

REQUEST FOR PROPOSALS

**The Research Corporation of the University of Hawaii
requests proposals for the**

**CONSULTING SERVICES TO
PROVIDE TECHNICAL ASSISTANCE IN CONDUCTING A NEEDS AND
FEASIBILITY ASSESSMENT AND DEVELOP AN IMPLEMENTATION PLAN
FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
(CNMI) MEDICAID PROGRAM**

for the

Telecommunications and Social Informatics Research Program (UH TASI)

**of the
University of Hawaii
Honolulu, HI**

**RFP:
PAPD-2018-001**

January 2, 2018

NOTICE TO OFFERORS

RFP Availability

A copy of the Request for Proposal (RFP) #PAPD-2018-001 entitled, "Consulting Services to Provide Technical Assistance in Conducting a Needs and Feasibility Assessment and Develop and Implementation Plan for the Commonwealth of the Northern Mariana Islands (CNMI) Medicaid Program" is available on the website: <https://procurement.uhtasi.org/>.

Questions About the RFP

All questions about the RFP must be directed to Christina Higa at tasiadmin@uhtasi.org. Closing Date for Receipt of Offeror Questions is 5:00 PM (Hawaii Standard Time), January 20, 2018.

Closing Date for Receipt of Proposals

Completed proposals must be received no later than 5:00 PM (Hawaii Standard Time), January 30, 2018, at the address listed in Section 1.10 of this RFP. Finalists may be required to give an oral presentation, tentatively scheduled for the week of February 5, 2018. Email or mailed submissions will be accepted (email submittals are strongly preferred), but regardless of the submittal method, it is the Offeror's responsibility to ensure confirmation of proposal receipt prior to the Closing Date for Receipt of Proposals. Proposals received after the time and date fixed for submittal will not be considered.

This RFP is issued by The Research Corporation of the University of Hawaii (RCUH).

Research Corporation of the University of Hawaii
1601 East-West Road, Burns Hall 4020
Honolulu, HI 96848

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IT IS THE RESPONSIBILITY OF ALL OFFERORS TO CHECK THE TABLE OF CONTENTS TO CONFIRM THAT ALL PAGES LISTED THEREIN ARE CONTAINED IN THEIR RFP PACKAGE.

This RFP contains 29 pages.

SECTION 1 -- ADMINISTRATIVE OVERVIEW

1.1 INTRODUCTION

This is a Request for Proposals (RFP) issued by the Research Corporation of the University of Hawaii (RCUH), on behalf of Telecommunications and Social Informatics Research Program (UH TASI) to solicit proposals from Offerors who wish to be considered. The contract will be issued and administered as an Agreement for Services with the RCUH.

1.2 SCHEDULE OF KEY DATES

The schedule of key dates set forth herein represents the RCUH's best estimate of the schedule that will be followed. Any of the dates listed below may be changed at any time at the sole discretion of the RCUH Procurement Officer.

Date of Notice (RFP Issued): January 2, 2018
Closing Date for Receipt of Offeror's Attachment A
(Notice of Intent to Submit a Proposal): January 9, 2018, 5PM HST
Closing Date for Receipt of Offeror Questions: January 20, 2018, 5PM HST
Closing Date for Posting Responses to Questions: January 23, 2018, 5PM HST
Closing Date for Receipt of Proposals: January 30, 2018, 5PM HST
Proposal Review Period: January 31 - Feb 9, 2018
Date of Contractor Selection and Award: February 13, 2018
Services Start Date (Tentative): February 19, 2018

1.3 RFP AMENDMENTS

The RCUH reserves the right to amend the RFP at any time prior to the Closing Date for Receipt of Proposals. All RFP amendments will be posted on the following website, <http://procurement.uhtasi.org/>. **Offerors are solely responsible to check this website for any modifications to the RFP. The RCUH reserves the right to cancel this RFP at any time for any reason at no cost to the RCUH.**

1.4 QUESTIONS BY OFFERORS AND POTENTIAL OFFERORS TO RCUH

All questions by Offerors or potential Offerors should be submitted in writing via email to Christina Higa using the address, tasiadmin@uhtasi.org. Questions regarding proposal requirements, contents, and details will receive a response only for those questions received by 5:00 PM, HST January 20, 2018. All received questions and responses will be posted by January 23, 2018, on the TASI website, <https://procurement.uhtasi.org/>.

The website referred to in the preceding paragraph will be non-secured (open and accessible to anyone to view). Since all questions and responses will be posted and accessible to the public, no proprietary information or questions regarding proprietary information or material should be communicated by an Offeror to the website identified above.

1.5 QUESTIONS BY RCUH TO OFFERORS

The Offeror is responsible for ensuring the correctness and readability of its proposal. However, the RCUH reserves the right to seek clarifications during the Proposal Review Period. Content for which a clarification may be requested includes obvious mislabeling of figures or tables, illegible text (such as may occur in a figure label being reduced to too small a font size), or an obvious clerical mistake (e.g., a misplaced decimal point or obvious mistake in designation of a unit such as feet instead of meters). The authority to permit correction of proposals is limited to proposals that, as submitted, are responsive to the RFP and may not be used to permit correction of proposals to make them responsive.

1.6 CLARIFICATION OF THE RFP

An Offeror shall carefully review this RFP for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter shall be promptly submitted to the RCUH prior to the Closing Date for Receipt of Offeror Questions. This shall allow issuance of any necessary amendments to the RFP. The Offeror hereby acknowledges, agrees, and waives any claim arising from any knowledge of any defect in this RFP acquired prior to the Closing Date for Receipt of Offeror Questions and failing to inform the RCUH prior to said deadline. The Offeror further acknowledges and agrees that: (1) the RCUH reserves the right to waive any technical irregularity not affecting an unbiased and objective evaluation of all proposals; (2) such waiver will be in the best interest of the RCUH; and (3) the Offeror hereby waives any claim against the RCUH arising from such technical irregularity.

1.7 TAX CLEARANCE FOR PROPOSALS

A tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service is not required for submission of a proposal. However, in accordance with Section 103-53 of the Hawaii Revised Statutes, the selected contractor shall submit a valid tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service prior to execution of the Agreement for Services. A Certificate of Vendor Compliance that reflects a "Compliant" status from Hawaii Compliance Express (HCE), <https://vendors.ehawaii.gov/hce/splash> is acceptable in satisfying the tax clearance requirement. Governmental agencies in the U.S. (i.e., city, county, state, federal) and any foreign governmental agencies are excepted from the tax clearance requirement.

Due to the fact that the proposal review and contract award period may be tightly scheduled, it is highly recommended that Contractors submitting proposals apply for tax clearance upon submission of the proposal in order to meet key dates.

1.8 PREPARATION COSTS

Any costs incurred by Offerors in preparing or submitting a proposal shall be the sole responsibility of the Offeror.

1.9 PROPRIETARY INFORMATION

The Offeror should clearly identify any proprietary information in the Offeror's submitted proposal. Upon final execution of an Agreement for Services, all non-proprietary information in an Offeror's proposal may be made available by the RCUH for public inspection upon request. Accordingly, material designated as confidential should be readily separable from the proposal in order to facilitate inspection of the nonconfidential portion of the proposal.

1.10 SUBMISSION OF PROPOSALS

Offerors may submit proposals by mail or email. Email submittals are strongly preferred. Note that the maximum allowable file size for email attachments is 10 MB, so an Offeror may need to send its complete proposal in multiple parts. If submitting by mail, please include the original and one copy. It is the responsibility of the Offeror to confirm that the RCUH has received its proposal prior to the Closing Date for Receipt of Proposals. Proposals may be modified by an Offeror prior to the Closing Date for Receipt of Proposals.

Address, if submitting by mail:

2424 Maile Way, Saunders Hall 713
Honolulu, HI 96822

Address, if submitting by email:

tasiadmin@uhtasi.org

1.11 CERTIFICATION OF PROPOSAL

By submitting a proposal, the Offeror certifies that the proposal submitted to the RCUH is in accordance with any required authorization by the governing body of the Offeror's organization. The Offeror further certifies that the information and responses contained in the proposal are true, accurate, and complete, and that the RCUH may justifiably rely upon said information for purposes of evaluation and contracting with the Offeror. If it is later discovered that any information provided in the Offeror's proposal is false, it will result in the Offeror's elimination from consideration.

1.12 PROPOSAL WITHDRAWAL

An Offeror may withdraw its proposal by submitting a written request to the RCUH any time prior to the Closing Date for Receipt of Proposals.

1.13 RFP SUBMITTALS BECOME THE PROPERTY OF RCUH

All proposals and other material submitted shall become the property of the RCUH, and may be returned at the sole discretion of the RCUH.

1.14 OPENING OF PROPOSALS

Proposals will be opened after 5:00 P.M. Hawaii Standard Time, on January 30, 2018, or as amended at the office to which the proposals are submitted. The proposal opening will not be open to the public. Proposals will not be subject to public inspection until after an Agreement for Services is signed by all parties, but in no case, will proprietary information or proprietary material designated as such and submitted by an Offeror as part of an Offeror's proposal, be available for public inspection.

1.15 DISQUALIFICATION OF PROPOSALS

The RCUH reserves the right to consider as acceptable only those proposals submitted in accordance with all the requirements set forth in this RFP, and which demonstrate an understanding of the scope of work. Any proposal offering any other set of terms and conditions contradictory to those included in this RFP may be disqualified without further notice.

An Offeror shall be disqualified and its proposal automatically rejected for any one or more of the following reasons:

- The proposal shows any noncompliance with applicable law.
- The proposal is conditional, incomplete, or irregular in such a way as to make the proposal indefinite or ambiguous as to its meaning.
- The proposal has any provision reserving the right to accept or reject award, or reserving the right to enter into a contract pursuant to an award, or has any provision contrary to those required in the solicitation.
- The Offeror is debarred or suspended. Entities that are currently debarred or suspended from federal procurement transactions are listed in the Excluded Parties Listing System. A search can be performed at www.sam.gov to determine whether an entity has an active exclusion.

1.16 REFERENCES

The Offeror must disclose all contracts for similar services for the last 2 years, and these will serve as potential references to be contacted by the RCUH as part of the evaluation of the Offeror's proposal. Points of contact and contact information should be indicated for each contract listed.

The RCUH reserves the right to contact the references named in the Offeror's proposal and any other references provided by the Offeror during the past 2 years. The results of discussions with the references will be used to score the proposal, as described in Section 4 of this RFP.

1.17 SELECTION ON INITIAL PROPOSALS

The RCUH may select a Contractor on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the Offeror's best terms.

1.18 BASIS FOR SELECTION

Based on the evaluation process discussed in Section 4 of this RFP, the highest ranked responsible and responsive Offeror will be selected.

1.19 PROCESS FOR NEGOTIATIONS

The RCUH will attempt to negotiate with the selected Offeror a mutually acceptable Agreement for Services. If this cannot be accomplished within 21 calendar days after initial Selection, the RCUH reserves the right to terminate contract negotiations with the first-ranked Offeror, and may select the second-ranked Offeror for negotiation of a potential award. This process may continue in order of Offeror ranking until a mutually acceptable Agreement for Services is achieved with the RCUH and an award is made to a selected Offeror.

1.20 AVAILABILITY OF FUNDS

Offerors are advised that entering into an Agreement for Services is contingent upon availability of funds. If funds are not available, the RCUH reserves the right not to enter into an agreement.

1.21 NOTICE TO PROCEED

The RCUH shall not be responsible for work done, even in good faith, prior to the RCUH's execution of an Agreement for Services unless specific provisions are made in the Agreement for Services.

1.22 CHANGES TO CONTRACTOR'S FEE

It is recognized that financial audit disallowances and other changes may require adjustments in the compensation due to the Contractor. In the event that future actions would either disallow or minimize the payments already made to the Contractor, the Contractor shall assist the RCUH in defending the correctness of the claim for reimbursement. If the disallowance or adjustment is upheld, then the Contractor will repay RCUH to the extent the amount of the disallowance or adjustment was included in the total fee received by the Contractor. Payment to the RCUH shall be made within THIRTY (30) calendar days from which official notice is received by the Contractor from the RCUH.

1.23 PROCUREMENT OFFICER

This RFP is issued by the Research Corporation of the University of Hawaii, on behalf of Telecommunications and Social Informatics Research Program (TASI). The Procurement Officer responsible for overseeing the RFP process and Agreement for Services is Christina Higa.

SECTION 2 – STATEMENT OF WORK

Nature of Request: The Research Corporation of the University of Hawaii (RCUH) for the benefit of Telecommunications and Social Informatics (TASI) Research Program of the Social Science Research Institute (SSRI), of the University of Hawaii at Manoa (UHM) is issuing this Request for Proposal (RFP) to acquire technical assistance to conduct a needs and feasibility assessment and contribute to the development of an implementation plan for a Commonwealth of the Northern Mariana Islands Medicaid Program Data Warehouse / Decision Support System (DW/DSS).

The intent of the CNMI Medicaid DW/DSS is to improve CNMI Medicaid claims processing and establish a claims database that will enable analysis of costs, utilization, quality, and population health conditions, and to ultimately link health conditions with clinical data that would enable improvements in health, the quality of care and outcomes, and control of costs.

Scope of Services: The UH TASI requests the consulting services to assist in the planning and implementation of a needs and feasibility assessment of the CNMI SMA's data landscape to identify information needs, data format and functional requirements of the DW/DSS, provide functional and technical recommendations, assist with evaluation of options, and contribute to the development of an implementation plan for a DW/DSS system. The CNMI SMA intends to use this assessment and implementation plan as the basis of a CMS Implementation Advance Planning Document (IAPD) funding request.

The UH TASI is seeking a consultant that will assist in planning and executing the following:

1. Needs and Feasibility Assessment

- a. Review data collection needs and identify the functional and technical scope and specifications of the DW/DSS. To include the review and documentation of current processes, system needs, and related artifacts.
- b. Collect and document stakeholder input. To include the development of stakeholder surveys and conducting interviews and other data collection activities. Stakeholders include CNMI SMA staff and team, Medicaid providers, and others.
- c. Deliverable: Develop an As-Is and to-Be Model and Roadmap based on assessment. The Roadmap will serve as the basis of the development of a plan to be aligned with the Centers for Medicare and Medicaid Services (CMS) approved guidance for Medicaid Information Technology Architecture (MITA) and the Seven Standards and Conditions and for CMS Design Development and Implementation (DDI) funding opportunities.

2. Final Report on CNMI SMA Health Information Landscape and DW/DSS Recommendations

- a. Integrate assessment findings into a final report for CNMI SMA and stakeholders. This report will serve as a foundation for the CNMI DW/DSS implementation plan and CMS IAPD funding request.
- b. Deliverable: Prepare a final report to identify and document key system and operational strategies and requirements, identify process improvement options, support development and design of solutions, support future state process design, and identify organizational and business process impacts.

SECTION 3 – PROPOSAL REQUIREMENTS

3.1 REQUIRED FORMAT

The proposal shall be organized in sections in the following order:

1. Executive Summary
2. Technical Proposal
3. Schedule
4. Qualifications and Expertise
5. Price Proposal
6. Appendices

3.1.1 EXECUTIVE SUMMARY

Offeror shall submit an Executive Summary outlining the key elements of the proposal.

3.1.2 TECHNICAL PROPOSAL

Offeror shall describe the overall strategy and approach to the scope of the project and include information of any specific tools that will be used to develop deliverables and artifacts such as as-is and to-be models and roadmaps. Describe how needs and feasibility assessment will be conducted.

Offeror shall include resumes describing experience and qualifications of projects and experience with CMS, Medicaid, project management, health information technology and systems such as years of experience, organizations and affiliated facilities.

3.1.3 SCHEDULE

To include overall project milestones and estimated time for completion

3.1.4 QUALIFICATIONS AND EXPERTISE

Offeror shall describe the firm's qualifications, experience and size. In addition, the Offeror shall identify the team it will use to provide the goods/services. Biographical summaries of the key team members shall be included in the proposal (to be included with Appendix B, described below).

3.1.5 PRICE PROPOSAL

Shall Include:

- a. Total Cost for Needs and Feasibility Assessment
- b. Total Cost for Final Report on CNMI SMA Health Information Landscape and DW/DSS Recommendations
- c. Notes:
 - i. Cost proposals shall remain valid for 1-year
 - ii. Cost proposals must be inclusive of time and effort, travel, and other associated costs and include the Hawaii State tax for Honolulu which is at a rate of 4.712%.

3.1.6 APPENDICES

Appendix A – Proposal Letter. The Proposal Letter shown in Appendix A shall be signed and dated by an individual authorized to legally bind the Offeror. Evidence shall be submitted showing the individual’s authority to bind the Offeror.

Appendix B -- Offeror’s Profile. The Offeror’s Profile form shown in Appendix B shall be completed in its entirety.

Appendix C – References. Using the form shown in Appendix C, the Offeror must disclose all contracts for similar services performed during the last 2 years. Points of contact and contact information should be indicated for each contract listed. These will serve as potential references to be contacted by the RCUH as part of the evaluation of the Offeror’s proposal.

Appendix A

PROPOSAL LETTER TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

We propose to provide services for the Research Corporation of the University of Hawaii, for the benefit of Telecommunications And Social Informatics Research Program of the University of Hawaii.

It is understood that this proposal constitutes an offer.

It is understood and agreed that we have read the Research Corporation of the University of Hawaii's specifications described in the RFP and this proposal is made in accordance with the provisions of such specifications. By signing this proposal, we guarantee and certify all items included in this proposal meet or exceed any and all such specifications, and agree to the terms and conditions in all of the documents described in Section 4.5 of the RFP, including Attachments.

If selected, we agree to deliver goods and services which meet or exceed the specifications.

Respectfully submitted,

Authorized Signature

Date

Printed Name

Title

Email Address

Telephone

If contract is awarded, the purchase order/payment should be made to

Federal EIN

Remittance Address

City, State, Zip Code

*Attach to this page: Evidence of authority of the above officer to submit an offer on behalf of the company, giving also, the names and addresses of the other officers of the company.

Appendix B

OFFEROR PROFILE

(All items must be provided to be considered)

Company Name _____ **Type of Company** _____

Address _____ **Total # Full Time Employees** _____

_____ **Phone Number** _____

Email _____ **Federal ID #** _____

Company Start Date _____ **State ID #** _____

Project Manager / Principal Contact (Attach Bio) _____

Assigned Employees (Attach Bios) _____

(Attach Additional Listings)

Signature _____ **Date** _____

Position/Title _____

***Attach to this page: Resumes for all project team members.**

Appendix C

REFERENCES

Name of Firm _____

Address _____

Contact Name _____ Position _____

Telephone Number _____ Email Address _____

Dates of Services _____

Description of Services Provided:

SECTION 4 – EVALUATION OF PROPOSALS AND BASIS FOR AWARD

4.1 EVALUATION OF OFFEROR PROPOSALS

All responsive proposals received prior to the Closing Date for Receipt of Proposals of 5 PM Hawaii Standard Time January 30, 2018, will be evaluated and scored.

4.2 EVALUATION COMMITTEE

A committee, comprised of at least three (3) representatives, will evaluate and score each proposal submitted after review of all proposals and completion of oral presentations, if required. The committee will submit its evaluations to the Procurement Officer. The Procurement Officer will review the RFP and the evaluations before the selection of a Contractor. The firm with the highest score according to the criteria shown in this section shall be awarded the contract.

4.3 CRITERIA FOR PROPOSAL EVALUATION AND SCORING METHOD

The scoring and subsequent ranking of each proposal will be based on a scoring method using weighted formulas for technical merit (ability to meet scope of work/schedule), qualifications and expertise, references, price, and other. The total score for each proposal will be on a scale of 0 to 100 points. Five general categories will be used to evaluate the proposals:

<u>Category</u>	<u>Maximum Number of Points per Category</u>
Technical merit	25
Qualifications and expertise	35
References	15
<u>Price</u>	<u>25</u>
Total	100

4.3.1 DETAILED EVALUATION FORMULA FOR PROPOSED TECHNICAL APPROACH

Within the above general categories, points will be further divided as follows:

Technical Merit	Maximum Number of Points
Technical Approach	15
Planning Tools	10

Qualifications and Expertise	Maximum Number of Points
CMS Experience	15
HIT Expertise	10
Planning	10

References	Maximum Number of Points
Background	5
Project Benchmarks and Timeline	10

Price	Maximum Number of Points
Lowest Price	25
The points allocated to higher-priced bidders will be equal to the lowest bidder's price multiplied by the maximum points available for price divided by the higher proposal price	

A pricing formula shall be used to allot points based on the Offeror's price and the price of the lowest bidder.

The References category will be scored by selecting up to two (2) of the Offeror's previous or current customers, and factoring their responses to standardized questions, into the evaluation.

4.4 BASIS FOR SELECTION AND AWARD OF AN AGREEMENT FOR SERVICES

The RCUH will select and attempt to negotiate a mutually acceptable Agreement for Services with the first-ranked Offeror. If this cannot be accomplished within 21 calendar days after initial Selection, the RCUH reserves the right to terminate contract negotiations with the first-ranked Offeror, and may select the second-ranked Offeror for negotiation of a potential award. This process may continue in order of Offeror ranking until a mutually acceptable Agreement for Services is achieved with the RCUH and an award is made to a selected Offeror.

4.5 REQUIREMENTS FOR AN AGREEMENT FOR SERVICES WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

The selected Offeror must submit the following documentation prior to execution of an Agreement for Services with the Research Corporation of the University of Hawaii:

1. Tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service. *See* Section 1.7 of this RFP.
2. Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters, if applicable.
3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, if applicable.

Acceptance of an Agreement for Services with the Research Corporation of the University of Hawaii requires acceptance of Attachment B – General Conditions for Services Agreements, Attachment C – Special Conditions for Services Agreements–Federal Provisions, if applicable, and Attachment D – Standards of Conduct Declaration. Necessary forms will be provided to the selected company.

Attachment A. Notice of Intent to Submit a Proposal
(May be sent by email or fax.)

Company Name: _____

Address: _____

Phone No.: _____

Email.: _____

- [] I acknowledge receipt of Request for Proposal No. _____ and my company intends to submit a proposal prior to the Closing Date for Receipt of Proposals. I acknowledge the requirements for a services agreement with the Research Corporation of the University of Hawaii, including submittal of a price proposal; State of Hawaii Department of Taxation and Internal Revenue Service tax clearances; Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters; Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions; Standards of Conduct Declaration; and acceptance of the General Conditions for Services Agreements and the Special Conditions for Services Agreements (Federal Provisions).
- [] I acknowledge receipt of Request for Proposal No. _____ but my company is not submitting a proposal.

Submitted by:

Signature

Date

Typed Name

Title

Attachment B. General Conditions for Services Agreements

1. Coordination of Services by the State. RCUH, or RCUH's designee, shall coordinate the services to be provided by CONTRACTOR in order to complete the Project. CONTRACTOR shall maintain communications with RCUH or the RCUH designee, at all stages of CONTRACTOR's work, and submit to RCUH or the RCUH designee, for resolution, any questions which may arise regarding this Agreement, including but not limited to CONTRACTOR's performance of this Agreement.
2. Relationship of Parties; Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Agreement, CONTRACTOR shall be an "independent contractor", with the authority and responsibility to control and direct the performance and details of the work and services required under this Agreement; however, RCUH shall have a general right to inspect work-in-progress to determine whether in RCUH's opinion, the services are being performed by CONTRACTOR in accordance with the provisions of this Agreement. It is understood that RCUH does not agree to use CONTRACTOR exclusively, and that CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with RCUH.
 - b. CONTRACTOR, and CONTRACTOR's employees and agents, shall not be considered agents or employees of RCUH for any purpose, and CONTRACTOR's employees and agents shall not be entitled to claim or receive from RCUH any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to RCUH employees.
 - c. CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of its performance under this Agreement. Furthermore, CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability (if such liability is determined to exist) to CONTRACTOR's employees and agents, and to any individual not a party to this Agreement, for all loss, damage, or injury caused by CONTRACTOR, or CONTRACTOR's employees or agents in the course of their employment.
 - d. CONTRACTOR shall be responsible for payment of all applicable federal, state and county taxes and fees which may become due and owing by CONTRACTOR by reason of this Agreement, including but not limited to (i) income taxes, (ii) employment related fees, assessments and taxes, and (iii) general excise taxes. CONTRACTOR is further responsible for obtaining all licenses, permits, and certificates that may be required by reason of this Agreement, including but not limited to a general excise tax license from the Department of Taxation, State of Hawaii.
 - e. CONTRACTOR shall be responsible for securing any and all insurance coverage for CONTRACTOR and CONTRACTOR's employees and agents which is, or may be, required by law. CONTRACTOR shall further be responsible for payment of all premiums, costs and other liabilities associated with securing said insurance coverage.

3. Personnel Requirements.
 - a. CONTRACTOR shall secure, at CONTRACTOR's own expense, all personnel required to perform the services required by this Agreement.
 - b. CONTRACTOR shall ensure that CONTRACTOR's employees and agents are experienced and fully qualified to engage in the activities and services required under this Agreement, and that all applicable licensing and operating requirements imposed or required under federal, state and 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 Agreement, including any subcontractor, employee or agent of CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state or county law.
5. Subcontracts and Assignments. CONTRACTOR shall not assign or subcontract any of CONTRACTOR's duties, obligations, or interests under this Agreement without the prior written consent of RCUH. Additionally, no assignment by CONTRACTOR of CONTRACTOR's right to compensation under this Agreement shall be effective unless and until the assignment is approved in writing by RCUH, and a tax clearance is submitted by the assignee. RCUH must also approve, in writing, all other assignment or subcontract agreements entered into by CONTRACTOR's assignees and subcontractors, prior to execution.
6. Conflict of Interest. CONTRACTOR represents that neither CONTRACTOR, nor any employee or agent of CONTRACTOR, presently has any interest (and promises that no such interest, direct or indirect, shall be acquired), which would or might conflict in any manner or degree with the performance of CONTRACTOR's services under this Agreement.
7. Modifications of Agreement. Any modification, alteration, amendment, change, or extension to any term, provision, or condition of this Agreement shall be made only by written amendment to this Agreement, signed by CONTRACTOR and RCUH. No modification, alteration, amendment, change or extension to any term, provision, or condition of this Agreement, signed by any persons, including the University of Hawaii, shall be binding on RCUH unless signed by an authorized official of RCUH.
8. Suspension of Agreement. RCUH reserves the right at any time and for any reason to suspend all or any part of the performance required by this Agreement for any reasonable period, upon written notice to CONTRACTOR. Upon receipt of said notice, CONTRACTOR shall immediately comply with said notice and suspend all such work under this Agreement at the time stated.
9. Termination of Agreement for Default.
 - a. If CONTRACTOR breaches this Agreement by failing to satisfactorily fulfill in a timely or proper manner CONTRACTOR's obligations under this Agreement, or failing to perform any of the promises, terms, or conditions of this Agreement, and having been given reasonable notice of and opportunity to cure such default, fails to take satisfactory corrective action within the time

specified by RCUH, RCUH shall have the right to terminate this Agreement in whole or in part, by giving written notice to CONTRACTOR of such termination at least seven (7) calendar days before the effective date of such termination. In the case of a partial termination, CONTRACTOR shall continue performance of this Agreement to the extent it is not terminated.

- b. CONTRACTOR shall, within four (4) weeks of the effective date of such termination (or within four (4) weeks of the scheduled expiration of the time of performance specified in this Agreement, whichever is earlier), compile and submit in an orderly manner to RCUH an accounting of the work performed up to the effective date of termination or expiration. In such event, CONTRACTOR shall be paid for the actual cost of the services rendered, but in no event more than the total compensation payable to CONTRACTOR under this Agreement.
- c. As of the date of termination provided in the notice, CONTRACTOR shall incur no further obligations in connection with the terminated performance, and CONTRACTOR shall stop performance to the extent specified. CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance, subject to RCUH's approval. RCUH may choose to direct CONTRACTOR to assign CONTRACTOR's right, title, and interest under terminated orders or subcontracts to RCUH.
- d. CONTRACTOR shall not be relieved of liability to RCUH for damages sustained because of any breach by CONTRACTOR of this Agreement, including but not limited to RCUH's procurement of similar goods and services in a manner and upon terms deemed appropriate by RCUH. In such an event, RCUH may retain any amounts which may be due and owing to CONTRACTOR until such time as the exact amount of damages due to RCUH from CONTRACTOR has been determined. RCUH may also set off any damages so determined against the amounts retained.
- e. Upon termination of this Agreement (or upon the scheduled expiration of the time of performance specified in this Agreement, whichever is earlier), all finished and unfinished material prepared by CONTRACTOR shall, at RCUH's option, become RCUH's property and, together with all material, if any, provided to CONTRACTOR by RCUH, shall be delivered and surrendered to RCUH on or before the expiration date or date of termination. For purposes of this Agreement, "material" includes but is not limited to any information, data, reports, summaries, tables, maps, charts, photographs, films, graphs, studies, recommendations, program concepts, titles, scripts, working papers, files, models, audiotapes, videotapes, computer tapes, cassettes, diskettes, documents, and records developed, prepared, or conceived by CONTRACTOR in connection with this Agreement, or furnished to CONTRACTOR by RCUH. Additionally, CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property and materials in the possession of CONTRACTOR, in which RCUH has an interest.

10. Termination of Agreement for Convenience.

- a. RCUH may terminate this Agreement without statement of cause at any time, in whole or in part, by giving written notice to CONTRACTOR of such termination at least thirty (30) calendar

days before the effective date of such termination. In the event of a partial termination, CONTRACTOR shall continue performance of this Agreement to the extent it is not terminated.

- b. Upon termination of this Agreement, CONTRACTOR shall, within four (4) weeks of the effective date of such termination, compile and submit in an orderly manner to RCUH an accounting of the work performed up to the effective date of termination. In such event, CONTRACTOR shall be paid for the actual cost of the services rendered, but in no event more than the total compensation payable to CONTRACTOR under this Agreement.
 - c. As of the date of termination provided in the notice, CONTRACTOR shall incur no further obligations in connection with the terminated performance, and CONTRACTOR shall stop performance to the extent specified. CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance, subject to RCUH's approval. RCUH may choose to direct CONTRACTOR to assign CONTRACTOR's right, title, and interest under terminated orders or subcontracts to RCUH.
 - d. All finished and unfinished material prepared by CONTRACTOR shall, at RCUH's option, become RCUH's property and, together with all material, if any, provided to CONTRACTOR by RCUH, shall be delivered and surrendered to RCUH on or before the date of termination. For purposes of this Agreement, "material" includes but is not limited to any information, data, reports, summaries, tables, maps, charts, photographs, films, graphs, studies, recommendations, program concepts, titles, scripts, working papers, files, models, audiotapes, videotapes, computer tapes, cassettes, diskettes, documents, and records developed, prepared, or conceived by CONTRACTOR in connection with this Agreement, or furnished to CONTRACTOR by RCUH. Additionally, CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property and materials in the possession of CONTRACTOR, in which RCUH has an interest.
11. Compliance with Laws. 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, which in any way affect CONTRACTOR's performance of this Agreement.
12. Indemnification and Defense. CONTRACTOR shall defend, indemnify, and hold harmless RCUH, the University of Hawaii, the State of Hawaii, and the Project, and their respective officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees and costs, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of CONTRACTOR or CONTRACTOR's employees, officers, agents, or subcontractors, occurring during or in connection with the performance of CONTRACTOR's services under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement.
13. Disputes. No dispute arising under this Agreement may be sued upon by CONTRACTOR until after CONTRACTOR's written request to RCUH to informally resolve the dispute is rejected, or until ninety (90) days after RCUH's receipt of CONTRACTOR's written request, whichever occurs first.

While RCUH considers CONTRACTOR's written request, CONTRACTOR agrees to proceed diligently with the provision of services necessary to complete the scope of services described in Attachment 1.

14. Confidentiality of Material.

- a. All material given to or made available to CONTRACTOR by virtue of this Agreement, whether oral or written, and which is identified as proprietary or confidential information, will be safeguarded by CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of RCUH.
- b. All information, data, or other material provided by CONTRACTOR to RCUH, which is identified as proprietary or confidential, shall be kept confidential to the extent permitted by law.

15. Ownership and Intellectual Property Rights.

- a. **Physical Material.** The University of Hawaii shall have complete ownership of all physical material, both finished and unfinished, which is acquired, developed, prepared, or assembled by CONTRACTOR pursuant to this Agreement, unless the provisions of the Project's Prime Award (grant/contract awarded directly by the federal government), if any, requires that title to physical material vest in another party. If determined by RCUH to be necessary, CONTRACTOR and RCUH shall execute any and all documents necessary to establish the University of Hawaii or other required party as the owner of the material, without the need for any additional consideration.
- b. **Patentable Inventions.**
 - i. **Rights to Patentable Inventions.** The rights to patentable inventions shall be determined in accordance with the provisions of the Project's Prime Award, if any. If the Prime Award is subject to the applicable regulations governing patents and inventions incorporated in 37 CFR 401, the term "subcontractor" shall be substituted for "contractor" throughout 37 CFR 401, unless the context of the clause requires otherwise. It is intended that 37 CFR 401 shall apply to CONTRACTOR in such a manner as is necessary to: (1) reflect the position of CONTRACTOR as a subcontractor to RCUH, (2) insure CONTRACTOR's rights under 37 CFR 401 and its obligations to RCUH, the Project, and the United States government, and (3) enable the Project to meet its obligations under its Prime Award. In the absence of ownership provisions in the Prime Award, or if the Project is supported by other funds, the ownership of patentable inventions developed pursuant to this Agreement will be determined under applicable U.S. law. If determined by RCUH to be necessary, CONTRACTOR and RCUH shall execute any and all documents necessary to establish the rights to the patentable inventions, without the need for any additional consideration.
 - ii. **Licensing of Patentable Inventions.** CONTRACTOR agrees to grant and hereby does grant to the University of Hawaii an irrevocable, royalty-free, non-transferable, non-exclusive right and license to use, make, have made, and distribute any patentable invention first conceived or reduced to practice in the performance of this Agreement.

- c. Copyrights. The University of Hawaii shall have complete ownership of all copyright material (including but not limited to any computer software and its documentation and/or databases) that is developed or prepared by CONTRACTOR for RCUH pursuant to this Agreement, and all such material shall be considered "works-made-for-hire." All such material shall be delivered to RCUH upon expiration or termination of this Agreement. CONTRACTOR, however, may use thereafter any ideas and techniques that may be embodied in such works. To the extent the material is not recognized as a "work-made-for-hire" as a matter of law, CONTRACTOR hereby assigns to the University of Hawaii any and all copyrights in and to the material. If determined by RCUH to be necessary, CONTRACTOR and RCUH shall execute any and all documents necessary to establish the University of Hawaii as the owner of the material, without the need for any additional consideration.
16. Publicity. CONTRACTOR shall not refer to RCUH, the University of Hawaii, the Project, or any office, agency, or officer thereof, or to the services provided pursuant to this Agreement, in any of CONTRACTOR's brochures, advertisements, or other publicity of CONTRACTOR. All media contacts with CONTRACTOR about this Agreement shall be referred to RCUH.
17. Payment Procedures; Final Payment. All payments under this Agreement shall be made only upon (a) submission by CONTRACTOR to RCUH of original invoices specifying the amount due and certifying that services requested under this Agreement have been performed by CONTRACTOR according to this Agreement, and (b) satisfactory performance as determined by RCUH and as specified in Attachments 1, 2, and 3.
18. Tax Clearance. Final payment under this Agreement shall be subject to Section 103-53 of the Hawaii Revised Statutes, which requires a tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service, stating that all delinquent taxes, if any, levied or accrued against CONTRACTOR have been paid. A tax clearance is required on final payment for agreements of \$25,000 or more. In addition to obtaining a tax clearance prior to final payment, CONTRACTOR is required to obtain a tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service prior to the execution of this Agreement, if \$25,000 or more.
19. Governing Law. The validity of this Agreement and any of its terms and/or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Agreement shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
20. Notices. Any written notice required to be given by a party to this Agreement shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid, to RCUH at its address, and to CONTRACTOR at its address, as indicated in this Agreement. A notice shall be deemed to have been received by the recipient three (3) days after mailing or at the time of actual receipt, whichever is earlier.
21. Severability. In the event that any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Agreement, provided that the remaining terms and conditions of this Agreement remain legal and enforceable.

22. Waiver. The failure of RCUH to insist upon strict compliance with any term, provision or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of RCUH's right to enforce the same in accordance with this Agreement.
23. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.
24. Federal Provisions.
 - a. If federal funds (under a federal grant) are expended under this Agreement, CONTRACTOR shall comply with the applicable provisions of Attachment C.
 - b. If federal funds under a federal prime contract, a federal cost-type prime cost reimbursable contract, or a federal cost-type prime cost reimbursable contract are expended under this Agreement, additional Federal Acquisition Regulations will apply.

Attachment C. Special Conditions for Services Agreements

FEDERAL PROVISIONS (Applicable to Contracts under Federal Grants)

1. ANTI-KICKBACK ACT (40 U.S.C. 3145). For construction or repair projects in excess of \$2,000, the contractor/subcontractor/vendor shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States).
2. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148). For construction projects in excess of \$2,000, the contractor/subcontractor/vendor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148), as supplemented by Department of labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).
3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708). For all projects in excess of \$100,000 that involve the employment of mechanics or laborers, the contractor/subcontractor/vendor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).
4. RIGHTS TO INVENTIONS. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a), and the contractor/subcontractor enters into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement”, the contractor/subcontractor must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements”, and implementing regulations issued by the awarding agency.
5. ANTI-LOBBYING (31 U.S.C. 1352). If this purchase is more than \$100,000, the contractor/subcontractor/vendor must certify that it will not or has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee or any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by the Byrd Anti-Lobbying Amendment (31 U.S.C.1352). The contractor/subcontractor/vendor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
6. DEBARMENT AND SUSPENSION. In accordance with Executive Orders (EO) 12549 and 12689, “Debarment and Suspension,” a purchase of more than \$35,000 must not be made from a contractor/subcontractor/vendor that is debarred, suspended, or proposed for debarment. For purchases of more than \$35,000, the contractor/subcontractor/vendor shall certify that it is or is not debarred, suspended, or proposed for debarment by the Federal

Government or the RCUH shall check the System for Award management (SAM) at <https://www.sam.gov/portal/SAM/#1>. Recipients shall fully comply with the requirements stipulated in Subpart C of 45 CFR 620, entitled “Responsibilities of Participants Regarding Transactions”. The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 45 CFR 620, entitled “Covered Transactions”, includes a term or condition requiring compliance with Subpart C. The recipient is also responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transaction. The recipient acknowledges that failing to disclose the information required under 45 CFR 620.335 may result in the termination of the award, or pursuance of other available remedies, including suspension and debarment.

7. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
8. CLEAN AIR ACT (42 U.S.C. 7401-7671q) and the FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
9. RIGHT TO AUDIT. For all negotiated purchases of more than \$150,000, the contractor/subcontractor/vendor agrees that RCUH, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to and the right to examine any pertinent books, documents, papers and records of such contractor/subcontractor/vendor involving transactions related to this purchase.
10. TRAFFICKING IN PERSONS. For subawards (pursuant to 22 U.S.C. 7104(g)), the subrecipient shall comply with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104), as implemented by 2 CFR 175.
11. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT. For first-tier subawards, the subrecipient shall comply with the Federal Funding Accountability and Transparency Act (FFATA or Transparency Act – P.L. 109-282, as amended by Section 6202(a) of P.L. 110-252).
12. TERMINATION FOR CAUSE (VIOLATION/BREACH) OR CONVENIENCE OF RCUH. All purchases in excess of \$10,000 must be subject to one of the following: (1) If RCUH Attachment 31 (General Terms and Conditions Applicable to All Purchase Orders)

applies to the purchase, clause 18 of Attachment 31 shall control; (2) if RCUH Attachment 31 does not apply to the purchase, a termination clause (agreed to by RCUH) indicating RCUH's ability to terminate for cause and convenience should be included as part of the purchase. Any purchase terminated for cause shall not relieve the contractor/subcontractor/vendor of its liability to RCUH for any breach or violation by the contractor/subcontractor/vendor.

13. **PROCUREMENT OF RECOVERED MATERIALS (2 CFR § 200.322).** All contractors/subcontractors/vendors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. All purchases of items designated in 40 CFR Part 247, which are in excess of \$10,000, must contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Attachment D. Standards of Conduct Declaration

For purposes of this declaration:

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

“Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the Constitutional Convention, but excluding legislators, delegates to the constitutional convention, justices and judges. “Employee” includes RCUH and UH employees. (HRS § 84-3).

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

1. CONTRACTOR (is) (is not) a legislator, an employee, or a business in which a legislator or employee has a “Controlling interest”. (HRS § 84-15(a)).
2. CONTRACTOR (is) (is not) a UH employee. Under 2 C.F.R. § 200.459 Professional service costs, a UH employee cannot be hired as an independent contractor on a project funded by a federal agency.
3. CONTRACTOR has not been represented or assisted personally on matters related to this Agreement by an individual who has been an employee of RCUH or UH within the preceding two years, and who participated while so employed in the matter with which this Agreement is directly concerned. (HRS § 84-15(b)).
4. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement, and *will not* be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Agreement, if the legislator or employee was involved in the development or award of this Agreement. (HRS § 84-14(d)).
5. CONTRACTOR has not been represented on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, served as a legislator or RCUH or UH employee, and participated while a legislator or RCUH or UH employee on matters related to this Agreement. (HRS §§ 84-18(b) and (c)).

CONTRACTOR understands that the Agreement to which this document is attached is voidable on behalf of the RCUH if the Agreement was entered into in violation of any provision of Chapter 84, Hawaii

Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the above declarations. Additionally, any fee, compensation, gift, or profit received by any person as a result of violating the Code of Ethics may be recovered by RCUH.

Date: , 20 .

CONTRACTOR

By

Its

(Title)

* Reminder to the Project: If the "(is)" in No. 1, above, is selected, and this Agreement involves goods or services of a value in excess of \$10,000, this Agreement must be awarded by a competitive sealed bid or proposal. Otherwise, the Project may not enter into this Agreement unless it posts a notice of intent to award this Agreement and files a copy of the notice with the Hawaii State Ethics Commission at least 10 days before this Agreement is awarded. (HRS § 84-15(a)).