

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

November 9, 2023

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: REQUESTS FOR (1) APPROVAL FOR THE USE OF A REQUEST FOR INTEREST FOR FEDERAL GRANTS ADMINISTERED BY THE NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE TITLED THE "SPECIES RECOVERY GRANTS TO STATES (SECTION 6 PROGRAM)"; (2) A DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO AWARD, EXECUTE, AND EXTEND AGREEMENTS WITH SUCCESSFUL PROVIDERS AND TO ISSUE ANNUAL REQUESTS FOR INTEREST AND AWARDS UNDER THIS GRANT PROGRAM.

This Board Submittal requests approval to issue a Request for Interest (RFI) (see Exhibit A) as provided under Chapter 3-122 Section 4.5, delegates authority to the Chairperson to award, execute and extend agreements with successful providers, if any, and to issue future Requests for Interest and awards on an annual basis for the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce funding opportunity titled "Species Recovery Grants to States (Section 6 Program)".

BACKGROUND

States play an essential role in conserving and recovering species listed as endangered or threatened under the Endangered Species Act (ESA), 16 U.S.C. 1535. Listed species under NOAA's National Marine Fisheries Service's jurisdiction may spend all or part of their lifecycles in state waters, and success in conserving these species depends largely on working cooperatively with the States. The principal objective of the Species Recovery Grants to States Program is to support the development and implementation of States' programs to conserve and recover threatened and endangered species under NMFS' jurisdiction. Funding may also support monitoring of candidate species, species proposed for listing, and species recently delisted. Proposed activities may involve management, scientific research, monitoring, and outreach activities or any combination thereof. Proposals should include clear and specific information about how the work being proposed would contribute to species recovery. Successful applications will be

those that demonstrate a direct conservation benefit to the species or its habitat. Proposals that address the recovery of the following endangered species are encouraged as part of the agency's Species in the Spotlight initiative: Hawaiian monk seals (*Neomonachus schauinslandi*). Funded activities may include development and implementation of management efforts, scientific research, and public education and outreach.

The Department of Land and Natural Resources Division of Forestry and Wildlife does not manage all work on Hawaiian monk seals and their resources through the State. The Division of Forestry and Wildlife is interested in allowing opportunities for providers to participate in this federal process and if selected to be incorporated into the proposal request from the Division of Forestry and Wildlife. The selected provider(s) will be responsible for the management and coordination of the Section 6 Program through a close working relationship with the Division of Forestry and Wildlife to successfully implement the grant program.

DISCUSSION

Based on the nature of this competitive federal funding, the Division of Forestry and Wildlife is recommending that a request for interest be used for soliciting interest in providing the goods and services under the federal grant. A request for interest for this solicitation will be the most advantageous procurement process because time and the complex array of potential projects preclude the use of other source selection methods. The Section 6 program federal grant award is expected to begin January 2024. Pursuant to Hawaii Administrative Rules (HAR) §3-122-16.30, a determination by the Department procurement officer must be made for the use of the request for interest. A public notice will be publicized for this opportunity in accordance with 3-122-16.03(d), and selection of a provider or providers will be based on criteria established in the request for interest.

The Division of Forestry and Wildlife recommends the use of an evaluation committee for the selection of the proposals which will allow for an objective review, evaluation, ranking, and selection of the most qualified proposals for the program. The evaluation committee must consist of at least three government employees with sufficient qualifications in the goods or services to be procured. The Division of Forestry and Wildlife recommends the following individuals:

Afsheen Siddiqi, DOFAW Wildlife Biologist
Jason Misaki, DOFAW Oahu District Wildlife Manager
Tiana Bolosan, DOFAW Wildlife Biologist

To expedite the contracts for this procurement, the Division of Forestry and Wildlife requests that the Board delegate authority to the Chairperson to award, execute and extend agreements/contracts for goods and services based on the recommendations of the evaluation committee and other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State including extending contracts as appropriate. Should any of the committee members be unable to serve, alternates with

similar knowledge will be substituted and any changes and final make-up of the evaluation committee kept in the contract file.

The Division of Forestry and Wildlife requests that the Board authorize the Chairperson to execute the agreements, contract for goods, services, or construction, approval as to form by the Department of the Attorney General, and other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State. The Division of Forestry and Wildlife also requests that the Board authorize the Chairperson to release the RFI, and award, execute, and extend agreements for this grant opportunity on an annual basis if they are made available by the NOAA-NMFS, Department of Commerce.

Chapter 343, Hawaii Revised Statutes (HRS): Environmental Review

The Division of Forestry and Wildlife advises that this RFI does not trigger HRS Chapter 343 requirements for environmental review because it involves the pass through of federal funds for a Department of Commerce grant to a third party and is not an action that proposes a "use," "amendment," "reclassification," "construction," "expansion," "modification," "unit," "facility," "landfill," or "refinery" for which an environmental assessment is required under HRS section 343-5(a).

[Continued on page 4]

RECOMMENDATION:

That the Board, as the Department Procurement Officer:

- 1) Approve the use of:
 - a. A request for interest for the solicitation for the Section 6 program federal grant program.
 - b. An evaluation committee comprised of the individuals identified above (or alternates with similar knowledge) to serve, evaluate, and select the competitive proposals.
- 2) Delegate authority to the Chairperson to:
 - a. Award, execute and extend agreements or contracts for goods and services or construction, subject to the availability of funds and approval as to form by the Department of the Attorney General.
 - b. Approve the use of a Request for Interest on an annual basis for the solicitation, award, execution, and extension of agreements for the Section 6 program federal grant program.

Respectfully submitted,



DAVID G. SMITH, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

Attachments:
Exhibit A – Request for Information (RFI) draft

Department of Land and Natural Resources
Division of Forestry and Wildlife

November 9, 2023

RFI No. SECTION 6 PROGRAM-FY24

Request for Interest for the Species Recovery Grants to States (Section 6 Program)

**SUBMITTALS WILL BE RECEIVED UP TO 12:00 PM (HST) ON
November 24, 2023**

AT THE
Department of Land and Natural Resources
Division of Forestry and Wildlife
1151 Punchbowl St., Rm. 325
Honolulu, HI 96813

SUBMITTALS MUST BE DELIVERED BY EMAIL BY THE ABOVE DEADLINE. TIMELY RECEIPT OF OFFERS SHALL BE EVIDENCED BY THE DATE AND TIME REGISTERED BY THE DIVISION OF FORESTRY AND WILDLIFE EMAIL TIME STAMP CLOCK.

RFI Registration and Inquiries

If you intend to respond to this request for proposals, please contact Afsheen Siddiqi at (808) 348-0652 or email Afsheen.A.Siddiqi@hawaii.gov to register your organization otherwise you will not receive notification of any changes or addendums. Provide a contact name, address, phone number, and email address.

Request for Interests

Species Recovery Grants to States (Section 6 Program)

1. IDENTIFICATION OF FEDERAL FUNDING

The Department of Land and Natural Resources (DLNR) is seeking responsible provider(s) for the Species Recovery Grants to States (Section 6 Program). The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce established the Section 6 Program to support the development and implementation of States' programs to conserve and recover threatened and endangered species under NMFS' jurisdiction. The selected provider(s) will be responsible for the management and coordination of the Section 6 Program through a close working relationship with the DLNR Division of Forestry and Wildlife (DOFAW) and the NOAA-NMFS to successfully implement the grant program objectives.

2. CANCELLATION AND AWARD

The RFI may be cancelled and any or all submittals rejected in whole or in part, without liability, when it is determined to be in the best interest of the state. Neither the DLNR purchasing agency nor the interested provider has any obligations under this request for interest. Selection of a provider or providers will be based on the criteria established in this request for interest. DLNR reserves the right to incorporate or not incorporate in the State's application for federal grants any recommendations presented in response to the request.

3. TARGET POPULATIONS SERVED

The Section 6 Program is a federal program providing States with financial assistance to conserve and recover threatened and endangered species under NMFS' jurisdiction. DLNR welcomes collaboration and assistance with local community groups and organizations working on projects through the Section 6 Program.

4. DESCRIPTION OF THE PROGRAM

Program Objective

The principal objective of the Species Recovery Grants to States Program is to support the development and implementation of States' programs to conserve and recover threatened and endangered species under NMFS' jurisdiction. Funding may also support monitoring of candidate species, species proposed for listing, and recently delisted species (see definitions below). Proposed activities may involve management, scientific research, monitoring, and outreach activities or any combination thereof. Proposals should include clear and specific information about how the work being proposed would contribute to species recovery. Successful applications will be those that demonstrate a direct conservation benefit to the species or its habitat.

Proposals may address new or ongoing work. If the proposal includes a continuation of previous or ongoing work, a brief discussion of accomplishments to date and a justification for the continuation of the work must be included in the project description in order to receive full consideration.

Threatened and endangered species under the jurisdiction of the NMFS are listed at

<https://www.fisheries.noaa.gov/species-directory/threatened-endangered>.

Candidate species are listed at: <https://www.fisheries.noaa.gov/endangered-species-conservation/candidate-species-under-endangered-species-act>. Proposed species is available at: <https://www.fisheries.noaa.gov/endangered-species-conservation/proposed-species-under-endangered-species-act>.

Recently delisted species. Recently delisted, for purposes of this solicitation, are those species delisted within the past five years. A list of all delisted species and the year they were delisted is available at: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/delisting-species-under-endangered-species-act>. Under this solicitation, only species delisted due to recovery may receive funding.

Program Priorities

For this year's solicitation, DLNR is prioritizing work in the North West Hawaiian Islands.

General. Priority will be given to proposals addressing listed species under the ESA over proposals that address proposed, candidate, or recently delisted species. Additionally, in order to balance the distribution of funds, priority will be given to proposals that address listed species that rarely receive funding from other NMFS sources in order to help with their recovery. Priority will also be given to proposals supporting the recovery of the Hawaiian monk seals (*Neomonachus schauinslandi*). These species are part of NOAA's Species in the Spotlight initiative to prevent the extinction of the most at-risk species. More information and action plans are available online at: <https://www.fisheries.noaa.gov/topic/endangered-species-conservation#species-in-the-spotlight>.

While priority will be given to proposals addressing Species in the Spotlight, it is not a requirement. Priority will also be given to proposals that address objectives or actions identified in a Recovery Outline or final or draft ESA Recovery Plan. Greater priority may be given to those proposals that enable adaptation and resilience of listed species and their habitats to climate-related changes through specific climate-informed actions. Proposals should indicate how the project will address one or more of the recovery objectives or actions and the priority level assigned to the action. Greater priority may be given to proposals addressing higher-priority recovery actions or objectives as indicated by the particular Recovery Plan. Recovery Plans are available at: https://www.fisheries.noaa.gov/resources/documents?title=&field_category_document_value%5Brecovery_plan%5D=recovery_plan&sort_by=created

Priority will also be given to proposals that address a NMFS-identified regional priority or need. Current NMFS regional priorities and needs can be found at: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/species-recovery-grant-regional-priorities>.

Proposals that present a series of unrelated or seemingly unrelated projects are unlikely to compete well. Applicants that propose multiple projects within a proposal must clearly articulate within their proposal how the distinct projects relate to one another and how the results will be synthesized. Additionally, proposed budgets should reflect the costs associated with each distinct project; however, the total project costs and justification will be used to evaluate the proposal. Alternatively, States are

encouraged to submit separate proposals for each distinct project because there is no limit on the number of proposals that can be submitted by an individual state.

Management. Highest priority will be given to those projects that are designed to have a direct impact on recovery of listed species through development and implementation of management actions that reduce or eliminate threats. Proposals involving management activities should demonstrate a high probability of contributing to the recovery of the species, especially through mitigation of existing threats or factors inhibiting recovery of the species. Management proposals may, for example, involve the development and implementation of fishery bycatch reduction measures, habitat restoration or habitat conservation, scenario planning for a range of plausible climate futures to improve adaptive management strategies for climate-vulnerable species, design and implementation of poaching-reduction campaigns, development of an ESA section 10 incidental take permit application and associated conservation plan, or development of a management plan pursuant to an ESA section 4(d) rule.

Aspects of developing an ESA section 10 incidental take permit application and associated conservation plan that can be supported through this program include collecting and analyzing bycatch data, designing measures to minimize and mitigate the incidental take of listed species, and drafting a conservation plan and/or the associated incidental take permit application.

Proposals addressing habitat restoration can involve the engineering and design of a restoration project, actual implementation of a restoration activity, and/or science-based monitoring of a previously funded or simultaneously proposed NOAA habitat restoration project that will yield information on population benefits accruing to listed species resulting from the restoration action.

Habitat or land acquisition proposals must clearly identify the expected benefits for the target species or habitats on which they depend. Proposals should also discuss how the property is threatened by conversion from its natural, undeveloped, or recreational state to other uses; how existing and future uses will be managed consistently with long-term conservation of the target species; the likelihood that the project will be completed in a timely manner; and, if applicable, whether the project addresses an action identified in an ESA Recovery Plan. Other funding sources for a given acquisition should also be identified in the proposal.

Proposals including enforcement-related activities must be coordinated with a Joint Enforcement Agreement (JEA), where applicable. Enforcement activities for listed species that are specifically identified in a State's JEA and are being funded through that JEA should not be included in a proposal for this program.

Research and Monitoring. Research proposals that are designed to fill critical data gaps and directly contribute to the management and recovery of eligible species are competitive under this solicitation. However, proposals that involve only research will be considered a lower priority for funding relative to "management proposals" described above.

Proposals involving scientific research must articulate how the research will provide information that can be directly used to recover, manage, or improve current management strategies for a given species.

Important research topics include, for example, defining, characterizing, and evaluating the effects of threats to the species, particularly effects of climate change; evaluating methods to reduce or mitigate threats to the species including identifying strategies to ensure protected species populations are more adaptable and resilient to climate change; improving bycatch estimates (e.g., through observer programs); estimating effective population sizes; synthesizing or analyzing stranding or observer data; or evaluating the effectiveness of a habitat restoration project.

Research proposals must include a clear question or set of questions to be answered, methods by which experiments or work will be conducted, methods by which data will be analyzed, and Data Management Plans for storing and sharing or disseminating the results. Generalized statements about research objectives and expected results are insufficient.

Proposals involving scientific research on ESA-listed marine mammal species for which NMFS has published a Take Reduction Plan under the Marine Mammal Protection Act should indicate how the project would address one or more of the research recommendations. Greater priority may be given to proposals addressing higher-priority research and data collection needs as indicated by the particular plan. Marine mammal take reduction plans are available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>.

Proposals involving scientific research on a listed DPS or a specific, recognized management unit of a taxonomic species or subspecies should demonstrate a high probability of providing information specific to the recovery and/or management of the particular DPS or management unit. To do so, such proposals may be required to include genetic analyses or other acceptable techniques to properly identify specimens to their DPS or management unit, when appropriate. Proposed budgets must reflect costs associated with any such analyses.

Outreach. Proposals involving public education and outreach should demonstrate a high probability of improving or increasing public understanding of and participation in conservation activities, particularly for underserved communities and underrepresented groups. In order to be considered a priority for funding, proposals that exclusively address outreach activities should demonstrate how the proposed work will directly mitigate or reduce a significant threat(s) to the target species and describe efforts that will be taken to broaden participation and engage underrepresented groups and underserved communities in the development and execution of these outreach activities.

Outreach projects could, for example, involve developing outreach tools (e.g., websites, brochures), convening regional coordination workshops or meetings, or working with local fishermen or boaters to address a particular issue (e.g., hook and line entanglement, boat strikes). Note that all proposals should address the dissemination of results and/or information resulting from completion of the proposed activities (including peer-reviewed publications) as explained in detail under the evaluation criteria listed in Section V. (Application Review Information) of this document.

1. DESCRIPTION OF WORK

The selected provider(s) will be responsible for managing and coordinating the Section 6 Program

proposal objectives. This opportunity is funded by federal dollars by the Department of Commerce. Approximately \$1.7 million may be available under the FY 2024 Species Recovery Grants to States Program to support new awards. New awards may range up to about \$250,000 in federal funding per year; however, there is no required minimum or maximum. The exact amount of funds that may be awarded will be determined during pre-award negotiations between the applicant and NOAA representatives.

In general, a project period will extend up to a maximum of three years. For multi-year proposals, applicants must include project plans and separate budgets for each year of the project. Multi-year projects may be funded in one-year increments depending on available funds and terms of the award. Multi-year awards do not compete for funding in subsequent budget periods within the approved award period. Rather, any funding required for subsequent years is added to the multi-year award incrementally, provided a demonstration of satisfactory performance by the recipient and provided funds are available to support the continuation of the project. If a grant recipient wishes to continue work on a funded project beyond the project period and obligated award funds have not been expended by the end of this period, the recipient can notify the assigned Federal Program Officer no later than 30 days prior to the end of the award period to determine eligibility for a no-cost extension. If, however, the money is expended and funds are needed to continue the project, the applicant should submit another proposal during the next competitive award cycle or seek an alternate source of funding.

Project start dates should be no earlier than July 1, 2024, unless an earlier start date request is approved by the Program Office. The end date should always end on the last day of any given month when making a projection for the award start and end dates.

Match Information:

Meet matching requirements - the Federal funding for this program requires a 75/25 match for the program (match may be provided through numerous ways, including in-kind contributions). DOFAW will provide match funds with non-Federal funds dependent on availability of funds for each fiscal year. For this FY24 RFI, DOFAW will provide match funds up to \$250,000 for a three-year proposal. The cost share requirements allow for in-kind contributions for all, or part of, the required non-Federal match according to the regulations at 2 C.F.R. §200.306. Matching funds provided by the provider are not required but score higher under this RFI.

If provider is including match funds, you must document in the final Federal application all your matching funds with a signed letter of financial commitment from an authorized representative of your organization, the match provider. The letter of financial commitment must detail the amount of matching funds or value of donated land and/or services.

Please note that if the match letter of financial commitment is missing or late upon Federal submission, the application will be ineligible.

The selected provider must demonstrate the ability to meet a proposed timeline and provide deliverables and shall include the following elements:

1. Title Page (does not count toward any page limits)

Provide the project title, project period (dates), applicant name(s), name(s) of the Principal Investigator (or Project Manager) and any Co-Investigators (or Co-Managers), complete contact information (mailing address, email address, and phone number) for the applicant(s) and all Co-investigators (or Co-Managers), and a statement regarding the Federal, non-Federal, and total costs of the project. If the proposal is a multi-state proposal being submitted through multiple agencies, include a list of the other applicant state agencies. Start dates must be no earlier than July 1, 2024, unless applicants request and get approval for an earlier start date from the Program Officer (Maggie Miller; See Section VII, Agency Contacts).

2. Project Summary (**300-word limit**, does not count toward any page limits)

Provide a brief summary discussing the proposal's purpose; the proposed activities; the general geographic area where the activities would occur; the recovery objectives or actions as specified in an ESA Recovery Plan, State section 6 management plan, or State Wildlife Action Plan (as applicable), or as identified by NMFS as a regional priority; and the expected outcomes and benefits of the proposed activities. If the proposal focuses on implementing recovery actions identified in a Recovery Plan, indicate the priority number or level assigned to the particular actions. Please make this summary as succinct and cogent as possible; it will be made publicly available if the project is funded.

3. Project Description (**15-page limit**)

The Project Description should be a clear statement of all work to be undertaken and must include the information listed below in (a)-(h); however, the Data Management Plan will not be counted against page limits. Multi-year proposals must include a project description that covers each year of the proposed award period. If multiple projects are included in the proposal, the information listed below must be included for each project. The 15-page limit does not change if a proposal includes multiple projects.

- (a) Goals/objectives: Identify the specific problem(s) or opportunities the project intends to address and describe its significance to the conservation of the species. Identify the project objectives, which should be simple and understandable, as specific and quantitative as possible, and attainable with the time, money, and human resources available. Scientific research proposals must state the question or questions to be answered.
- (b) Methods: Describe the methodologies or technical plan for activities that are to be conducted during each budget period of the project. Include detailed descriptions of the specific plan and/or methods that will be employed. Project milestones and the timelines (e.g., the number of months) necessary to meet them should also be discussed for each budget period. Information about relevant permits necessary to conduct the work must be included. See Section IV.G. (Other Submission Requirements (Permits and Approvals)) below for further information about permits and approvals.
- (c) Benefits or results expected (**300-word limit**): Identify the outcomes or results and the benefits to the species that should result from the successfully completed project. Discuss how the project's success in meeting the stated goals and objectives will be measured or assessed.

Describe how these expected outcomes, results, or products will be applied and/or shared with appropriate user groups.

(d) Need for government financial assistance: Demonstrate the need for government financial assistance. List all other sources of funding that are or have been sought for the project.

(e) Federal, State, and local government activities: List any plans or activities (Federal, State, or local) this project would affect and, if applicable, identify the relationship between the proposed work and other ongoing work, or work planned, anticipated, or underway through Federal Assistance or other means. If the proposal is a continuation of previous or ongoing work, a brief discussion of results or accomplishments to date should be included.

(f) Environmental impacts: Discuss whether any negative environmental, biological, social, political, or economic impacts are expected as a result of the proposed activities. Also, discuss any potential negative impacts on listed species or their critical habitat as a result of the proposed activities. If any negative impacts are anticipated, describe what steps will be taken to minimize or mitigate these impacts. Incidental take of protected species and impacts on Essential Fish Habitat should be noted. This information is the basis for a determination of the level of analysis required under the National Environmental Policy Act (NEPA), so please be thorough. See Section VI.B. (Administrative and National Policy Requirements) below for further information about NEPA requirements.

(g) Project management: Describe how the project will be organized and managed and who will be responsible for carrying out project activities. The lead organization/individual and person listed as the technical contact should be identified as the Project Manager (PM) or Principal Investigator (PI). Use of subawardees, subcontractors, or volunteer staff time to complete project activities and oversight of those individuals should be discussed. We encourage applicants to support diversity and inclusion in their selection of subawardees, subcontractors, and volunteer staff. The PM/PI is responsible for all technical oversight and implementation of the approved work plan as delineated in the proposal. One PM or PI must be designated for each project, but the PM/PI may or may not be the applicant. However, if the applicant is not the PM/PI, there must be an explanation of the relationship between the applicant and PM/PI (e.g., applicant will be responsible for managing the grant funds, and the PM will be responsible for completing the project milestones on time and within budget, etc.). Project participants or organizations that will have a significant role in conducting the project should be listed as Co-investigators or Co-Managers. Organizations or individuals that support the project, for example, researchers contributing data or materials or NMFS collaborators, should be referred to as Cooperators. Copies of the PM's or PI's and all Co-investigator's/Co-Manager's abbreviated resumes or curricula vitae must be appended.

(h) Data Management Plan (2-page limit), but not counted toward Project Description 15-page limit): Environmental data and information collected or created under NOAA grants or cooperative agreements must be made discoverable by and accessible to the general public, in a timely fashion, free of charge or at no more than the cost of reproduction, unless an exemption is granted by the NOAA Program. "Timely" means no later than publication of a peer-reviewed article based on the data, or two years after the data are collected and verified, or two years after the original end date of the grant (not including any extensions or follow-on funding), whichever is sooner. Data should be available in at least one machine-readable format, preferably a widely-used or open-standard format, and should also be accompanied by machine-readable documentation (metadata), preferably based on

widely- used or international standards.

Proposals submitted in response to this Announcement must include a Data Management Plan of up to two pages describing how these requirements will be satisfied. The Data Management Plan should be aligned with the Data Management Guidance for this program, which is available at:

<https://www.fisheries.noaa.gov/national/funding-and-financial-services/frequently-asked-questions-species-recovery-grants-states#data-management-and-data-sharing>. The contents of the Data Management Plan (or absence thereof), and past performance regarding such plans, will be considered as part of proposal review. A typical plan should include descriptions of the types of environmental data and information expected to be created during the course of the project; the tentative date by which data will be shared; the standards to be used for data/metadata format and content; methods for providing data access; approximate total volume of data to be collected; and prior experience in making such data accessible. The costs of data preparation, accessibility, or archiving may be included in the proposal budget unless otherwise stated in the Guidance.

Accepted submission of data to the NOAA National Centers for Environmental Information (NCEI) is one way to satisfy data storing and sharing requirements; however, NCEI is not obligated to accept all submissions and may charge a fee, particularly for large or unusual datasets.

NOAA may, at its own discretion, make publicly visible the Data Management Plan from funded proposals, or use information from the Data Management Plan to produce a formal metadata record and include that metadata in a catalog to indicate the pending availability of new data.

Proposal submitters are hereby advised that the final pre-publication manuscripts of scholarly articles produced entirely or primarily with NOAA funding will be required to be submitted to NOAA Institutional Repository at <https://repository.library.noaa.gov/> after acceptance, and no later than upon publication. Such manuscripts shall be made publicly available by NOAA one year after publication by the journal.

For further information on NOAA's Data Sharing Policy, please refer to information posted here: <https://www.fisheries.noaa.gov/national/funding-and-financial-services/frequently-asked-questions-species-recovery-grants-states#data-management-and-data-sharing>.

More information can also be found on NOAA's Data Management Procedures at: https://nosc.noaa.gov/EDMC/documents/Data_Sharing_Directive_v3.0_remediated.pdf and at NAO 212-15 Management of Environmental Data and Information: <https://www.noaa.gov/organization/administration/nao-212-15-management-of-environmental-data-and-information>

- (i) Total project costs and budget justification (not counted towards page limits): Each application must include clear and concise budget information, both on the required Federal forms and as described in this section. All budget costs should be **ROUNDED** to the nearest dollar; any budgets containing cents will be returned for revision.

Additionally, provide a budget spreadsheet or table showing costs by category (e.g., salary, benefits, travel, equipment, supplies, contractual, subawards, indirect) and by Federal and non-Federal share. A

detailed subaward or contract budget spreadsheet or table should also be provided. For multi-year applications, costs must also be shown by year for each year of the proposal. Costs should be itemized to the maximum extent possible. For proposals with multiple, distinct projects, costs should be broken out to reflect the costs associated with each distinct project. In order to display correctly, budget tables need to be formatted to fit letter-sized paper (8.5" x 11") and preferably saved as pdf files. Do NOT format tables as multiple sheets or tabs within an Excel spreadsheet as sheets can be lost when applications are prepared for review in NOAA's electronic grants management system, Grants Online.

For an example of how to display costs and format budget tables, please refer to the sample table here: https://media.fisheries.noaa.gov/dam-migration/sample_budget_table.pdf.

A budget justification for each year of the requested budget must also be provided to explain and justify all project costs, including contractual and/or subaward costs. This narrative must be organized to clearly correspond to the information provided in the budget table. For instructions on how to prepare a budget justification, please refer to the guidance posted here: https://www.noaa.gov/sites/default/files/legacy/document/2019/Jun/gmd_budget_narrative_guidance_-_05-24-2017_final.pdf.

Detail provided in the budget table and the budget justification must be sufficient so that reviewers can interpret how costs were estimated or calculated, especially for expenses over \$5,000 (including any contractual and/or subaward costs). For the non-Federal share, applicants should identify the itemized costs and describe valuations consistent with 2 C.F.R. 200.306(d)-(k). If third-party in-kind contributions are included as part of the non-federal cost share, the basis for estimating the value of these contributions must also be provided.

Additionally, the budget should display the expenditure of the non-Federal share, whether in cash or third-party in-kind contributions, at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or third-party in-kind contributions.

(j) Appendices (15-page limit): Abbreviated curricula vitae or resumes of the PM/PI, any Co-Managers/ Co-Investigators, and any other relevant individuals necessary for the success of the project and named in the proposal must be included as an appendix with the application. Applicants requiring ESA scientific research permits must also include evidence of such a permit (e.g., by providing the permit number) or evidence that they have submitted an ESA permit application. If indirect costs are being requested as part of the proposed budget, documentation of the applicant's indirect cost rate agreement must be provided (see Section IV.F.1. below). Indirect cost rate agreements do not count against any page limits.

Additional appended materials that are necessary or useful may also be provided, including letters of endorsement; letters of cooperation; and maps, photos, tables, or other visual materials. Applicants are highly encouraged to submit a map or maps of the geographic location of the proposed work (as applicable); such visual information helps inform reviewers. Do not submit any letters of support or

endorsement from any NMFS, NOAA, or Department of Commerce personnel.

2. TERM OF GRANT PERIOD

Funding for this RFI will be associated with the state’s fiscal year 2024/2025. The RFI project will start upon award of grant, start of contract approval and run for the term of the grant.

Final invoices must be submitted thirty (30) days after the termination date of the contract agreement. Please confirm with the State Fiscal Office the date needed to complete expenditures in order to invoice the State by the appropriate date.

3. FORMAT AND CONTENT

Please submit a signed submittal via email. Only typed responses to this RFI will be accepted. Please use page numbering, English only, and provide all financial information in U.S. dollars. The RFI is open to all qualified providers and selection will be based on evaluation criteria detailed in this RFI.

Submittals are due at the relevant email below by **12:00 p.m. (HST) on November 24, 2023**. All submittals must be time stamped upon receipt according to the time it was delivered to the inbox of the recipient in the time zone of the recipient. Any submittal received after the deadline date and time will not be considered for selection. All submittals must include the following label in the subject heading of the email:

Label: **Section 6 Program FY24 Request for Interest**

Email Address: Afsheen.A.Siddiqi@hawaii.gov

ALL SUBMITTALS MUST USE THE FOLLOWING:

A. Cover Letter ONE PAGE MAXIMUM

Include a legal name of the provider, contact for the submittal, and total funding amount for the proposal.

B. Description of Work

Include details above as described above Section 1. DESCRIPTION OF WORK.

C. Budget

Provide budget information for each grant objective and a total proposal budget, which includes costs associated with personal, fringe, travel, contractual, supplies, equipment, other, and/or indirect costs. Budget should show supplemental or alternative funding sources that will be used to enhance program implementation, as well as proposed match for meeting the requirements and objectives of the grant proposal.

D. Three References that could be contracted by the evaluation review team.

E. Evidence of Experience THREE PAGES MAXIMUM

4. EVALUATION CRITERIA

Proposals will be ranked by an evaluation committee consisting of three or more government officials. Evaluation criteria and their associated points are listed below. The award will be made to the responsible provider(s) whose proposal is/are determined to be the most advantageous to the State based on the evaluation criteria listed in this section. Proposal will be reviewed for inclusion of necessary documents and proposal requirements; any proposals that do not contain the required documents may be deemed unacceptable. All acceptable proposals will be viewed by an evaluation committee as specified in this section. The State reserves the right to determine what is in the State's best interest in this evaluation process. The State reserves the right to select portions of a proposal, or to reject any and all proposals.

Evaluation Criteria - Those proposals that are determined to be acceptable shall be evaluated based upon the criteria detailed below. The evaluation process will award points for each criterion based on the total available points for that criterion (e.g. Total points = 25: high score = 25, low score = 0). The sum of all criteria will equal the total proposal score. Those proposals failing to receive a minimum qualifying score (65) shall be disqualified from further consideration and mailed a Notice of Determination.

The total number of points used to score this proposal is 100.

Proposals submitted will be evaluated using the following criteria:

- A. **Evidence of Experience.** Total points = 25
 - Provider has professional qualifications and experience that will allow them to perform actions described in the RFI and submitted proposal. The provider has previous experience and proficiency in: managing and coordinating grant programs and developing and planning wetland projects in Hawaii.
 - Demonstrated success working with the state, community groups, and/or committees when developing and implementing similar projects.
 - Professional technical and work experience in environmental compliance related to wetland work.
 - Evidence of budgeting and accounting experience, including involvement with auditing procedures.

- B. **Program Objectives.** Total points = 25
 - Project objectives, details, and relevant information adequately address the description of work and can be completed within the grant period.

- C. **Complete Proposal.** Total points = 30
 - Importance/Relevance and Applicability of the Proposal to the Program Goals
 - Technical/ Scientific Merit
 - Overall Qualification of Applicant

- Project Costs
- Outreach and Education
- Data Management Plan Technical Soundness

D. Budget. Total points = 20

- The budget should be adequate to support monthly expenses for program priority implementation/scope of work, staff and/or subcontractor expenses, insurance, travel costs, etc.
- Budget expenses are relevant to program objectives.
- Budget should illustrate experience and ability to obtain and/or leveraging alternative funding sources to supplement program implementation.
- Budget includes details about how and/or where the program will generate sufficient non-federal match necessary to support this program.
- Match provided by the provider.

5. **POST SELECTION**

Responsible provider(s) selected by the committee will work collaboratively with the State to further refine the proposals and prepare all Federal grant submission documentation due in June 2022. Proposals may be modified through this collaboration to increase the likelihood that submissions may be competitive on the national level.

SPECIAL PROVISIONS

Civil Rights: the selected provided and associated staff working with U.S. Forest Service State and Private Forestry (S&PF) grants must receive training in Title VI and other nondiscrimination laws, regulations and policies; as well as display public notifications, outreach and data collection at office locations. The contractor shall comply with Federal Civil Rights laws which include, but are not limited to:

- Signing an assurance certifying compliance with Civil Rights laws.
- Displaying the “And Justice for All” USDA poster (AD-475C) in your public reception areas or other areas that are visible to the public. Contact the Forest Service to obtain copies.
- Include in any of your publications and outreach materials related to the grant, a statement of affiliation with the Forest Service, e.g., “*This publication made possible through a grant from the USDA Forest Service.*”
- Include the following statement about nondiscrimination and how to file a complaint in your publications and outreach materials:

“In accordance with federal law and USDA policy, this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age or disability (not all prohibited basis apply to all programs.) To file a complaint of discrimination: write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.”

If the material is too small to permit the full statement to be included, the material will at minimum include the statement, in print size no smaller than the text that *“This institution is an equal opportunity employer and provider.”*

Federal Civil Rights Laws that must be comply with:

| U.S. Code | Statute | Prohibits Discrimination on the Basis of: |
|-------------------------------|---|--|
| (42 USC National 2000d-2000c) | Title VI of the Civil Rights Act of 1964 | Race, Color, or Origin |
| (20 USC 1681-1686) | Title IX of the Education Amendments of 1972 | Sex (in educational programs and activities) |
| (42 USC 1601 et seq) | Age Discrimination Act of 1975 as amended | Age |
| (29 USC 794) | Section 504 of the Rehabilitation Act of 1973, as amended | Disability |

See USDA brochure FS-850, Complying with Civil Rights Requirements, for more information.

1. SCOPE- All Section 6 Program proposals shall be in accordance with this RFI, including the special provisions in this section, the scope of work specified herein, and the General Conditions (GC), included by reference and available at the Division of Forestry and Wildlife, 1151 Punchbowl St., Rm. 325, Honolulu, HI 96813.

2. RESPONSIBILITY OF CONTRACTORS- Provider is advised that if awarded a contract under this solicitation, Contractor shall, upon award of the contract, furnish proof of compliance with the requirements of §103D-310(c), HRS within 120 days of the award date:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers’ compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.

Refer to the Award of Contract provision herein for instructions on furnishing the documents that are acceptable to the State as proof of compliance with the above-mentioned requirements.

3. CONTRACTOR QUALIFICATIONS- Provider shall meet all of the qualifications required by this RFI. Failure to meet the qualifications as specified in this RFI will likely have an adverse effect on Provider’s proposal evaluation.

4. TERM OF CONTRACT- Successful Provider shall be required to enter into a formal written

contract to commence work on this project. The initial term of the contract shall be for funds allocated in the FY2025 period starting on the official commencement date of the Notice to Proceed. The contract may be extended for up to twelve (12) months or any portion thereof, if mutually agreed upon in writing prior to contract expiration. The Contractor or State may terminate the extended contract period at any time upon one month's prior written notice.

5. CONTRACT ADMINISTRATOR- For the purposes of this contract, Afsheen Siddiqi, DOFAW Wildlife Biologist, (808) 348-0652, or authorized representative, is designated the Contract Administrator.

6. OVERVIEW OF THE RFI PROCESS

- a) The RFI is issued pursuant to Subchapter 4.5 of HAR Chapter 3-122, implementing HRS Section 103D-303.
- b) The procurement process begins with the issuance of the RFI and the formal response to any written questions or inquiries regarding the RFI.
- c) All proposals and other material submitted by Providers become the property of the State and may be returned only at the State's option.
- d) An evaluation committee shall evaluate the proposals in accordance with the evaluation criteria. The proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable.
- e) Proposals may be accepted on evaluation without discussion. However, if deemed necessary, the State may enter into discussions with a priority list of Providers who submitted the highest-ranked proposals. The objective of these discussions is to clarify issues regarding the Provider's proposal before the BAFO is tendered.
- h) The date and time for Providers to submit their BAFO will be included in Addendum to priority list of Providers. If Provider does not submit a notice of withdrawal or a BAFO, the Provider's immediate previous offer shall be construed as its BAFO.
- i) After receipt and evaluation of the BAFOs in accordance with the evaluation criteria, the evaluation committee will make its recommendation to the NOAA-NMFS Department of Commerce for inclusion in State of Hawaii Section 6 Program grant application.
- j) The contents of any proposal shall not be disclosed during the review, evaluation, discussion, or negotiation process. Those sections that the Contractor and the State agree are confidential and/or proprietary should be identified by the Provider(s) and shall be excluded from access.
- k) The Procurement Officer or an evaluation committee reserves the right to determine what is in the best interest of the State for purposes of reviewing and evaluating proposals submitted in response to the RFI. The Procurement Officer or an evaluation committee will conduct a comprehensive, fair and impartial evaluation of proposals received in response to the RFI.
- l) The RFI, any addenda issued, and the successful Provider's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawaii.

7. CONFIDENTIAL INFORMATION - If a person believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld as confidential, then the Procurement Officer named on the cover of this RFI should be so advised in writing and provided with justification to support confidentiality claim. Price is not considered confidential and will not be withheld. Provider shall request in writing nondisclosure of designated trade secrets or

other proprietary data considered confidential. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Pursuant to HAR Section 3-122-58, the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with HRS Chapter 92F. If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with HRS Section 92F-42(12).

8. QUESTIONS PRIOR TO OPENING OF PROPOSALS- All questions must be submitted in writing and directed to the Afsheen Siddiqi, DOFAW Wildlife Biologist, 808-348-0652, afsheen.a.siddiqi@hawaii.gov

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

10. OFFER ACCEPTANCE PERIOD-The State's acceptance of offer, if any, will be made within two-hundred and ten (210) calendar days after the opening of proposals. Prices or commissions quotes by the Provider shall remain firm for a two-hundred and ten (210) day period.

11. PROPOSAL AS PART OF THE CONTRACT- This RFI and all or part of the successful proposal may be incorporated into the contract.

12. CONTRACT MODIFICATIONS - UNANTICIPATED AMENDMENTS - During the course of this contract, the Provider may be required to perform additional work that will be within the general scope of the initial contract. When additional work is required, the Contract Administrator will provide the Provider a written description of the additional work and request the Provider to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Changes to the contract may be modified only by written document (contract modification) signed by the Department of Land and Natural Resources, Division of Forestry and Wildlife and Provider personnel authorized to sign contracts on behalf of the Provider. The Provider will not commence additional work until a signed contract modification has been issued.

13. PROTEST- A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract. The notice of award, if any, resulting from this solicitation shall be posted on the Procurement Reporting System, which is available on the SPO website: <http://www.hawaii.gov/spo2/source/>. Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Procurement Officer, Department of Land and Natural Resources, 1151 Punchbowl St., Honolulu, HI 96813.

14. GOVERNING LAW: COST OF LITIGATION-The validity of this contract and any of its terms

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

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

15. SUBMISSION OF PROPOSAL- The submission of a proposal shall constitute an incontrovertible representation by the Provider of compliance with every requirement of the RFI, and that the RFI documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work. Before submitting a proposal, each Provider must:

- (1) Examine the solicitation documents thoroughly. Solicitation documents include this RFI, any attachments, plans referred to herein, and any other relevant documents;
- (2) Become familiar with State, local, and federal laws, statutes, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work.

16. PROPOSAL PREPARATION

a) **TRANSMITTAL AND OFFER FORM.** Proposals shall be submitted using Contractor's **exact legal name as registered with the Department of Commerce and Consumer Affairs**, if applicable; and to indicate exact legal name in the appropriate spaces on the Transmittal and Offer Form. Failure to do so may delay proper execution of the contract. The authorized signature on the first page of the Offer Form shall be an original signature in ink. If unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Contractor's intent to be bound.

b) **Offer Guaranty.** An offer guaranty is NOT required for this RFI.

c) **Tax Liability.** Work to be performed under this solicitation is a business activity taxable under HRS Chapter 237, and if applicable, taxable under HRS Chapter 238. Vendors are advised that they are liable for the Hawaii GET at the current rate and the applicable use tax at the current 1/2% rate. If, however, a Contractor is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Contractor shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

d) **Taxpayer Preference.** For evaluation purposes, pursuant to HRS §103D-1008, the Contractor's tax-exempt price offer submitted in response to an RFP be increased by the applicable retail rate of general excise tax and the applicable use tax. Under no circumstance shall the dollar amount of the award include the aforementioned adjustment.

17. PRICING- Pricing shall include labor, materials, supplies, all applicable taxes, **except the GET, which may be added as a separate line item and shall not exceed the current rate**, and any other costs incurred to provide the specified services. **The pricing shall be the all-inclusive cost, except the GET, to the State and no other costs will be honored.**

18. ECONOMY OF PRESENTATION- Proposals shall be prepared in a straightforward and concise manner, in a format that is reasonably consistent and appropriate for the purpose. Emphasis will be on

completeness and clarity and content. If any additional information is required by the State regarding any aspects of the Contractor's proposal, it shall be provided within seven (7) business days.

19. CANCELLATION OF RFI AND PROPOSAL REJECTION- The State reserves the right to cancel this RFI and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, pursuant to HAR Section 3-122-96 through 3-122-97. The State shall not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by the Contractor in the event this RFI is cancelled or a proposal is rejected.

20. ADDITIONAL TERMS AND CONDITIONS-The State reserves the right to add terms and conditions during the contract negotiations. These terms and conditions will be within the scope of the RFI and will not affect the proposal evaluation.

21. CONTRACT EXECUTION- Successful Contractor receiving award shall enter into a formal written contract. No performance or payment bond is required for this contract. No work is to be undertaken by the Contractor prior to the commencement date. The State of Hawaii is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date. If an option to extend is mutually agreed upon, the Contractor shall be required to execute a supplement to the contract for the additional extension period. The Contractor or the State may terminate the extended contract at any time without cause upon six (6) weeks prior written notice.

22. PAYMENT- Incremental payments shall be made to the awarded Contractor upon receipt of reports that meet the expectations of the RFI. The receipt of reports shall be due based on the timeline submitted by the Contractor in the proposal, or as amended. HRS Section 103-10 provides that the State shall have thirty (30) calendar days after receipt of invoice or satisfactory completion of contract to make payment. For this reason, the State will reject any offer submitted with a condition requiring payment within a shorter period. Further, the State will reject any offer submitted with a condition requiring interest payments greater than that allowed by HRS §103-10, as amended. The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract, which requires payment within a shorter period or interest payment not in conformance with statute. If an advance payment is requested it must be stated including the amount in the budget section of the proposal.

23. AWARD- Method of Award. The award will be made to the responsive, responsible Contractor(s) whose proposal is/are determined to be the most advantageous to the State based on the evaluation criteria.

Responsibility of Lowest Responsive Offeror(s). Reference HRS Chapter 103D-310(c). If compliance documents have not been submitted to the Department of Land and Natural Resources, Division of Forestry and Wildlife prior to award, the lowest responsive Contractor(s) shall produce documents to the procurement officer to demonstrate compliance with this section.

HRS Chapter 237 tax clearance requirement for award.

HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary

Disability Insurance), and 393 (Prepaid Health Care) requirements for award.

Hawaii Compliance Express.

Vendors must use the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> to acquire a “Certificate of Vendor Compliance.” The HCE provides current compliance status as of the issuance date. The “Certificate of Vendor Compliance” indicating that vendor’s status is compliant with the requirements of HRS Chapter 103D-310(c), shall be accepted for both contracting purposes and final payment. Vendors that elect to use the new HCE services will be required to pay an annual fee of \$15.00 to the Hawaii Information Consortium, LLC (HIC). Vendors choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the prior sections.

Timely Submission of all Certificates. The above certificates should be applied for and submitted to the Dept. of Land And Natural Resources/Division of Forestry and Wildlife as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

Final Payment Requirements. Contractor is required to submit a tax clearance certificate via Hawaii Compliance Express for final payment on the contract.

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

25. NON-DISCRIMINATION- The Contractor shall comply with all applicable federal and State laws prohibiting discrimination against any person on the grounds of race, color, national origin, religion, creed, sex, age, sexual orientation, marital status, handicap, or arrest and court records in employment and any condition of employment with the Contractor or in participation in the benefits of any program or activity funded in whole or in part by the State.

26. CONFLICTS OF INTEREST- The Contractor represents that neither the Contractor, nor any employee or agent of the Contractor, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the Contractor’s performance of this contract.

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

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

29. CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS- It has been determined that funds for this contract have been appropriated by a legislative body. Therefore, Contractor, if awarded a contract in response to this solicitation, agrees to comply with HRS Section 11-205.5, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contract if the contractor is paid with funds appropriated by a legislative body.

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

Confidentiality of Material. All material given to or made available to the Contractor by virtue of this contract, which is identified as proprietary or confidential information, will be safeguarded by the Contractor and shall not be disclosed to any individual or organization without the prior written approval of the STATE. All information, data, or other material provided by the Contractor or the Contractor to the State shall be subject to the Uniform Information Practices Act, HRS chapter 92F. Price is not confidential and will not be withheld. In addition, in the case of an RFI, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available regardless of any designation to the contrary.

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

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

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

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