideration the evaluation factors set forth in Section Four.

j. The contents of any proposal shall not be disclosed during the review, evaluation, discussion, or negotiation process. Once award notice is posted, all proposals, successful and unsuccessful, become available for public inspection. Those sections that the Offeror and the State agree are confidential and/or proprietary should be identified by the Offerors and shall be excluded from access.

k. The Procurement Officer or an evaluation committee reserves the right to determine what is in the best interest of the State for purposes of reviewing and evaluating proposals submitted in response to the RFP. The Procurement Officer or an evaluation committee will conduct a comprehensive, fair and impartial evaluation of proposals received in response to the RFP.

l. The RFP, any addenda issued, and the successful Offeror's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawaii.

5.06 CONFIDENTIAL INFORMATION

If a person believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld as confidential, then the Procurement Officer named on the cover of this RFP should be so advised in writing and provided with justification to support confidentiality claim.

An Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data considered confidential. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

Pursuant to HAR Section 3-122-58, the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with HRS Chapter 92F. If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with HRS Section 92F-42(12).

5.07 REQUIRED REVIEW

Offeror shall carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter **must be made in writing and should be received by the Office of Elections prior to the deadline for written questions as stated in the RFP Schedule and Significant Dates**. This will allow issuance of any necessary corrections and/or amendments to the RFP. It will help prevent the opening of a defective solicitation and exposure of Offeror's proposal upon which award could not be made. Any exceptions taken to the terms, conditions, specifications, or other requirements listed herein, must

be listed in the *Exceptions* section of the Offeror's proposal, if the exception is unresolved by the Proposal Due date.

5.08 QUESTIONS PRIOR TO OPENING OF PROPOSALS

All questions must be submitted in writing and directed to the Procurement Officer. The State will respond to written questions by the date indicated in Section One, 1.04 RFP Schedule and Significant Dates, or as amended.

5.09 CANCELLATION OF RFP AND PROPOSAL REJECTION

The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, pursuant to HAR Section 3-122-96 through 3-122-97.

5.10 OFFER ACCEPTANCE PERIOD

The State's acceptance of offer, if any, will be made within sixty (60) calendar days after the opening of proposals. Proposals shall remain firm for a sixty (60) day period.

5.11 PROPOSAL AS PART OF THE CONTRACT

This RFP and all or part of the successful proposal may be incorporated into the contract.

5.12 CONTRACT MODIFICATIONS - UNANTICIPATED AMENDMENTS

During the course of this contract, the Contractor may be required to perform additional work that will be within the general scope of the initial contract. When additional work is required, the Office of Elections will provide the Contractor a written description of the additional work and request the Contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work.

Changes to the contract may be modified only by written document (contract modification) signed by the Office of Elections and the Contractor.

The Contractor will not commence additional work until a signed contract modification has been issued.

5.13 PROTEST

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award, if any, resulting from this solicitation shall be posted on the Procurement Reporting System, which is available on the SPO website: http://www.hawaii.gov/spo2/source/.

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Procurement Officer.

5.14 GOVERNING LAW: COST OF LITIGATION

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

In case the State shall, without any fault on its part, be made a part to any litigation commenced by or against the Contractor in connection with this contract, the Contractor, shall pay all costs and expenses incurred by or imposed on the State, including attorneys' fees.

5.15 SUBMISSION OF PROPOSAL

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

Before submitting a proposal, each Offeror must examine the solicitation documents thoroughly. Solicitation documents include this RFP, any attachments, plans referred to herein, and any other relevant documents;

5.16 SUBMISSION OF PROPOSAL

Offers shall be received at the Office of Elections , no later than the date and time stated in Section 1.04, Significant Dates, as amended. Timely receipt of offers shall be evidenced by the date and time registered by the Office of Elections time stamp clock. Offers received after the deadline shall be returned unopened.

5.17 ECONOMY OF PRESENTATION

Proposals shall be prepared in a straightforward and concise manner, in a format that is reasonably consistent and appropriate for the purpose. Emphasis will be on completeness and clarity and content. As such, the format of the Offer Form and the Personal Services Contract Worker Application, among other reasons, was selected.
If any additional information is required by the State regarding any aspects of the Offeror's proposal, it shall be provided within four (4) business days.

5.18 PROPOSAL OPENING

Proposals will be opened at the date, time, and place specified in Section One, or as amended. Proposals shall not be opened publicly, but shall be opened in the presence

of two or more procurement officials. The register of proposals and Offeror's proposals shall be open to public inspection after all parties sign the contract.

5.19 EVALUATION OF PROPOSALS

The Procurement Officer, or an evaluation committee of at least three (3) qualified state employees selected by the Procurement Officer shall evaluate proposals. The evaluation will be based solely on the evaluation criteria set out in Section Four of this RFP.

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

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

5.20 DISCUSSION WITH PRIORITY LISTED OFFERORS

Priority listed offerors shall have a discussion with the evaluation committee to discuss their proposal to ensure thorough, mutual understanding. The State in its sole discretion shall schedule the time and location for these discussions, normally within the timeframe indicated in Section 1.04.

5.21 CANCELLATION OF RFP AND PROPOSAL REJECTION

The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, pursuant to HAR Section 3-122-96 through 3-122-97.

The State shall not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by the Offeror in the event this RFP is cancelled or a proposal is rejected.

5.22 ADDITIONAL TERMS AND CONDITIONS

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

5.23 CONTRACT EXECUTION

Successful Offeror receiving award shall enter into a formal written contract.

No work is to be undertaken by the Contractor prior to the commencement date. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date.

The State may terminate the contract at any time without cause.

5.24 PAYMENT

The contractor's pay shall be processed through the State's central payroll system, as specified in Section 2.04,

5.25 AWARD

The award of each contract will be made to the responsive, responsible Offeror whose proposal is determined to be the most advantageous to the State based on the evaluation criteria. While multiple awards are envisioned, as these are personal service contract awards, ultimately an individual can only be awarded one contract. A minimum overall score of 80 points is required for an award to be made.

5.26 SUBCONTRACTING

No work or services shall be subcontracted or assigned without the prior written approval of the State.

5.27 CONTRACT INVALIDATION

If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.

5.28 NON-DISCRIMINATION

The Contractor shall comply with all applicable federal and State laws prohibiting discrimination against any person on the grounds of race, color, national origin, religion, creed, sex, age, sexual orientation, marital status, handicap, or arrest and court records.

5.29 CONFLICTS OF INTEREST

The Contractor represents that he or she, does not presently have 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 of this contract.

5.30 WAIVER

The failure of the State to insist upon the strict compliance with any term, provision or condition of this contract shall not constitute or be deemed to constitute a waiver or relinquishment of the State's right to enforce the same in accordance with this contract.

5.31 SEVERABILITY

In the event that any provision of this contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this contract.

5.32 ADDITIONS, AMENDMENTS AND CLARIFICATIONS

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

Cancellation of Solicitations and Rejection of Offers. The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in HAR §§3-122-95 through 3-122-97.

Confidentiality of Material. All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, HRS chapter 92F. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to HAR §3-122-58, in the case of an RFP, or HAR §3-122-30, in the case of an IFB. The Offeror shall state in its written communication to the Procurement Officer, the reason(s) for designating the material as confidential, for example, trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

If a request is made to inspect the confidential material, the inspection shall be subject to written determination by the Department of the Attorney General in accordance with HRS chapter 92F. If it is determined that the material designated as confidential is subject to disclosure, the material shall be open to public inspection, unless the Offeror protests under HAR chapter 3-126. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with HRS §92F-15.5.

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

Records Retention. The Contractor and any subcontractors shall maintain the books and records that relate to the Agreement and any cost or pricing data for three (3) years from the date of final payment under the Agreement.

Competency of Offeror. Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.

SECTION SIX

ATTACHMENTS AND EXHIBITS

ATTACHMENT 1: OFFER FORM & PERSONAL SERVICES CONTRACT WORKER APPLICATION

ATTACHMENT 2: GENERAL CONDITIONS

EXHIBIT A: PRECINCT OPERATIONS ELECTION ASSISTANT

OFFER FORM

REQUEST FOR PROPOSAL
No. RFP-10-010-SW
SEALED OFFERS
FOR
SEASONAL PERSONAL SERVICES CONTRACT WORKERS
Department of Accounting and General Services,
Office of Elections

Procurement Officer
Office of Elections
802 Lehua Avenue
Pearl City, Hawaii 96782

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Request for Proposals, including the General Conditions, and hereby submits the following offer, contained in the Personal Services Contract Worker Application, to perform the work specified in the Request for Proposals, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted, to the extent applicable, was (were) independently arrived at without collusion.

Offeror is an individual, who understands that he/she will be compensated through the State payroll system, but that he/she will not be considered a State employee, and will not be entitled to any benefits associated with being a State employee.

Respectfully submitted:

Date: _____ **(x)** _____
Signature

Address: _____

Telephone No.: _____

Fax No.: _____ _____
Name (Please Type or Print)

E-mail Address: _____

ATTACHMENT 1

PERSONAL SERVICES CONTRACT APPLICATION

1. Position Title Applying For:

2. Contact Information

Name:
Address:
Phone Number:
Email:

3. Citizenship Status

The requirements for Citizenship must be met at the time of application. Place a checkmark in the appropriate block:

___ U.S. Citizen
___ National of the U.S. (including persons born in American Samoa, includes Swain's Island)
___ Permanent Resident Alien of the U.S.
___ Other – Non-citizen authorized under federal law to work in the U.S.
If you selected "Other-Non-Citizen," do you have an Employment Authorization Document (EAC) or other documentation allowing you to work in the U.S. without restriction and/or employer sponsorship? If so, please explain your answer:

Suitability Requirement

The information requested for Questions 4 - 7 is needed to determine your suitability for employment as a personal services contract worker. Convictions, dismissals from employment or dishonorable separations from military service do not automatically disqualify you for employment. To determine employment suitability, the circumstances of each individual case will be evaluated in relationship to the requirements of the position for which you have applied.

4. Have you been fired, dismissed, discharged or asked to resign from employment, including military service? ____ Yes ____ No.

If yes, please indicate the date and circumstances surrounding the dismissal, including the name and address of the employer.

5. Convictions of Law

a. Have you been convicted of a violation of the law? ____ Yes ____ No

* You must report state, out-of-state, federal, military, international and other convictions. Convictions of felony, misdemeanor offenses, including petty misdemeanor, DUI, contempt of court, etc., **must be reported**.

Convictions will not necessarily be a bar to employment. Factors such as age at the time of the offense, date of the offense, seriousness and nature of the violation and rehabilitation may be taken into account.

In answering this question, you need NOT report the following:

A) Arrests not followed by convictions;
B) Convictions which were annulled or expunged;
C) Offenses for which you were tried as a minor or juvenile;
D) Convictions of offenses punishable by fine only. (You must report any convictions that **could have** resulted in a jail sentence even if your sentence was only a fine. If you are in doubt, please answer "Yes" and explain the circumstances.
E) Convictions of misdemeanor in which the period of twenty years has elapsed since the date the sentence was fulfilled and during which elapsed time has not been any subsequent arrest or conviction.

b. Within the past three years, have you been convicted of any offense related to controlled substances? ____ Yes ____ No

c. Have you ever been convicted of any act, attempt, or conspiracy to overthrow the State or federal government by force or violence? ____ Yes ____ No

If you answered "Yes", please indicate below, the dates, nature and circumstances of the conviction; the sentence imposed and its current status; and any other relevant information you with to provide:

6. Was your license or certification to practice in a regulated profession (for example, physician, engineer, nurse, plumber, etc.) ever suspended or revoked? ____ Yes ____ No

If you answered "Yes", please indicate below, the type of license; the date; the State; the specific board or organization that suspended or revoked your license; the circumstance of the suspension; and any other relevant information you wish to provide. Suspension or Revocation of License

7. Have you accepted a settlement, a cash buyout such as through the State's Separation Incentive Program, or, are you subject to any restriction limiting or precluding you from seeking or securing employment with the State of Hawaii as a personal services contract worker? ____ Yes ____ No

If you answered "Yes," please explain in detail the reason and date of your settlement or restriction from applying with the State of Hawaii.

Education & Work Experience

8. Education

a. Grade School

Name and location of last grade school attended (elementary, intermediate, or high school)

Did you graduate? ____ Yes ____ No

If no, what grade level did you complete?

Did you receive a GED? ____ Yes ____ No

b. Training: In-service training, business, trade, armed forces, college or university, graduate or professional schools.

Name & Address	Course or Major Field of Study	Number of Credits Completed	Kind of Degree, Diploma, or Certificate Received	Date Received

9. Licenses, Certificates, Other Qualifications

a. Do you possess a valid driver's License? ____ Yes ____ No

Driver's License #_____ State _____
Class/Type_____ Expiration Date _____

b. Do you possess other licenses or certificates? ____ Yes ____ No

If so, please indicate the kind, registration number, and the State or other licensing authority.

c. Are you able to speak, read, and/or write in a language other than English? ____ Yes ____ No

If so, please indicate the relevant information below:

Language	Speak	Read	Write

d. Special Qualifications

Please indicate any membership in professional or scientific societies, honors, awards, fellowships, publications, etc.

10. Experience: Begin with your present or last employment/training and work backwards. Describe all employment/training, including military service and volunteer work. Use Separate blocks if your duties and responsibilities changed while working for the same employer. To receive full credit for your experience, describe in detail the tasks you were assigned. If you supervised others, explain your duties as supervisor and indicate the number and job duties of employees you supervised. If more space is needed provide the information on a blank sheet titled "Experience" and attach it to this form. Information you submit on this form may be verified. Do not submit a resume in place of completing this page. Please complete this section even if you are attaching a resume or other documents.

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

From (month/year):
To (month/year):
Average hours worked per week:
Employer:
Address:
Name and title of your supervisor
Your title
Duties and responsibilities:

Reason(s) for leaving:

11. Certification and Consent

I hereby certify that all of the information on this form is true and correct to the best of my knowledge, and I agree and understand that any misstatements of material facts herein may cause me to be disqualified from being a personal services contract worker for the State of Hawaii. I further consent, to the extent necessary, to a criminal background check, release of educational records, and release of any personnel records. To the extent a separate consent or release is necessary, I will fill it out and sign it. I finally consent to the State of Hawaii being able to speak to former employers and other individuals for the purpose of substantiating and confirming the statements made in this document.

_____	_____	_____
Print Name	Signature	Date

GENERAL CONDITIONS

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GENERAL CONDITIONS

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

2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.

   a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.

   b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.

   c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.

   d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

   e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.

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

g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.

i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.

3. Personnel Requirements.

a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.

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

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

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

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

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

(1) The Assignee assumes all of the CONTRACTOR'S obligations;

(2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and

(3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.

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

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

c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.

d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.

7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.

8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.

9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.

10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.

11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.

12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.

a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified period

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

(1) Cancel the stop performance order; or

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

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

(1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and

(2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

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

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

13. Termination for Default.

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

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

c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.

d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.

e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.

f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

14. Termination for Convenience.

a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.

b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

(1) Any completed goods or work product; and

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

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

d. Compensation.

(1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.

(2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.

(3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:

(A) Contract prices for goods or services accepted under the Contract;

(B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);

(D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of

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

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

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

a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:

(A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;

(B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or

(C) Within such further time as may be allowed by the Agency procurement officer in writing.

(2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;

(3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and

(4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.

b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

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

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

b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.

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

17. Payment Procedures; Final Payment; Tax Clearance.

a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.

b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.

c. Prompt payment.

(1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and

(2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.

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

19. Modifications of Contract.

a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.

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

c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:

(A) Changes in the work within the scope of the Contract; and

(B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.

d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.

e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.

f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.

g. CPO approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least $25,000.00 or ten per cent (10%) of the initial contract price, whichever increase is higher, must receive the prior approval of the CPO.

h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.

i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.

20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:

(1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;

(2) Method of delivery; or

(3) Place of delivery.

a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.

c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.

d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:

(1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(2) By unit prices specified in the Contract or subsequently agreed upon;

(3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;

(4) In such other manner as the parties may mutually agree; or

(5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.

b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

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

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

a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:

(1) Description of performance (Attachment 1);

(2) Time of performance (i.e., hours of the day, days of the week, etc.);

(3) Place of performance of services;

(4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;

(5) Method of shipment or packing of supplies; or

(6) Place of delivery.

b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.

c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.

d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.

e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.

24. Confidentiality of Material.

a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.

b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.

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

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

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

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

a. The cost or pricing data, and

b. A state contract, including subcontracts, other than a firm fixed-price contract.

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

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

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

31. Records Retention.

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

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

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

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

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or

in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.

35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.

36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.

37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.

38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.

39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.

40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.

41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-205.5, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.

42. Confidentiality of Personal Information.

a. Definitions.

"Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

(1) Social security number;

(2) Driver's license number or Hawaii identification card number; or

(3) Account number, credit or debit card number, access code, or password that would permit

access to an individual's financial information.

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

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

b. Confidentiality of Material.

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

(2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

(3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

(4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

(5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.

(6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

(1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.

(2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

(A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;

(B) Access to the personal information will be allowed only as necessary to perform the Contract; and

(C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

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

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

(2) Immediately terminate this Contract.

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

e. Records Retention.

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

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

POSITION DESCRIPTION
March 22, 2004

I. IDENTIFYING INFORMATION

Position No.:	106053
Class Title:	Election Assistant (POPS)
Department:	Department of Accounting and General Services
Division:	Office of Elections
Branch:	Voter Services
Section:	Precinct Operations
Unit:	N/A
Sub-Unit:	N/A
Geographic Location:	Pearl City

II. INTRODUCTION

The Office of Elections directs and coordinates the statewide election systems; assists the counties in county elections; provides voter registration services to qualified citizens; maintains data concerning registered voters, elections, apportionment, and districting; provides public education with respect to voter registration, information, and proposed constitutional amendments; and serves as secretary and furnishes all necessary technical support to the reapportionment commission.

The Voter Services Branch provides direct election services to the citizens of Hawaii which includes: managing the operation of election polling places statewide; maximizing and equalizing voter registration services statewide; and providing voter education services which includes disseminating election information to the public statewide. The objective of this organizational unit is to maximize voter participation in the electoral process by developing policies and procedures that encourage registration and turnout.

The Precinct Operations section manages all activities relating to the operation of election polling places statewide.

This position assists the Election Specialist, position number 101883, by recruiting, assigning, and compensating precinct officials; providing technical assistance in the training of precinct officials; assisting in the administration of precincts on election days; and providing administrative support to the Precinct Operations section.

III. MAJOR DUTIES AND RESPONSIBILITIES

A. <u>Recruit Precinct Officials</u> 40%

Responsible to recruit, assign, and compensates Oahu precinct officials.

1. Recruits and hires precinct officials. [1, 2]

2. Assigns precinct officials to polling places according to state law. [1, 2]

3. Produces and monitors personnel/payroll records of precinct officials. [1, 2]

4. Conducts payroll audit of precinct officials. [1, 2]

B. Train Precinct Officials

Provide assistance in the training of Oahu's precinct officials.
30%

1. Schedules and maintains precinct official training records. [1, 2]

2. Assists in the coordination of training materials. [1, 2]

3. Provides logistical and training support at precinct official training sessions. [1, 2]

4. Operates a motor vehicle by attending training sessions.

C. Administer Precincts 15%

Assist in the administration of Oahu's precincts.

1. Maintains polling place staffing requirements. [1, 2]

2. Advises and assists precinct chairpersons with procedural difficulties. [1, 2]

3. Packs, inventories and distributes precinct supplies to precinct chairpersons. [1, 2]

D. Administrative Support 10%

Provides administrative support services to the Precinct Operations.

1. Prepares reports, procedures, program plans, and evaluations of program activities. [1,2]

2. Responds to public inquiries orally and in writing. [1,2]

3. Develops and maintains statistical and historical files. [1,2]

4. Provides and maintains liaison with other election agencies. [1,2]

5. Conducts review of election complaints and possible improprieties involving unions, candidates, political parties, voters, and the voting system. [1,2]

E. Other Duties 5%

1. Performs other duties as assigned by the Voter Services Section Head.

2. Provides assistance and information to other sections within the Office of Elections.

Reasons:
[1] The performance of this function is the reason that the job exists.
[2] The number of other employees available to perform this function is limited.
[3] The function is highly specialized, and employee is hired for special expertise or ability to perform this function.

EVIDENCE USED IN DETERMINING ESSENTIAL FUNCTIONS CONSIDERED:

The following evidence was considered in determining the essential functions of the position: the amount of time spent performing the function; the consequences of not requiring a person in this job to perform a function; the work experience of people who have performed a job in the past and work experience of people who currently perform similar jobs; and the nature of the work operations based on organization structure.

IV. CONTROLS EXERCISED OVER THE WORK

A. Supervisor:

Position No.: 100456 Class Title: Section Head (POPS)

B. Nature of Supervisory Control Exercised Over the Work.

1. Instructions Provided.

Specific instructions and procedures covering what to do are provided for each assignment but the employee is expected to use his/her experience in deciding how to carry it out.

2. Assistance Provided.

   Employee seeks assistance from supervisor with problems and concerns.

3. Review of Work.

   Supervisor reviews completed work for accuracy, completeness, and compliance with instructions.

C. Nature of Available Guidelines Controlling the Work.

1. Policy and Procedural Guides Available.

   a. Hawaii Revised Statutes
   b. Hawaii Administrative Rules
   c. Applicable Federal laws.

2. Use of Guidelines.

   The employee is expected to apply and incorporate statutes, rules, policies and procedures with other related guidelines.

V. REQUIRED LICENSES, CERTIFICATES, ETC.

1. Hawaii Driver's License (Type 3 License)

2. Eligible to be a registered voter in the State of Hawaii

VI. RECOMMENDED QUALIFICATIONS

A. Knowledge:

Skills in report writing and researching information; public speaking methods; general office practices and procedures; Microsoft Word and Excel.

B. Skills/Abilities:

Ability to learn, understand and explain to others voting and the elections processes; communicate effectively both orally and in writing; comprehend and apply instructions, procedures and policies; handle confidential materials; train large groups; work in a highly fluid environment; maintain effective relationship with others; and work long hours, weekends, and holidays.

C. Education:

Graduation from high school or its equivalent. College graduate preferred.

D. Experience:

Ability to read, understand, and apply instructions, procedures, and policies; convey information orally and in writing; and at least one-year work experience in an office environment preferred.

VII. TOOLS, EQUIPMENT AND MACHINES

Personal computer and typewriter.