



REQUEST FOR PROPOSALS

HHSC #18-0015

MANAGEMENT OF YUKIO OKUTSU STATE VETERANS HOME

For

**Hilo Medical Center
1190 Waiānūenue Avenue
Hilo, Hawaii 96720**

AN AGENCY OF THE STATE OF HAWAII

***Due Date for Proposals
in Response to this Solicitation:***

August 30, 2017 2:00 PM, HST

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SECTION 1
GENERAL NOTICE

1.1 INTRODUCTION

This Request for Proposal (hereinafter “RFP”) is issued by the East Hawaii Region of the Hawaii Health Systems Corporation (“HHSC” or “Owner”), an Agency of the State of Hawaii. Thank you for your interest in submitting a proposal for this solicitation. The purpose of this RFP is to promote and ensure the fairest, most efficient means to obtain the benefits of the most qualified, responsive and responsible proposal. Hereinafter, organizations interested in submitting a proposal in response to this RFP shall be referred to as “Offerors,” and the term “Contractor” refers to the Offeror who is awarded a Contract under this RFP.

1.2 PROCUREMENT TIMETABLE

The timetable set out herein represents HHSC’s best estimate of the schedule that will be followed in the RFP process. If an event in the timetable, such as the “Proposal Submission Deadline,” is delayed, the rest of the timetable dates may be shifted by the same number of days. Offerors will be advised, by addendum to the RFP, of any changes to the timetable.

	Event	Scheduled Date
1.	RFP Issued & Public Announcement	August 1, 2017
2.	Submit notice of intent to submit Proposals	August 10, 2017
3.	Closing Date for Receipt of Questions	August 14, 2017
4.	Addendum - HHSC Response to Offerors’ Questions (if needed)	August 18, 2017
5.	Closing Date for Receipt of Proposals	August 31, 2017 - No Later than 2:00 PM, HST
6.	Proposal Evaluations	September 4-8, 2017
8.	Proposal Discussions (optional)	September 11-15, 2017
9.	Best and Final Offers (optional)	September 18-22, 2017
10.	Contractor Selection/Award Notification (on/about)	September 30, 2017
11.	Contract Tentative Award Date	October 5, 2017
12.	Contract Tentative Start Date	December 1, 2017

1.3 SUBMISSION OF INTENT TO SUBMIT PROPOSAL

Offerors should submit, in writing, by, **August 10, 2017** their intent to submit (or not submit) a proposal. Please forward your company’s intentions either by fax to: (808) 933-2793 or by email to snelson1@hhsc.org.

1.4 SUBMISSION OF QUESTIONS, CLARIFICATION REQUESTS

Offerors are encouraged to submit written questions and requests for clarification pertaining to the RFP.

Questions must be submitted in writing via hand delivery, electronic mail, facsimile or post mail to the following not later than the “Submission Deadline for Question & Clarification Requests” identified above, in order to generate an official answer.

Sam Nelson Senior Contract Manager
Hilo Medical Center
1190 Waiianuenue Avenue
Hilo, Hawaii 96720-2020
PH: 808-932-3113

Fax: 808-933-2793
Email: snelson1@hhsc.org

All written questions will receive an official written response from HHSC and will become addendums to the RFP. The only official position of HHSC is that which is stated in writing and issued in the RFP as addendums thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response/statement, and such communications may not be relied upon.

1.5 RFP AMENDMENTS

HHSC reserves the right to amend the RFP any time prior to the “Proposal Submission Deadline” identified above. Any changes beyond that time would need to be mutually agreed to by all respondents and HHSC.

1.6 CANCELLATION OF RFP

The RFP may be canceled by HHSC if it is determined to be in the best interests of HHSC.

1.7 PROTESTS

A protest based upon the content of the solicitation shall be submitted in writing within five (5) working days after the aggrieved individual/business knows or should have known of the facts giving rise thereto; provided further that the protest shall not be considered unless it is submitted in writing not later than the “Proposal Submission Deadline” identified above.

A protest of an award or proposed award shall be submitted within five (5) working days after the posting of the award or the proposed award of the contract.

Any and all protests shall be submitted in writing to the East Hawaii Regional Procurement Officer (RPO), as follows:

Dan Brinkman, East Hawaii Region
Regional Procurement Officer
Hilo Medical Center
1190 Waianuenue Avenue
Hilo, Hawaii 96720

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SECTION 2

STATEMENT OF WORK

Background

The Hawaii Health System Corporation (HHSC) is the licensed operator of the Yukio Okutsu State Veterans Home, a 95-bed skilled nursing facility with an adjoining adult day health program located in Hilo, Hawaii. The facility has been in operation and has served the needs of veterans and their spouse for nearly 10 years. Over that period of time, the licensee, HHSC, has engaged a third-party contractor to provide management services and oversee day-to-day operations. Having exhausted the initial contract term and subsequent renewal terms with the current manager, HHSC is seeking to issue a Request for Proposals (RFP) and evaluate parties of interest to ensure the system is receiving optimal value comparing services provided to the price for those services. HHSC intends to evaluate parties of interest toward the goal selecting a manager and successfully negotiating an agreement to be in place once the current term of the contract with the manager expires later in 2017. The following sets forth the scope of work for those services required from the manager.

1.0 **Statement of Project Scope:** The Contractor will provide for all aspects of the operations of a 95-bed skilled nursing facility and adult day health program (collectively referred to herein as Home) in Hilo, Hawaii. Operation of the Home will be in accordance with Hawaii Administrative Rules (HAR) Title 11, Chapter 95, effective May 3, 1985 (Attachment C)(as amended or revised); Department of Veterans Affairs, 38 CFR Parts 17 and 51, January 7, 2000 (Attachment D)(as amended or revised); the Department of Veterans Affairs “Guide For Inspection of State Veterans Homes: Nursing Home Care Standards” IB 18-2, October 1, 1984 (as amended or revised), and Hawaii Administration Rules, Chapter 96.

1.1 **Mission and Vision:** Contractor will work in conjunction with HHSC personnel in the development of a Mission and Vision for the Home suitable for veterans.

1.3 **Use of Existing HHSC Services:** Contractor will consider, and utilize when appropriate, existing HHSC resources and services.

2.0 **Administration:** The Contractor who will manage the Home shall have a minimum of five years’ experience in the operation of skilled nursing facilities and adult day health programs. The Contractor will manage the home at the highest standards of skilled nursing and adult day health care mandated by Federal and State Publications outlined above and will ensure that each resident receives the medical, dental or rehabilitative services that are prescribed. In the event of conflict between any of the publications, the highest standard will prevail.

2.1 **Administrator.** Contractor will employ and manage an on-site, full-time administrator for the Home. This individual will be a Licensed Nursing Home Administrator (LNHA) under the laws of the State of Hawaii. Under Contractor’s supervision, the administrator will be responsible on a day-to-day basis for the functional operation of the Home and execution of policies governing the Home’s operation. The

administrator will be employed or engaged by the Contractor subject to the approval of HHSC.

- 3.0 Personnel. Contractor will employ and manage the Home's personnel; provide for employee recruitment, retention, recognition and training; be responsible for payroll, salary administration, employee benefits design and administration and establishing personnel policies; be responsible for worker's compensation loss control, any required affirmative action reporting, OSHA or other employee-related required reporting or policymaking.

Contractor shall keep the Home (SNF portion only) staffed 24 hours per day, 7 days per week, in accordance with Federal and State standards, but not less than 2.75 direct nursing hours per patient day for nursing home beds. In addition, Contractor will ensure that staffing levels for all departments are appropriate to efficiently manage the facility. The proposed staffing plan must meet be sufficient to ensure a overall four star or higher rating. A goal of achieving a five star rating with appropriate staffing is requested

If the awarded Contractor is not the incumbent manager, the new Contractor or its affiliate(s) will have the option to hire essentially any or all of the current manager's staff conditional upon the Contractor's hiring requirements and processes. In this scenario, the new Contractor will create and retain personnel records on all those hired and integrate those new records with copies of any personnel records provided by the incumbent manager.

3.1 Personnel Policy Manual: Contractor will develop and maintain a written personnel policy that, at a minimum, addresses the following:

- Organizational chart (including the number of FTEs in each position)
- Written employment practices and procedures including:
 - Job qualifications and job descriptions including position title, description and reporting responsibilities
 - In-service training and staff development
 - Veteran's preference in hiring
 - Promotion policy
 - Grievance and appeal procedures
 - Annual employee performance evaluations
 - Personnel records
 - Benefits structure
 - Holidays
 - Leave
 - Hours of work

-
- Basis for determining salaries
 - Disciplinary procedures
 - Termination procedures
 - Equal Employment Opportunity Program
 - Confidentiality statement

3.2 Licensure: Contractor will ensure that minimum licensure/certification requirements of both full time and part time personnel meet both Federal and State specifications as necessary.

3.3 Background Checks: Prior to employment, Contractor will conduct a criminal background check on all employees and each employee shall be subject to an investigation to include employment and medical history.

3.4 Employee Physicals: All employees shall have a physical examination and necessary medical testing prior to commencement of employment and annually thereafter and when special circumstances dictate.

3.5 Labor Dispute: Contractor will continue the complete operation and coverage of the Home in the event of a labor dispute or strike. The Contractor will develop a Labor Dispute Plan.

3.6 In-service Training and Education: Contractor will conduct in-service training in accordance with State, Federal, and Veterans Administration standards.

4.0 Operational Policies. Contractor will provide a final policy and procedures manual to ensure quality of care and compliance with federal and state regulations. Contractor will review any existing policies and with HHSC's approval, develop and implement new operational policies and procedures to reasonably conform to current industry standards in the areas of budgeting, business office management, quality assurance, human resources, dietary and nursing.

4.1 Periodic Reviews, Reports and Records Access. Contractor will conduct an annual review of the resident care policies, documentation procedures, and operational policies used at the Home to determine if they reasonably conform to current industry standards. Contractor will prepare periodic written reports concerning its reviews of Home operations and will provide these reports to HHSC. Contractor will provide access to the VA Liaison any and all records related to staff development activities and staff training completed by the Contractor or its agents and/or subcontractors. Contractor will also allow VA Liaison read-only access to the Contractor's electronic medical records system and other administrative management software systems as requested.

5.0 Certification, Licensure, Registration, Legal Requirements. Contractor will prepare all materials and follow all procedures necessary to retain (a) certification of the Home as a provider of services under Title XIX (Medicaid) of the Social Security Act and (b) State

licensure and registration of the Home as a skilled nursing facility and adult day health program under all applicable laws. Contractor will take all reasonable steps necessary to keep the Home fully licensed and registered by the State and accredited by applicable agencies and bodies.

5.1 Regulatory Communications. Immediately upon receipt, Contractor will deliver to HHSC copies of all communications received from any regulatory agency that could have a material impact on the licensure, certification, or financial performance of Home.

6.0 Budget Preparation and Approval. Together with the chief executive officer and chief financial officer for HHSC's East Hawaii Region and with HHSC's chief financial officer, Contractor will prepare and provide to HHSC proposed budget and cash flow projections covering the succeeding 12 months before the end of each fiscal year. The proposed Home budget will include capital expenditure budgets, operating budgets, and cash flow projections. HHSC will review and, in HHSC's discretion, amend the proposed budget within 30 days after HHSC receives it. No annual budget will be final until approved by HHSC or until 30 days has elapsed following submission of the proposed budget to HHSC without action being taken by HHSC to approve, modify or disapprove the proposed budget.

6.1 Bookkeeping and Accounting. Contractor will establish and implement budget monitoring systems, and business office bookkeeping, and accounting procedures necessary for the preparation of proper financial records. Contractor will prepare or assist in the preparation of financial statements, audits and tax returns.

6.2 Billing and Third-Party Reimbursement. Contractor will conduct the billing for goods and services provided by the Home. Contractor will establish and implement an accounts receivable monitoring program, consistent with legal requirements. Employees of the Home, with oversight of the Contractor, will administer billing and collections.

6.3 Resident Trust Accounts. Contractor will assure compliance with all legal requirements applicable to the management of resident trust accounts. Employees of the Home will administer resident trust accounts.

6.4 Supplies and Equipment. Consistent with budgets approved by HHSC, the Contractor will have the authority to purchase supplies and non-capital equipment necessary and appropriate for the operation of the Home. To the extent available, and subject to applicable law, Contractor will arrange for HHSC to participate in Contractor's purchasing agreements. Any purchasing agreement that will obligate HHSC beyond the Term, and any purchase or lease of capital equipment, will be subject to approval of HHSC.

6.5 Third-Party Billing: For necessary services, supplies and pharmaceuticals over and above minimum requirements, but which are not included in the daily rates, the provider of the service will bill the third party if available.

7.0 Admissions, Transfer, and Discharge Policies and Procedures: The Contractor shall develop and implement admissions, transfer and discharge criteria and policies and

procedures in accordance with Department of Veterans Affairs' criteria subject to approval of HHSC.

7.1 Admissions Committee: The Contractor will ensure appropriate admissions to the facility on an ongoing basis through the development of an Admissions Committee comprised of the medical director, director of nursing, administrator and social services.

7.2 Transfer Agreements: Contractor shall maintain written transfer agreements with local civilian and nearby hospitals for acute care situations. Costs for services outside the scope of this contract must be borne by the Department of Veterans Affairs, third party payer or the residents.

8.0 Physician services: Contractor will recruit and contract with a physician to serve as medical director of the Home to serve in the capacity of primary care physician for residents if necessary and to ensure the provision of physician services as required by residents.

8.1 Physician Visits: Contractor will ensure that each resident is seen by the primary physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter, or more frequently based on the condition of the resident.

8.1.1 Contractor will ensure that the physicians review the resident's total program of care, including medications and treatments, at each visit and write, sign, and date progress notes at each visit; and sign and date all orders.

8.2 Emergency Physician Services: Contractor will provide or arrange for the provision of physician services 24 hours a day, 7 days per week, in case of an emergency.

9.0 Dental Services: Contractor will arrange for, provide or obtain from an outside resource all routine and emergency dental services to meet the needs of each resident.

10.0 Dietary Services: Contractor will contract for or employ sufficient support personnel to ensure that each resident receives a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

10.1 Dietician: Contractor will provide or obtain services of a full-time registered dietician on site 40 hours per week to ensure a high quality food service program is provided to meet the nutritional needs of the residents and employees.

10.2 Vending Machines: Contractor will ensure that food and drink vending machines are available for resident and staff use.

11.0 Pharmacy Services: Contractor will provide or arrange for the provision of routine and emergency drugs and biologicals to the Home's residents.

11.1 Drug Information: Contractor will have a system for disseminating drug information to medical and nursing staff.

11.2 Pharmacist: Contractor will employ or obtain the services of a pharmacist licensed in Hawaii or a VA pharmacist under VA contract.

11.3 Labeling of Drugs: Contractor will ensure that drugs and biologicals used in the facility management are labeled in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date when applicable.

11.4 Storage of Drugs: Contractor will ensure that all drugs and biologicals are stored in locked compartments under proper temperature controls, and permit only authorized personnel to have access to the keys.

12.0 Specialized Rehabilitation: Contractor will ensure the provision of specialized rehabilitative services to residents in the Home under the written order of a physician by qualified personnel. Specialized rehabilitation services will include, physical therapy, occupational therapy, speech language pathology and mental health services.

13.0 Infection Control: Contractor will establish and maintain an infection control program designed to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of disease and infection.

13.1 Housekeeping and Sanitation. The Contractor will ensure the provision of housekeeping and janitorial services within the facility and on the grounds and will be responsible for conforming with all housekeeping and sanitation guidelines and regulations required by Federal and State regulations to ensure the facility appears neat, clean, sanitary and in good repair. The Contractor will maintain the Home to the optimal condition with the exception of fair wear and tear. In addition, the successful Contractor will provide for trash removal, including contaminated items as well as pest control and extermination services needed in the facility or on the grounds.

13.2 Linen and Laundry. Contractor will provide for all linens and laundry services for facility related items and for individuals residing in the facility.

14.0 Quality of Life: Contractor will promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

14.1 Resident Rights: Contractor will have a written statement of resident rights. The statement of rights shall be posted in a conspicuous place and a copy will be provided to each resident as part of the admission package.

14.2 Resident Council. Contractor will establish a council of residents that meet at least quarterly and document any concerns submitted to the management of the facility by the council.

14.3 Religious Activities: Contractor will have a written policy that will ensure each resident's voluntary practice of his/her own religious activity subject only to those

limitations necessary to maintain order within the Home. The Contractor will not require that residents attend or participate in any religious services, discussions, or practices.

14.4 Release of Information: Contractor will have a written policy and procedure governing the release of information including circumstances under which releases are permitted, restrictions on the type of information to be released, and restrictions on to whom information may be released.

14.5 Resident Advocate: The Contractor will appoint a designated staff person to serve as Resident Advocate who will be responsible for handling resident complaints and special problems. In addition the Resident Advocate will be responsible for providing assistance and responding to written requests that result from Resident Council meetings.

14.6 Personal Property: Contractor will have a written policy and procedures approved by HHSC specifying what personal property resident may retain in a resident's possession. Contractor will ensure that all personal property released to a third party has the signature of approval of the resident, resident guardian, or power of attorney and the signature receipt of the third party.

14.7 Contraband: Contractor will develop a list of items considered contraband which will be clearly defined in the written policy.

14.8 Social Services: Contractor will employ sufficient medically related social services to attain or maintain the highest practicable mental and psychosocial well-being of each resident.

14.9 Therapeutic Recreation: Contractor will employ sufficient certified therapeutic recreation staff to provide for recreational activities and transportation to external activities for residents who are capable of attending. Activities will be designed for the Veteran population.

14.10 Beauty and Barber: Contractor will assure barber and beauty services are provided within the facility at no cost to the resident.

14.11 Mail: Contractor will develop written policy and procedure for receiving and sending mail in accordance with U.S. Postal Services regulations to protect the personal rights of the resident and provides reasonable security.

14.12 Visitation: Contractor will write and post the Home's visitation rules and regulations in a conspicuous place. Visitation rules and regulations should be appropriate for the population and visitation should be encouraged.

14.13 Telephone: Contractor will have a written policy and procedure for the use of the Home's telephone system and will provide education to residents and staff on its appropriate use.

14.14 Transportation: Contractor will provide, maintain, and operate at least one van equipped with a wheelchair lift meeting Federal and State laws and which has the capability of transporting a minimum of four passengers. Contractor will provide transportation to external medical facilities and physician, when appropriate, and will pay for taxi or non-emergent transportation in lieu of van use when necessary. In addition, Contractor will provide transportation to residents, as appropriate, on the HHSC campus.

15.0 Safety and Emergency Procedures: Contractor will have a written fire and disaster plan for the Home that is communicated to all employees and residents upon hire. The plan shall be coordinated with local, State, and Federal disaster programs and will be reviewed annually, at a minimum.

15.1 Fire Prevention: Contractor will specify the Home's approved fire prevention regulations and practices to ensure the safety of staff, residents and visitors. All employees will receive fire prevention training upon hire.

15.2 Testing of Emergency Equipment: The plan shall include inspections and testing of emergency equipment at least quarterly. Contractor will conduct fire drills quarterly for each shift.

15.3 Employee Safety Training: Contractor will ensure all employees are trained in any and all emergency procedures on an annual basis.

15.4 Security: Contractor will provide or arrange for the provision of security services necessary to ensure the safety of residents, families and staff.

16.0 Additional Contractor Responsibilities

16.1 Items in Daily Room Rate (SNF only): Contractor will ensure that the following items are provided in the daily rate:

- Room and board
- Pharmacy services
- Physician services (not included in Medicaid)
- Prescription and non-prescription drugs that are ordered by a licensed physician who is authorized to treat the resident and which are not provided by another sources.
- All necessary hygienic supplies such as bedpans, basins, urinals, water pitchers, cotton swabs, bandages, razors, toothbrushes, toothpaste, mouthwash, etc.
- Transportation

16.2 Information Technology: Contractor will arrange for or provide computer hardware and software necessary for the efficient operation of the Home including Minimum Data Set software.

16.3 Medical Records: The Contractor will develop and maintain medical records in accordance with State and Federal regulations for operation of a nursing facility. In addition, Contractor will ensure compliance with HIPAA regulations.

16.4 Confidentiality of Home Records. Contractor will maintain the confidentiality of all files and records of the Home, disclosing the same only as required by law or by HHSC in any particular instance. Contractor shall apply with HHSC's policy concerning confidentiality of health information of patients at the Home. In addition, Contractor will ensure compliance with HIPAA regulations.

16.5 Maintenance and Repairs. Contractor will be responsible for day-to-day maintenance and will cause all necessary repairs, replacements, and maintenance to be completed, consistent with the Home budget. Contractor will annually inspect the Home and report thereon to HHSC along with recommended improvements and estimated costs thereof.

16.6 Grounds: Contractor shall ensure that the Home's grounds and landscaping are maintained consistent with HHSC requirements.

16.7 Utilities: Contractor will pay for all utilities such as heat, gas and electric, water and sewer and communications used within the facility or the grounds. All utilities will be paid to HHSC based on upon mutually agreed upon terms.

16.8 Insurance Program Coordination. Contractor shall be responsible for review and administration of the following insurance programs for and as directed by the HHSC:

- Casualty/Property Insurance
- Liability Insurance
- Workers' Compensation Insurance
- Employee Benefit Coverages
- Dishonesty Policies or Surety Bonds for Fiduciaries
- Mortgage Insurance

16.9 Customer Relations and Marketing. Contractor will develop and implement a marketing plan and customer relations program for the Home, in consultation with established groups representing Home constituencies, such as Veterans Organizations, family, residents and care providers.

16.10 Public Information. Contractor will prepare and distribute all media releases and other public information regarding the Home, subject to HHSC's approval.

17.0 Capital Expenditures: Contractor shall be responsible for major maintenance or facility improvements up to \$1,000.00 per bed per annum. Facility improvements and purchase or replacement of equipment items greater than \$1,000.00 per bed per annum will be the responsibility of HHSC and are subject to approval of HHSC. This requirement applies to both the SNF licensed beds (95) as well as the Adult Day Health beds (24).

SECTION 3 **PROPOSALS**

3.1 PROPOSAL PREPARATION

Offerors shall prepare a written proposal in accordance with requirements stated herein and provide the proposal to the individual at the address indicated below.

Additionally, proposals shall include and address, at a minimum:

- 3.1.1 The information identified below in Section 3.5;
- 3.1.2 The pricing information identified below in Section 4.0;
- 3.1.3 Proposal Transmittal Cover Sheet, Appendix A;
- 3.1.4 Acceptance (or Notifications of Clarifications) Document, Appendix B;
- 3.1.5 Proposal Submission Checklist, Appendix D;
- 3.1.6 Standards of Conduct Declaration, Appendix E;

The original of the following documents:

- 3.1.7 “Certificate of Compliance” from the Hawaii State Department of Labor and Industrial Relations; and
- 3.1.8 “Certificate of Good Standing” from the Department of Commerce and Consumer Affairs Business Registration Division.

(Refer to Section 6.5, entitled “Certifications,” below for instructions on how to obtain the Certificate of Compliance and Certificate of Good Standing).

Offerors must submit all required information specified above to qualify their proposal for evaluation and consideration for award.

Additionally, the GENERAL CONDITIONS, the SPECIAL CONDITIONS, and the Scope of Work contained in this RFP packet shall be read by the Offeror, as they will form a part of the contract entered into between the Offeror and HHSC, and they shall govern all services provided under such contract.

3.2 DISQUALIFICATION OF PROPOSALS

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

3.3 ELECTRONIC DOCUMENTS

HHSC may provide an electronic version of this procurement document. Any unidentified alteration or modification to the original document (or to any Exhibit contained therein) issued by HHSC shall be null and void. In those instances where

modifications are identified, the original document issued by HHSC shall take precedence.

3.4 SUBMISSION OF PROPOSALS

Each Offeror should submit one (1) original hardcopy, clearly marked “Original,” and one (1) electronic copy, contained on a CD or USB Flash Drive, no later than 2:00 pm, HST, on the “Proposal Submission Deadline” identified in Section 1. **Proposals received after this time/date may be rejected.** The original shall be clearly marked “ORIGINAL” and copies shall be clearly marked “COPY.” Mail or deliver proposals to the following address:

Sam Nelson Senior Contract Manager
Hilo Medical Center
1190 Waianuenue Avenue
Hilo, Hawaii 96720-2020
PH: 808-932-3112
Fax: 808-933-2793
Email: snelson1@hhsc.org

An electronic copy may be e-mailed to the above e-mail address prior to the proposal due date and time and still be considered timely. However, the timeliness of the submittal will be determined by the time noted upon the Contract Manager’s opening of the e-mail as registered on our e-mail system. The hard copy original, containing original signatures and the electronic copy must be received by HHSC as soon as possible thereafter. As noted above, late proposals may be rejected.

The outside cover of the package containing the hard copy & disk/flash drive of the proposal should be noticeably marked, as follows:

“Proposal Submitted in Response to: RFP # HHSC 18-0015”

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

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

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

3.5 PROPOSAL INFORMATION

Offerors are hereby notified that evidence of the authority of the person(s) signing the offer document is required to be included with the offer documents. Failure to comply with this requirement will be cause for rejection of an offer as being non-responsive.

Each Offeror is to submit its proposal with the required number of copies in the format as contained in this RFP. The material should be in sequence and related to the RFP. HHSC will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal. The proposal should include at least the following information:

3.5.1. Experience and Expertise of the Firm and Key On-Site Personnel:

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

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

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

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

3.5.2 Proposed Method of Approach:

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

The Offeror may utilize a written narrative or any other printed technique to demonstrate its ability to satisfy the Scope of Work. It is preferred that the Offeror provide a schedule for the work required. When appropriate, the narrative should describe a logical progression of tasks and efforts starting with the initial

steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The usage of technical language should be minimized and used only when necessary to describe a technical process.

3.5.3 Staffing Approach:

The Offer must submit a detailed staffing approach.

3.5.4 Cost:

The evaluation of the category of Cost shall be based on the prices, as indicated on the Pricing Schedule submitted with Offeror's proposal.

3.5.5 Additional Information:

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

3.6 INTENT TO PROVIDE CERTIFICATE OF INSURANCE

The Offeror should provide a statement that, if notified of contract award, it will submit to HHSC for review and acceptance the applicable certificate(s) of insurance as required within this RFP document, within five (5) business days of such notification.

3.7 EXCEPTIONS TO GENERAL CONDITIONS:

3.7.1 If an Offeror takes any exception to any term, condition or requirement included in this solicitation document, including the GENERAL CONDITIONS, such exception shall be submitted to the Contract Manager **at least seven (7) days prior to the due date and time for receipt of proposals.** This will allow the Contract Manager to review all exceptions and, if applicable, afford any approved exceptions to all other potential Offerors.

3.7.2 If an Offeror includes in its proposal exceptions that are not covered by Section 3.7.1 above and that are not approved in writing by the Contract Manager, such exceptions shall be null, void and without force and shall not be considered, and may negatively affect the proposal evaluation based on the published evaluation criteria or may result in rejection of the proposal.

3.7.3 To the extent they are inconsistent with the terms of this RFP, the Offeror's preprinted or standard terms will not be considered by HHSC as a part of any resulting Contract.

3.8 OFFEROR'S RESPONSIBILITY

The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that HHSC is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to

submit such information may have an adverse impact on the evaluation of the Offeror's proposal.

3.9 DISCUSSIONS

In accordance with East Hawaii Region Purchasing Policy, after the initial receipt of proposals, discussions, including a request for Contractor presentations, may be conducted with Offeror(s) who submit proposals determined to be reasonably susceptible of being selected for award. Award may be made without discussions; therefore, offers submitted should be complete and on the Offerors' most favorable terms.

3.10 NON-ACCEPTANCE OF "SCOPE OF WORK" REQUIREMENTS

If any requirement contained in the Scope of Work is not acceptable to the Offeror, provide detailed explanation of the reasons why, by attachment to the proposal. HHSC reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in the Scope of Work.

SECTION 4
PRICING SCHEDULE & COMPENSATION

4.0 PRICING SCHEDULE

In accordance with the attached Statement of Work, General Conditions, Special Conditions, and all information contained within this request for proposal, the Offeror submits the following pricing:

The undersigned Offeror hereby proposes to manage the Yukio Okutsu State Veterans Home for the following expense

Offerors to propose Management Fee in their own Format inclusive of all applicable taxes and expenses for managing the home. .

A breakdown of the Pricing is requested to support offerors price proposal.

4.1 COMPENSATION

In full consideration for the services to be performed by the CONTRACTOR under this Agreement, HHSC agrees, subject to appropriation and allotments, to pay to the CONTRACTOR the following compensation, including all applicable taxes and expenses incurred, in accordance with and subject to the following:

4.1.1 HHSC shall pay CONTRACTOR the rate as designated by the Pricing Schedule submitted with the Offer, for services and materials rendered pursuant to and during the term of this agreement, inclusive, all in arrears, subject to the prior receipt of the following written documentation,:

- a. the date(s) of the service(s) performed;
- b. the contract number (HHSC FY18-0015);
- c. a description of the tasks performed with such detail as the Technical Representative may reasonably request;
- d. the dollar amount of work completed and outstanding;

f. signed, certified, and dated by the Offeror's delegated signatory.

4.1.2 The CONTRACTOR'S invoice is due by the tenth (10th) day of the month immediately following the month in which the services were provided. HHSC shall pay sums due FORTY-FIVE (45) days after receipt of CONTRACTOR'S invoice or the last day of the month immediately following the month in which the services were provided, whichever is later. Failure to submit an invoice on the prescribed forms or to include the information required in Section 4.1.1 may delay payment processing.

4.2 OTHER CONDITIONS

4.2.1 Anti-collusion Certification - In accordance with HAR 3-122-192, by submitting this proposal, the Contractor is declaring that the price submitted is independently arrived at without collusion.

4.3 RECEIPT OF ADDENDA

Receipt of the following addenda issued by the HHSC is acknowledged by the date (s) of receipt indicated below:

Addendum No. 1 _____	Addendum No. 5 _____
Date	
Addendum No. 2 _____	Addendum No. 6 _____
Addendum No. 3 _____	Addendum No. 7 _____
Addendum No. 4 _____	Addendum No. 8 _____

It is understood that failure to receive any such addendum shall not relieve the Contractor from any obligation under this Proposal as submitted.

CERTIFICATION OF COMPLIANCE

_____ certifies it is in compliance with all laws

(Company Name)

governing entities doing business in the State, including the following:

1. Chapter 237 HRS (General Excise Tax)
2. Chapter 383 HRS (Hawaii Employment Security Law - Unemployment Insurance)

-
3. Chapter 386 HRS (Workers' Compensation Law)
 4. Chapter 392 HRS (Temporary Disability Insurance)
 5. Chapter 393 HRS (Prepaid Health Care Act)
 6. Offeror is incorporated or organized under the laws of the State or is registered to do business in the State as a separate branch or division that is capable of fully performing under the contract.

Furthermore, _____ acknowledges that making a
(Company Name)

false certification shall cause its suspension from further offerings or awards pursuant to Hawaii Revised Statutes.

Signature: _____ Date: _____

Print Name: _____

Title: _____

(NOTARIZATION)

SECTION 5 EVALUATION

5.1 INTRODUCTION

The evaluation of proposals will be conducted comprehensively, fairly, and impartially. The evaluation will be made on the basis of experience, the Offeror's narrative discussion as to its methodology for meeting the requirements of the Scope of Work, the ability of the Offeror to best meet HHSC's specified requirements and the acceptability of the proposed pricing.

5.2 EVALUATION PHASES

Evaluation phases will be conducted as follows:

Phase 1.....Evaluation of Mandatory Requirements

Phase 2.....Technical Proposal Evaluation

Phase 3.....Cost Proposal Evaluation

Phase 4.....Best and Final Offers (**optional**)

Phase 5.....Recommendation for Contract Award

5.2.1 PHASE 1--EVALUATION OF MANDATORY REQUIREMENTS

The evaluation of the mandatory requirements, as listed below shall be upon a "pass/no pass" basis. The purpose of this phase is to determine whether an Offeror's proposal is sufficiently responsible and responsive to RFP requirements to permit a complete evaluation, i.e. responsible in terms of "Does the Offeror have the capability to perform fully the requirements of the Scope of Work" and responsive in terms of "Were proposal documents, as identified below, received and contain the required information?"

5.2.1.1 Failure to meet or submit any mandatory requirement ("no pass") with the original proposal may be grounds for deeming the proposal non-responsible, non-responsive or both and may disqualify the proposal.

Proposal "**Mandatory Requirements**":

Proposal Transmittal Cover Sheet (Appendix A)

Acceptance (or Notification of Clarifications) document (Appendix B)

Proposal in response to Solicitation

Pricing Schedule & Compensation (Section 4)

Proposal Submission Checklist

Standards of Conduct Declaration (Appendix E)

Certificate of Good Standing (Appendix F)

Certificate of Compliance (DLIR) (Appendix F)

5.2.2 PHASE 2--TECHNICAL PROPOSAL EVALUATION

Evaluation of Offeror’s technical proposal shall be conducted using the technical proposal categories as identified in Sections 3.5.1, 3.5.2, and 3.5.4; the value weight percentages identified in Section 5.3; and the evaluation scoring system identified in Section 5.4.

5.2.3 PHASE 3--COST PROPOSAL EVALUATION

Evaluation of the cost proposal shall be conducted using the cost proposal category identified in Sections 3.5.3 and 4, the value weight percentage identified in Section 5.3, and the evaluation scoring system identified in Section 5.4.

5.2.4 PHASE 4--SHORT LISTING OF OFFERORS (OPTIONAL)

After the ranking of Offerors based upon the technical and cost scoring, HMC may at its discretion, may create a short list of Offerors to continue further in the evaluation and award process.

5.2.5 PHASE 5--BEST AND FINAL OFFERS (OPTIONAL)

Offerors may be requested to submit a “Best and Final” offer. “Best and Final” offers shall be evaluated, and “scoring” of the Offerors’ proposals shall be adjusted accordingly. If a “Best and Final” offer is requested but not submitted, the Offeror’s previous submittal shall be construed as its “Best and Final” offer.

5.2.6 PHASE 6--RECOMMENDATION FOR CONTRACT AWARD

When required, the Evaluation Committee shall prepare a report summarizing proposal evaluation findings/rankings and provide recommendation for award of contract to the Regional Procurement Officer.

5.3 EVALUATION CATEGORIES AND VALUE

Mandatory Requirements	Pass/No Pass
Technical Proposal	<u>Value/Weight</u>
Experience and Expertise of the Firm & Key On-Site Personnel.....	25
Method of Approach	25%
Staffing Plan	20%
Cost Proposal.....	30%
Total.....	100%

5.4 EVALUATION SCORING SYSTEM

The maximum number of points available for scoring is one hundred (100). The proposal receiving the highest number of points is considered statistically the best proposal and most advantageous to HHSC and will be recommended for award of contract, unless otherwise determined and justified by the Evaluation Committee.

The evaluation categories are assigned a value, as determined by HHSC, totaling 100%. The Evaluation Committee will rate each category and arrive at a consensus score based on the percentage of value. The Offeror's total score (see note below) will be determined by adding the score of each category for their total overall score.

NOTE: In determining the total score, the Offeror's cost proposal with the lowest costs will receive the highest available rating allocated to costs (and will thus receive a score of 30 for the cost proposal category). Each proposal that has a higher cost than the lowest will have a lower rating for costs. The formula for determining the points for all except the lowest cost proposal is as follows:

[$(\text{Lowest price}/\text{price in Offeror's proposal}) \times 30 \text{ points} = \text{Offeror's points.}$]

SECTION 6
AWARD OF CONTRACT

6.1 AWARD OF CONTRACT

Award of contract shall be made to the most responsible and responsive Offeror whose proposal is judged/determined, by the HHSC's evaluation team, to provide the best value to HHSC, considering all evaluation reviews and results.

- 6.1.1 HHSC may award the contract to other than the highest ranked Offeror if the price submitted by the highest ranked Offeror is more than the not-to-exceed amount available for the project.

6.2 CONTRACT AWARD NOTIFICATION

An official "notice of award" letter (or email) will be provided to the successful Offeror, and a "notice of non-award" letter (or email) shall be provided to all unsuccessful Offerors.

6.3 CONTRACT DOCUMENT

The contract will be made up of this solicitation and the terms and conditions attached hereto and referenced herein. The contract will also include the successful Offeror's proposal, including all exhibits and amendments and the Offeror's Best and Final offer, if applicable. This document will serve as the official, legal contractual instrument between both parties. This document will incorporate (by attachments or reference) this RFP, with any and all addendums; the GENERAL CONDITIONS (Appendix C); and the Offeror's accepted proposal, with any and all addendums, changes, negotiated agreements, etc.; all of which become part of the whole contract.

6.4 GENERAL CONDITIONS

The GENERAL CONDITIONS (Appendix C) attached hereto are applicable to and shall be considered part of the whole contract. HHSC reserves the right to add terms and conditions during contract negotiations, if conducted. Additional terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

Additionally, Offerors will need to obtain the following documents:

6.5 CERTIFICATIONS:

Pursuant to the East Hawaii Region Purchasing Policy, Offerors shall be required to provide proof of the following;

6.5.1 CERTIFICATE OF COMPLIANCE

The Offeror is required to obtain/possess a valid Certificate of Compliance from the Hawaii State Department of Labor and Industrial Relations (DLIR) prior to executing a contractual agreement with a State Agency. The certificate is valid for six months from the date of issue and must be valid on the date it is received by HHSC.

The Certificate of Compliance shall be obtained on the State of Hawaii, DLIR APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR, Form LIR #27, which is available at hawaii.gov/labor (open “Forms”, open “LIR#27”) or at the neighbor island DLIR District Offices. The application for the certificate is the responsibility of the Offeror and must be submitted directly to the DLIR and not to HHSC. The DLIR will return the form to the Offeror, who in turn shall submit the form to HHSC.

6.5.2 CERTIFICATE OF GOOD STANDING

HAWAII BUSINESS. A business entity referred to as a “Hawaii Business”, is registered and incorporated or organized under the laws of the State of Hawaii. As evidence of compliance, the Offeror shall obtain/possess a Certificate of Good Standing issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG). A “Hawaii Business” that is a sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate. An Offeror’s designation of its status as sole proprietor and its business street address as indicated on the Proposal Transmittal Cover Sheet (Appendix A) will be used to confirm that the Offeror is a Hawaii Business.

COMPLIANT NON-HAWAII BUSINESS. A business entity referred to as a “Compliant Non-Hawaii Business” is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State. As evidence of compliance, the Offeror shall obtain/possess a Certificate of Good Standing issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG).

The Certificate of Good Standing can be obtained by phone (call 808 586-2727, M-F 7:45-4:30 HST), by mail (Department of Commerce and Consumer Affairs, Business Registration Division, PO Box 40, Honolulu, Hawaii 96810), or online (visit <http://hbe.ehawaii.gov/documents/search.html>). The certificate is valid for six months from date of issue and must be valid on the date it is received by HHSC.

6.5.3 HAWAII COMPLIANCE EXPRESS

Alternatively, Offeror may apply and obtain proof of compliance with the above agencies electronically through the Hawaii State Procurement Office’s “Hawaii Compliance Express” website. Instructions for using this service can be found in **Appendix F**.

PROPOSAL TRANSMITTAL COVER SHEET
RFP #HHSC FY18-0015

This page must be completed and have an original signature. Attach this page on top of your proposal. Proposals received without this page or incomplete of the requested information may be rejected from consideration.

Organization: _____

(If a corporation, partnership or limited liability company, provide the exact legal name as registered with the State Department of Commerce and Consumer Affairs)

Mailing Address: _____

(Post Office Box is not acceptable)

Federal Tax Identification No.: _____

Offeror's License No.: _____

Contact: _____ Telephone: _____

Email Address: _____ Facsimile No.: _____

Certification

The undersigned has carefully examined the Scope of Services outlined in this RFP and the GENERAL CONDITIONS presented in the proposal packet and hereby proposes to furnish at its own expense all labor and all items necessary to complete all services as shown and called for therein, all according to the true intent and meaning of the Scope of Services and the GENERAL CONDITIONS. The undersigned also certifies that the information provided in this proposal is accurately represented.

Authorized signature

Printed name

Title

Date

ACCEPTANCE (OR NOTIFICATION OF CLARIFICATIONS) DOCUMENT

Offeror's Acceptance or Notification of Clarifications and Exceptions to the following GENERAL CONDITIONS:

On behalf of _____, Offeror, the undersigned does agree that it does not have any exceptions to the following GENERAL CONDITIONS.

Signature: _____

Title: _____

Or

_____, Offeror, has the following clarifications and exceptions to the following GENERAL CONDITIONS:

(Please attach additional pages, as required)

GENERAL CONDITIONS
(PURCHASE OF GOODS AND SERVICES FROM HEALTHCARE SERVICE PROVIDERS)
(NON-103D)

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1. COORDINATION OF SERVICES BY THE HHSC. The “head of the purchasing agency” (through the Technical Representative(s) or other designee as specified in the Agreement), shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Agreement. The CONTRACTOR shall communicate with the head of the purchasing agency through the Technical Representative(s) or other designee at all stages of the CONTRACTOR’s work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Agreement. “Purchasing agency” as used in these General Conditions means and includes any HHSC region or facility or the HHSC corporate office which is authorized to enter into contracts for the procurement of goods or services. The term “HHSC” refers to HHSC and its region or facility entering into this Agreement.

2. REPRESENTATIONS AND WARRANTIES. CONTRACTOR (including any and all individual physicians or other health care practitioners providing services hereunder [referred to individually and collectively as “Provider(s)”]) represents and warrants to HHSC, upon execution and while this Agreement is in effect, as follows:

a. CONTRACTOR is not bound by any agreement or arrangement that would preclude said CONTRACTOR from entering into or fully performing as required under this Agreement;

b. No Provider is bound by any agreement or arrangement that would preclude said Provider from fully performing the services required under this Agreement;

c. No Provider’s license to practice medicine in the State of Hawaii (“STATE”) or in any other jurisdiction has ever been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or restricted in any way;

d. No Provider’s medical staff privileges at any health care facility have ever been denied, suspended, revoked, terminated voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction;

e. No Provider has in the past conducted, or is presently conducting, his or her medical practice in such a manner as to cause such Provider to be suspended, excluded, barred or sanctioned under the Medicare or Medicaid Program, or any government licensing agency, nor has Provider ever been convicted of a criminal offense related to health care, or listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation;

f. Each Provider has, and shall maintain throughout the term of this Agreement, an unrestricted license to practice medicine in the STATE and medical staff privileges at the HHSC facility or facilities;

g. No Provider receives aggregate compensation from CONTRACTOR that varies with, or otherwise reflects, the volume or value of referrals or other business generated by Provider for the HHSC facility or facilities furnishing the designated health services as defined under 42 C.F.R. Section 411.351;

h. The aggregate services CONTRACTOR provides pursuant to the terms of this Agreement do not exceed those that are reasonable and necessary for the legitimate and commercially reasonable business purpose of the services;

i. The services provided pursuant to the terms of this Agreement do not involve the counseling or promotion of a business arrangement or other activity that violates any STATE or Federal law; and

j. CONTRACTOR warrants that: neither CONTRACTOR, any person with an ownership interest in CONTRACTOR, any Provider providing services hereunder, nor any member of any such Provider’s immediate family is employed by or has a financial relationship with HHSC or any of its subsidiaries or affiliates. If at any time during the term of this Agreement such a relationship becomes established, immediate notice shall be given by CONTRACTOR to HHSC as provided in this Agreement. HHSC will then review the situation and determine if such relationship complies with applicable law. If the relationship and this Agreement are found by HHSC to comply with applicable law, no further steps shall be taken. If the relationship and the Agreement are found to not comply with applicable law, then HHSC shall propose appropriate amendments to this Agreement or the other relationship (which may include termination) so as to ensure that this Agreement and the other relationship comply with all applicable laws.

For this purpose, “immediate family” means husband or wife, natural or adoptive parent, child or sibling; step-parent, step-child, step-brother or step-sister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.

3. HHSC EMPLOYEES; PROVIDERS’ OBLIGATIONS. Neither CONTRACTOR nor Provider shall solicit the services of, or employ or procure on behalf of another the employment of, any individual currently employed by HHSC, except with the express written consent of HHSC; nor shall CONTRACTOR or any Provider engage in any other activity which would be in conflict with his/her/its respective obligations hereunder.

4. CONTRACTOR EXCLUSION FROM FEDERAL PROGRAMS. CONTRACTOR affirmatively states that neither CONTRACTOR nor any of its employees, agents or subcontractors, including Providers, performing services or providing goods pursuant to this Agreement are excluded from participation in federal health care programs as defined in the Social Security Act (Section 1128 and 1128A) and other federal laws and regulations relating to health care. HHSC reserves the right to verify that the above statement is true and to immediately cancel this Agreement in the event it is not true.

5. CONTRACTOR'S AND PROVIDERS' STATUS; STANDARDS.

a. CONTRACTOR and Providers shall act at all times under this Agreement as independent contractor(s) to HHSC. The parties agree that HHSC shall not have and shall not exercise any control or direction over the manner or method by which CONTRACTOR meets its obligations under this Agreement nor over the manner or method by which any Provider provides the Services. However, Contractor and Providers shall perform at all times in accordance with currently approved methods and standards of practice for the services in the medical community and as required by the HHSC, HHSC corporate, regional and facility rules, regulations, policies and bylaws, the recommendations of The Joint Commission as applicable, and relevant professional organizations. The provisions of this paragraph 5 shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

b. The CONTRACTOR and the CONTRACTOR's employees and agents, including Providers, are not by reason of this Agreement agents or employees of the HHSC or 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 HHSC or the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to HHSC or STATE employees.

c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR's performance under this Agreement. All services shall be performed in compliance with the applicable standards set forth by law or ordinance or established by the rules and regulations of any Federal, STATE or local legal authority, and applicable accreditation agencies, such as The Joint Commission. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability for all loss, damage, or injury to the CONTRACTOR's employees and agents, and to any individual not a party to this Agreement, caused by the CONTRACTOR or the CONTRACTOR's employees or agents in the course of their employment.

6. SUBCONTRACTS AND ASSIGNMENTS. Except as otherwise set forth in the Agreement, the CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Agreement and no such assignment or subcontract shall be effective unless the CONTRACTOR obtains the prior written consent of HHSC.. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Agreement shall be effective unless and until the assignment is approved by HHSC. This Agreement is assignable by HHSC without consent provided that HHSC provides prompt written notice of the assignment.

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

8. COST OF LITIGATION. In case the STATE, the HHSC, the contracting facility, and their directors, officers, employees, and agents shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Agreement, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, the HHSC, the contracting facility, and their directors, officers, employees, and agents, including attorney's fees.

9. NONDISCRIMINATION. No person performing work under this Agreement, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable Federal, STATE, or County law.

10. REQUIRED DISCLOSURES. CONTRACTOR shall notify HHSC in writing within three (3) days after any of the following events occurs:

a. Any Provider's license to practice medicine in the STATE or any other jurisdiction lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction;

b. Any Provider's medical staff membership and/or privileges at any health care facility are denied, suspended, revoked, terminated, voluntarily relinquished (under threat of disciplinary action) or made subject to terms of probation or other restriction;

c. Any Provider is required to pay damages in any malpractice action by way of judgment or settlement;

d. Any Provider becomes the subject of a disciplinary proceeding or action before any governmental or professional licensing board, medical staff or peer review body;

e. Any Provider's DEA number is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way;

f. Any event that substantially interrupts all or a portion of any Provider's professional practice or that materially adversely affects any Provider's ability to perform Provider's obligations hereunder; or

g. Any Provider is convicted of a criminal offense related to health care or any Provider is listed by a federal agency as being debarred, excluded or otherwise ineligible for federal program participation.

11. MANAGED CARE. CONTRACTOR shall participate in all third-party payment or managed care programs in which HHSC participates, render services to patients covered by such programs, and accept the payment of amounts provided for under those programs as payment in full for services of the Providers to program patients.

12. COMPENSATION.

a. Entire Compensation. CONTRACTOR shall have the sole responsibility to compensate any Providers providing services hereunder for performance of the services, including payment of health insurance and other fringe benefits, payroll taxes, Social Security contributions, and premiums for any government-mandated employment-related insurance. CONTRACTOR reserves the right, in its sole discretion, to determine the compensation payable to each Provider. CONTRACTOR hereby agrees to indemnify and hold HHSC harmless in connection with any claims for compensation by such Providers for services rendered hereunder. The indemnification obligations herein stated in this subparagraph shall survive the termination and/or expiration of this Agreement.

b. Fair Market Value of Compensation Paid to Contractor. The parties agree that the compensation paid by HHSC to CONTRACTOR: (a) does not exceed fair market value; and (b) is not determined in a manner that takes into account the volume or value of referrals or other business that might be generated among HHSC, CONTRACTOR and Provider(s), except as may be permitted by law. The parties further agree that the Agreement does not require the limitation or withholding of items or services from patients in violation of any federal, STATE, or local law.

c. Notwithstanding the above provisions, or any other provision of this Agreement (including any attachments and exhibits), this Agreement is subject to appropriation should the contract term extend beyond the end of the current fiscal year and any renewal or extension of this Agreement is also subject to appropriation.

13. TERM AND TERMINATION.

a. Term. In the event the parties continue to abide by the terms of this Agreement after the expiration of an initial or renewal term of at least one (1) year without having agreed in writing to renew this Agreement, the term of this Agreement shall continue on a month-to-month basis thereafter for up to six (6) months, subject to termination by either party at any time upon the provision of thirty (30) days' prior written notice to the other party.

b. Termination.

(1) Termination Without Cause. Either party may terminate this Agreement upon sixty (60) days prior written notice to the other party. If either party terminates this Agreement without cause prior to the expiration of the then-current term, Facility and Physician may not enter into an agreement for services similar to those provided by Physician hereunder, until the expiration of the then current term. Termination without cause does not constitute breach.

(2) Termination for Breach. Either party may terminate this Agreement upon breach by the other party of any material provision of this Agreement, provided such breach continues for fifteen (15) days after receipt by the breaching party of written notice of such breach from the non-breaching party.

(3) Effect of Termination. As of the effective date of termination of this Agreement, neither party shall have any further rights or obligations hereunder except: (i) as otherwise provided herein; (ii) for rights and obligations accruing prior to such effective date of termination; or (iii) arising as a result of any breach of this Agreement.

14. IMMEDIATE REPLACEMENT OF PROVIDER OR TERMINATION.

a. Upon the occurrence of any of the following events, HHSC may either: (a) immediately terminate this Agreement in the event CONTRACTOR providing services hereunder is a sole proprietor, solely-owned professional corporation, or other similar entity with only a single Provider providing services hereunder; or (b) require immediate removal and replacement of any Provider providing services hereunder ("Affected Provider") by written notice to CONTRACTOR:

(1) the denial, suspension, revocation, termination, restriction, lapse or voluntary relinquishment (under threat of disciplinary action) of any Affected Provider's medical staff membership and/or privileges at HHSC or of any Affected Provider's license to practice medicine in the STATE;

(2) the denial, suspension, revocation, termination, relinquishment (under threat of disciplinary action) or restriction of any Affected Provider's medical staff membership and/or privileges at any health care facility other than HHSC, or of any Affected Provider's license to practice medicine in any jurisdiction other than the STATE;

(3) the death of any Affected Provider, or the disability of any Affected Provider which prevents such Affected Provider from performing the services in compliance with applicable standards as described above, as determined in the discretion of HHSC Administrator in consultation with an officer of HHSC's medical staff;

(4) the termination, revocation, restriction, or relinquishment of any Affected Provider's DEA number;

(5) the failure of CONTRACTOR to make a timely disclosure concerning the Affected Provider required pursuant to paragraph 10, "Required Disclosures", hereof;

(6) conduct by an Affected Provider which, in the discretion of HHSC in consultation with an officer of the medical staff of HHSC, could adversely affect the quality of professional care provided to HHSC's patients or the performance of duties required hereunder, or be prejudicial or adverse to the best interest and welfare of patients;

(7) breach by any Affected Provider of any of the confidentiality provisions hereof;

(8) any Affected Provider's conviction of a criminal offense related to health care, or any Affected Provider's listing by a federal agency as being debarred, excluded or otherwise ineligible for federal program participation; or

(9) Provider's commission of any act, illegal or otherwise (including, but not limited to, fraud or misrepresentation), detrimental to the business or reputation of HHSC or any of its facilities.

b. If HHSC furnishes CONTRACTOR with written disapproval of an Affected Provider (the "Disapproval Notice"), CONTRACTOR shall immediately direct the Affected Provider to cease the performance of services at HHSC and shall arrange for a qualified interim replacement ("Interim Replacement") for the Affected Provider, which replacement shall be reasonably acceptable to HHSC. HHSC shall act reasonably in disapproving an Affected Provider, but shall not be required to have legal "cause" or to conduct a formal or informal hearing as a requirement for disapproval or issuance of the Disapproval Notice. HHSC and CONTRACTOR shall meet and confer within seven (7) days following provision of the Disapproval Notice to discuss the reason(s) for issuance of the Disapproval Notice, the necessity for CONTRACTOR to furnish a permanent replacement provider ("Permanent Replacement") for the Affected Provider, and the identity or desired qualifications for a Permanent Replacement. Within ninety (90) days after provision of the Disapproval Notice by HHSC, CONTRACTOR shall appoint a qualified Permanent Replacement for the Affected Provider acceptable to HHSC. CONTRACTOR's failure to do so within such ninety (90) day period shall constitute grounds for termination of this Agreement by HHSC immediately upon the provision of written notice by HHSC to CONTRACTOR.

15. CONFIDENTIALITY.

a. HHSC Information. CONTRACTOR recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to HHSC hereunder, CONTRACTOR and Providers may have access to certain information of HHSC that is confidential and constitutes valuable, special and unique property of HHSC. CONTRACTOR agrees that neither CONTRACTOR nor any Provider will at any time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without HHSC's express prior written consent, except pursuant to Provider's duties hereunder, any confidential or proprietary information of HHSC, including, but not limited to, information which concerns HHSC's patients, costs, or treatment methods developed by HHSC and which is not otherwise available to the public.

b. Terms of this Agreement. Except for disclosure to CONTRACTOR's or any Provider's legal counsel, accountant or financial advisors (none or whom shall be associated or affiliated in any way with HHSC or any of its affiliates) neither CONTRACTOR nor any Provider shall disclose the terms of this Agreement to any person who is not a party or signatory to this Agreement unless disclosure thereof is required by law or otherwise authorized by this Agreement or consented to by HHSC. Unauthorized disclosure of the terms of this Agreement shall be a material breach of this Agreement and shall provide HHSC with the option of pursuing remedies for breach or immediate termination of this Agreement in accordance with Paragraph 13.b.(2), "Termination for Breach", hereof.

c. Patient Information. Neither CONTRACTOR nor any Provider, nor HHSC, shall disclose to any third party, except where permitted or required by law, any patient or medical record information regarding HHSC's patients; and CONTRACTOR, Providers, and HHSC shall comply with all federal and STATE laws and regulations, and all bylaws, rules, regulations, and policies of HHSC and HHSC's medical staff regarding the confidentiality of such information. CONTRACTOR and HHSC acknowledge that in receiving or otherwise dealing with any records or information about HHSC's patients receiving treatment for alcohol or drug abuse, CONTRACTOR, Providers and HHSC are fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 C.F.R. Part 2, as amended from time to time).

d. Application of Uniform Information Practices Act. All information, data, or other material provided by the CONTRACTOR to the HHSC shall be subject to the Uniform Information Practices Act, chapter 92F, HRS, as modified by chapter 323F, HRS ("UIPA"). CONTRACTOR further acknowledges and agrees that the compensation terms of this Agreement are government records subject to disclosure under the UIPA.

e. Survival. The provisions of this paragraph shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

16. INSURANCE.

a. During the term of this Agreement, CONTRACTOR shall maintain at all times or cause to be maintained comprehensive general liability and professional liability insurance (the "POLICY") covering the acts and omissions of Providers rendering the services at HHSC. The POLICY shall be maintained with a company or companies approved by HHSC, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and per Provider and Three Million Dollars (\$3,000,000.00) in the aggregate, per Provider, or such greater amount as may be required from time to time by HHSC's Corporate Bylaws or Medical Staff Bylaws, whichever is the greater amount. Said POLICY shall provide that HHSC shall receive not less than thirty (30) days' notice prior to any cancellation or material change or reduction of coverage. Prior to the commencement of this Agreement, CONTRACTOR shall provide HHSC with a certificate of insurance naming HHSC as the certificate holder. Thereafter, prior to the expiration of each policy period, CONTRACTOR's insurance carrier shall provide HHSC with certificates of insurance evidencing the foregoing coverage and provisions. HHSC reserves the right to request and receive a certified copy of the POLICY. CONTRACTOR shall also carry workers' compensation insurance for CONTRACTOR's employees in the statutory amounts. Failure to maintain or cause to be maintained insurance in accordance with the provisions set forth herein shall be a material breach of this Agreement and shall provide HHSC with the option of pursuing remedies for breach and/or immediate termination of this Agreement.

b. The coverage required by this provision shall be either: (a) on an occurrence basis; or (b) on a claims made basis. If the coverage is on a claims made basis, CONTRACTOR hereby agrees that not less than thirty (30) days' prior to the effective date of termination by CONTRACTOR of any Provider's insurance coverage by the current carrier, CONTRACTOR shall: (a) purchase tail or extended reporting coverage insurance for a minimum period of five (5) years in the above-stated amounts for all claims arising out of incidents occurring prior to such termination of coverage; and (b) provide HHSC with a certificate of such coverage. If CONTRACTOR fails to purchase such coverage and provide HHSC with a certificate of same in accordance with the above-stated requirements, HHSC shall have the right, as hereby acknowledged by CONTRACTOR, to purchase such coverage and notify CONTRACTOR in writing of the total premium costs therefor. CONTRACTOR hereby expressly acknowledges and agrees that the total premium cost for such coverage purchased by HHSC under this provision shall be immediately due and payable by CONTRACTOR to HHSC upon CONTRACTOR's receipt of said notice, and may be offset against any money owed by HHSC to CONTRACTOR.

17. CONTRACTOR'S TAX RESPONSIBILITIES.

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

b. 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.

18. PAYMENT PROCEDURES.

a. Original Invoices Required. All payments under this Agreement shall be made only upon submission by the CONTRACTOR of original invoices specifying in reasonable detail the services performed and the amount due, and certifying that services requested under the Agreement have been performed by the CONTRACTOR according to the Agreement.

b. 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.

19. COST AND EXPENSE REIMBURSEMENT. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Agreement shall be subject to the following guidelines:

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

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

c. Unless prior written approval of the head of the purchasing agency is obtained, reimbursement for subsistence allowable (i.e., hotel and meals) shall be \$145 per day, which consists of \$85 for hotel and \$60 for food, computed on quarter days. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by HHSC, other than those items listed in subparagraphs a and b, above. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the HHSC technical representative.

d. CONTRACTORS located on the island where the work will be performed do not qualify for travel or subsistence reimbursement.

20. CORPORATE COMPLIANCE PROGRAM. A description of the Corporate Compliance Program of HHSC, including orientation materials, is posted on the HHSC internet site (www.hhsc.org). The CONTRACTOR, by signing this contract, acknowledges that it has read said description, and that the CONTRACTOR knows of the fact and substance of the Corporate Compliance Program, which governs operations at all facilities of the HHSC. The CONTRACTOR understands and agrees that employees, agents, and contractors performing any services at any of the HHSC facilities shall be fully subject to such Corporate Compliance Program, as may be amended from time to time, as well as all federal program requirements and applicable policies and procedures of HHSC and its facilities. The Corporate Compliance Program requires periodic training, including an orientation program, of all people who provide financial, business office, personnel, coding, medical records information systems and clinical services in the facility. The CONTRACTOR agrees to cause its employees, agents and contractors who provide financial, business office, personnel, coding, medical records information systems and/or clinical services at any of the HHSC facilities to review the posted orientation materials and participate in any compliance training programs HHSC may require.

21. BUSINESS ASSOCIATE ADDENDUM. By signing this Agreement, CONTRACTOR acknowledges that CONTRACTOR is a Business Associate of HHSC within the meaning of the federal privacy and security laws as stated in 45 C.F.R. Parts 160 and 164, Subparts A, C, and E. CONTRACTOR further acknowledges that CONTRACTOR has read the Business Associate Addendum, which is posted on the HHSC internet site (www.hhsc.org/BAA) and is applicable to all Business Associates. Said Business Associate Addendum is hereby incorporated by reference and made a part of this Agreement as if fully repeated herein. By signing this Agreement, CONTRACTOR agrees to fully comply with, and be bound by, all terms set forth in the Business Associate Addendum, as it may be amended from time to time.

22. FINANCIAL OBLIGATION. No CONTRACTOR or Provider shall incur any financial obligation on behalf of HHSC without the prior written approval of HHSC.

23. REFERRALS. The parties acknowledge that none of the benefits granted CONTRACTOR hereunder are conditioned on any requirement that the CONTRACTOR or Provider make referrals to, be in a position to make or influence referrals to, or otherwise generate business for HHSC. The parties further acknowledge that Providers are not restricted from establishing staff privileges at, referring any patient to, or otherwise generating any business for, any other hospital or facility of their choosing.

24. CAMPAIGN CONTRIBUTIONS. CONTRACTOR acknowledges that it is unlawful under HRS Section 11-355 (unless specifically permitted under that law) for CONTRACTOR at any time between the execution of this Agreement through the completion of this Agreement, to: (a) directly or indirectly make any contribution or to promise expressly or impliedly to make any contribution to any political party, committee, or candidate or to any person for any political purpose or use; or (b) knowingly solicit any contribution from any person for any purpose during any period.

25. MEDICARE ADVANTAGE PROGRAM ADDENDUM. The HHSC Medicare Advantage Program Addendum, as amended from time to time and available on-line at the HHSC internet site, www.hhsc.org/MAPA is incorporated herein as if set out fully in this Agreement

26. GOVERNING LAW. This Agreement shall be construed, interpreted, and governed by the laws of the State of Hawaii. The provisions of this paragraph shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

27. CHANGES IN LAW.

a. **Legal Event; Consequences.** Notwithstanding any other provision of this Agreement, if the governmental agencies that administer the Medicare, Medicaid, or other federal programs (or their representatives or agents) or any other federal, state or local governmental or nongovernmental agency, or any court, administrative tribunal passes, issues, or promulgates any law, rule, regulation, standard, interpretation, order, decision or judgment, including but not limited to those relating to any regulations pursuant to state or federal anti-kickback or self-referral statutes (collectively or individually, "Legal Event"), which, in the good faith judgment of one party (the "Noticing Party"), materially and adversely affects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to bill, to claim, to present a bill or claim, or to receive payment or reimbursement from any federal, state or local governmental or nongovernmental payor, or which subjects the Noticing Party to a risk of prosecution or civil monetary penalty, or which, in the good faith judgment of the Noticing Party, indicates a rule or regulation with which the Noticing Party desires further compliance, then the Noticing party may give the other party notice of intent to amend or terminate this Agreement in accordance with the next subparagraph.

b. **Notice Requirements.** The Noticing Party shall give notice to the other party together with an opinion of counsel setting forth the following information:

- (1) The Legal Event(s) giving rise to the notice;
- (2) The consequences of the Legal Event(s) as to the Noticing party;
- (3) The Noticing Party's intention to either:
 - (i) Terminate this Agreement due to unacceptable risk of prosecution or civil monetary penalty; or
 - (ii) Amend this Agreement, together with a statement that the purpose thereof is one or more of the following:

-
- created or affected by the Legal Event(s); or
- Event(s); and/or
- (a) to further comply with any anti-kickback or Stark II statutory provisions or rules or regulations
 - (b) to satisfy any licensure, accreditation, or certification requirements created or affected by the Legal
 - (c) to eliminate or minimize the risk of prosecution or civil monetary penalty;
- (4) The Noticing Party's proposed amendment(s); and
- (5) The Noticing Party's request for commencement of the Renegotiation Period (as defined below).

c. **Renegotiation Period; Termination.** In the event of notice under either subparagraph b.(3)(i) or b.(3)(ii) above, the parties shall have ten (10) days from the giving of such notice ("Renegotiation Period") within which to attempt to amend this Agreement in accordance with the Noticing Party's proposal (if any) or otherwise as the parties may agree. If this Agreement is not so amended within the Renegotiation Period, this Agreement shall terminate as of midnight on the 10th day after said notice was given. Except as otherwise required by applicable law, any amounts owing to either party hereunder shall be paid, on a pro rata basis, up to the date of such termination, and any obligation hereunder that is to continue beyond expiration or termination shall so continue pursuant to its terms. All opinions of counsel presented by the Noticing Party hereunder, and any corresponding opinions given by the other party in response, shall be deemed confidential and given solely for purposes of renegotiation and settlement of a potential dispute, and shall not be deemed disclosed so as to waive any privileges otherwise applicable to said opinions.

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

a. Until the expiration of four (4) years after the furnishing of such services, CONTRACTOR shall, upon written request, make available to the Secretary of the Department of Health and Human Services (the "Secretary"), the Secretary's duly-authorized representative, the Comptroller General, or the Comptroller General's duly-authorized representative, such books, documents, and records as may be necessary to certify the nature and extent of the cost of such services; and

b. If any such services are performed by way of subcontract with another organization and the value or cost of such subcontracted services is Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, such subcontract shall contain and CONTRACTOR shall enforce a clause to the same effect as the sub-paragraph immediately above. The availability of CONTRACTOR's books, documents and records shall be subject at all times to all applicable legal requirements, including without limitation, such criteria and procedures for seeking and obtaining access that may be promulgated by the Secretary by regulation. The provisions of this paragraph shall survive the expiration or other termination of this Agreement, regardless of the cause of such termination.

29. DRAFTING. No provision of this Agreement shall be interpreted for or against any party on the basis that such party was the draftsman of such provision, and no presumption of burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

30. WAIVER. A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

31. CAPTIONS. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

32. COUNTERPARTS. This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile/electronic executions or a combination thereof shall be construed together and shall constitute one and the same Agreement.

33. CROSS-REFERENCE TO MASTER LIST OF PHYSICIAN CONTRACTS. The parties acknowledge that any and all agreements as between the parties to this Agreement, including this Agreement, shall be included in the master list of all contracts between HHSC and all physicians providing services at HHSC facilities, maintained and updated regionally and available for review upon request by any governmental authority to the extent such review is required by law.

34. OPEN PRACTITIONER-PATIENT COMMUNICATIONS (ANTI-GAG PROVISION); REFERRALS NOT REQUIRED. HHSC and CONTRACTOR agree that any Provider providing services hereunder may discuss with patients, or their authorized representative(s), all treatment options that Provider deems appropriate based on relevant professional standards, regardless of benefit coverage limitations and within the prevailing practices and standards of the profession and community, subject, however, to all applicable laws and regulations pertaining to confidentiality ("Open Communication"). HHSC shall not assess Provider(s) any penalties, financial or otherwise, as a result of such Open Communication. It is expressly understood and agreed that HHSC has contracted for services set forth herein solely to ensure the availability of medically appropriate services for HHSC's patients; nothing herein is intended, nor shall it be construed, to require or encourage any Provider providing services hereunder to refer any patient, procedure or ancillary service to any HHSC facility.

35. MODIFICATIONS OF AGREEMENT.

a. In writing. Any modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be made only upon mutual agreement and by written amendment to this Agreement signed by both CONTRACTOR and HHSC.

b. No oral modification. No oral modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be permitted or acknowledged; and any such oral modification, alteration, amendment, change or extension shall be null and void.

c. Notwithstanding any other provisions in this contract to the contrary, any modification, alteration, amendment, change or extension of any term, provision or condition shall be null and void if such modification, alteration, amendment, change or extension is reasonably determined by either party to result in the violation of any federal or state statutes or regulations, including, but not limited to, Section 1877 of the Social Security Act, by either or both of the parties.

36. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

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PROPOSAL SUBMISSION CHECKLIST

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

	_____	Proposal Received “On-Time”
_____	_____	One Original signed hard copy and One Electronic Copy of the Proposal
_____	_____	Proposal Transmittal Cover Sheet (Appendix A):
_____	_____	Authorized Signature
_____	_____	Required Information
_____	_____	Technical Proposal
_____	_____	Background, Qualifications and Experience
_____	_____	Key On-Site Personnel and Staffing
_____	_____	Method of Approach .
_____	_____	Staffing Plan
_____	_____	Cost Proposal
_____	_____	Pricing Schedule (Section 4)
_____	_____	Schedule
_____	_____	Acceptance (or Notification of Clarifications) Document (Appendix B)
_____	_____	Proposal Submission Checklist (Appendix D)
_____	_____	Standards of Conduct Declaration (Appendix E)
_____	_____	Certificate of Good Standing (Appendix F)
_____	_____	Certificate of Compliance (DLIR) (Appendix F)

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

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

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

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

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

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

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

OFFEROR

By: _____
Title: _____
Date: _____

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

Instructions for Hawaii Compliance Express

Hawaii Compliance Express (HCE)

Instead of filling out forms and manually applying for the certificates listed below at the various state agencies, this process allows businesses to register online through a simple wizard interface at:

<http://vendors.ehawaii.gov>

On the last line, click on “Create An Account” and once there, click on the circle and line marked:

No, I just want to get setup to use this service.

From this point, just fill in the blocks and follow the directions.

One simple interface covers all the forms with all the state agencies and partners. Easy to read instructions and context sensitive help make compliance safe, fast, and efficient. Using the Wizard will file with the Dept. of Taxation (to get your Taxpayer ID) and optionally with the Business Registrations Division of the DCCA. If you have or will have employees, the Wizard will also file with [Dept. of Labor and Industrial Relations](#).

Vendors that elect to use the new Hawaii Compliance Express services will be required to pay an annual fee of \$12.00.

Government procurement personnel will be provided with no-cost online access to the HCE system, allowing them to view and print the compliance status of registered vendors. Since the HCE process may require the disclosure of sensitive company information, access to view information on registered vendors will be restricted to the respective vendor and to registered authorized procurement personnel.

Vendors choosing not to participate in the program will be required to provide the paper certificates. This can be done by contacting the various state agencies below:

DLIR Certificate of Compliance. By law vendors are required to provide a Certificate of Compliance from the Hawaii State Department of Labor and Industrial Relations (DLIR), TO ENSURE COMPLIANCE WITH LAWS, AS APPLICABLE, CONCERNING UNEMPLOYMENT INSURANCE, WORKERS' COMPENSATION, TEMPORARY DISABILITY INSURANCE, AND PREPAID HEALTH CARE.

Visit <http://hawaii.gov/labor/forms/forms/DCD-LIR27.pdf> to obtain Form LIR#27. Once approved by DLIR, *provide HHSC a copy of the certificate.*

Certificate of Good Standing. By law vendors are required to provide a Certificate of Good Standing from the Hawaii State Department of Commerce and Consumer Affairs (DCCA). Business are required to be registered to do business in the State of Hawaii. (Certificate of Good Standing not required for "Sole Proprietorship".)

The Certificate of Compliance Good Standing can be obtained by phone (call 808 586-2727, M-F 7:45-4:30 HST), by mail (Department of Commerce and Consumer Affairs, Business Registration Division, PO Box 40, Honolulu, Hawaii 96810), or online (visit <http://hbe.ehawaii.gov/documents/search.html>). *Provide HHSC a copy of the certificate.*

**END OF RFP DOCUMENT
HHSC FY18-0015**

[