

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

February 23, 2024

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

Land Board Members:

**SUBJECT:** REQUEST FOR APPROVAL FOR THE USE OF A REQUEST  
FOR PROPOSALS FOR MOSQUITOES FOR INCOMPATIBLE  
INSECT TECHNIQUE (IIT) DEPLOYMENT ON KAUA'I

AND

REQUEST FOR APPROVAL FOR A DELEGATION OF  
AUTHORITY TO THE CHAIRPERSON TO AWARD, EXECUTE,  
AND EXTEND AGREEMENTS WITH SUCCESSFUL  
PROVIDERS.

This Board Submittal requests approval to issue a Request for Proposals (RFP) (see Exhibit A) as provided under Chapter 3-122 Section 4.5 and delegates authority to the Chairperson to award, execute, and extend agreements with successful providers, if any.

**BACKGROUND:**

Hawai'i's forest bird community supports the world's highest percentage of endemic bird species that are found nowhere else in the world. The persistence of these birds in native forests is essential to preserving Hawaiian biocultural and ecological landscapes. Climate change has facilitated encroachment by the southern house mosquito (*Culex quinquefasciatus*), which carries avian malaria, into the high-elevation forests that once served as refugia for Hawai'i's endangered forest birds. Several forest bird species on Kaua'i are declining rapidly due to avian malaria: the endangered 'akeke'e (*Loxops caeruleirostris*), threatened 'i'iwi (*Drepanis coccinea*) and endemic 'anianiau (*Magumma parva*). The State and its partners including the U.S. Fish and Wildlife Service, The Nature Conservancy, the American Bird Conservancy, and others, have identified and proposed landscape-scale mosquito control in critical forest bird habitat in Hawai'i via the Incompatible Insect Technique (IIT) to suppress the mosquitoes that vector avian malaria.

**DISCUSSION:**

Up to \$6 million of federal funding will be made available by DOFAW to procure mosquitoes for IIT through a competitive RFP. Based on this procurement's requirements and special conditions, DOFAW recommends using a competitive sealed proposal process for source selection. Such an approach will be the most advantageous procurement process for the solicitation because:

1. The primary consideration for determining the awards for this RFP is not price.
2. Oral or written discussion may need to be conducted with the Applicants concerning technical and price aspects of their proposals.
3. Applicants may need to be allowed to revise their proposals, including price.
4. Awards may need to be based upon a comparative evaluation, as stated in the RFP, of differing prices, quality, services, and other contractual factors to determine the most advantageous offering to the State.

Under Hawaii Administrative Rules (HAR) §3-122-43, a determination by the Department procurement officer must be made to use the competitive sealed proposal process over the competitive sealed bidding process when the competitive sealed bidding process is neither practicable nor advantageous to the State. In addition, according to HAR §3-122-45, a determination must be made by the procurement officer that an evaluation committee, selected in writing by the procurement officer, shall evaluate the competitive sealed proposals. DOFAW recommends using an evaluation committee to select 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 for procuring the identified goods or services. DOFAW recommends the following individuals:

Paul Radley, DOFAW, Mosquito Control Project Coordinator  
Lindsey Nietmann, DOFAW, Forest Bird Recovery Coordinator  
Jason Omick, DOFAW, Game Program Coordinator

To expedite the contracts for this procurement, DOFAW requests that the Board delegate authority to the Chairperson to award, execute, and extend 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 serve best the interest of the State including extending contracts as appropriate. Should any committee members be unable to serve, alternates with similar knowledge will be substituted, and any changes and final make-up of the evaluation committee will be kept in the contract file.

**CHAPTER 343, HAWAII REVISED STATUTES – ENVIRONMENTAL ASSESSMENT**

Under the authority of HRS Chapter 343, DOFAW drafted an Environmental Assessment as a co-lead with the U.S. Fish and Wildlife Service (USFWS) to suppress

non-native southern house mosquitoes on Kaua'i. DOFAW presented the final EA to the BLNR on October 13, 2023, where it was approved, and a Finding of No Significant Impact (FONSI) was signed. Before this, the USFWS approved the EA and signed a federal FONSI on September 22, 2023. On October 23, 2023, DOFAW published the State's approved EA and FONSI in the Office of Planning and Sustainable Development's Environmental Notice.

**RECOMMENDATIONS:**

That the Board:

1. Approve the use of:
  - a. A competitive sealed proposal for a solicitation for the DOFAW-24-Kauai IIT Mosquito RFP.
  - b. An evaluation committee comprised of the individuals identified above (or alternates with similar knowledge) to serve, evaluate, and select the competitive sealed proposals.
  
2. Delegate authority to the Chairperson to:
  - a. Award, execute, and extend contracts for goods and services, subject to annual funding availability, annual budget procedures and approvals, and approval as to form by the Department of the Attorney General.

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:

1. Draft Request for Proposals

**REQUEST FOR PROPOSALS (RFP)**

**No. DOFAW-24-Kauai IIT Mosquito**

**SEALED PROPOSALS TO COMPLETE**

Procurement of incompatible male mosquitoes used for IIT to protect endangered  
Hawaiian forest birds

PROPOSALS WILL BE RECEIVED UP TO 4:00 PM  
(HST) ON  
MARCH XX, 2024

A digital copy of proposals may be submitted via email to Lindsey Nietmann at [lindsey.nietmann@hawaii.gov](mailto:lindsey.nietmann@hawaii.gov), labeled with the subject line "RFP DOFAW-24-Kauai IIT mosquito" by the above deadline. The timely receipt of email offers shall be evidenced by the date and time registered by the State of Hawaii email system when the file is sent.

**RFP Registration and Inquiries:** If you intend to respond to this Request for Proposals, please get in touch with Lindsey Nietmann at [lindsey.nietmann@hawaii.gov](mailto:lindsey.nietmann@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.

## SECTION ONE: OVERVIEW

### **INTRODUCTION**

Hawai'i's forest bird community supports the world's highest percentage of endemic bird species that are found nowhere else in the world. The persistence of these birds in native forests is essential to preserving Hawaiian biocultural and ecological landscapes. Climate change has facilitated encroachment by the southern house mosquito (*Culex quinquefasciatus*), which carries avian malaria, into the high-elevation forests that once served as refugia for Hawai'i's endangered forest birds. Several forest bird species on Kaua'i are declining rapidly due to avian malaria: the endangered 'akeke'e (*Loxops caeruleirostris*), threatened 'i'iwi (*Drepanis coccinea*) and 'anianiau (*Magnumma parva*). The State and its partners (U.S. Fish and Wildlife Service, The Nature Conservancy, the American Bird Conservancy, and others) have identified and proposed landscape-scale mosquito control in critical forest bird habitat in Hawai'i via the Incompatible Insect Technique (IIT) to suppress the mosquitoes that vector avian malaria.

### **TERM OF CONTRACT**

A single award will be made under this RFP.

The final award is subject to the availability of funds and budget restrictions and procedures implemented under the Fiscal Year 2023-24 Executive Biennium Budget Instructions.

### **CANCELLATION**

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

### **RFP SCHEDULE AND SIGNIFICANT DATES**

The following table represents the State's best estimate of the schedule that will be followed. If a component of this schedule, such as the "Proposal Due" date, is delayed, the rest of the schedule will likely be shifted. The tentative schedule is as follows.

Advertising of Request for Proposals	
Deadline to Submit Written Questions	5 days after posting
State's Response to Written Questions	10 days after posting
Proposals Due and Opened	
Proposal Evaluations	
Contract Start Date	

## **SECTION TWO: SCOPE OF WORK AND SPECIFICATIONS**

### **SCOPE OF WORK**

The State of Hawai'i Department of Land and Natural Resources, Division of Forestry and Wildlife (DLNR-DOFAW) seeks to fund the production of incompatible male southern house mosquitoes for IIT deployment across ~3,000 acres of higher elevation forest bird habitat on Kaua'i. DLNR-DOFAW seeks an Offeror to contract a qualified vendor to procure laboratory reared incompatible Palmyra strain southern house mosquitoes (i.e., originating from Palmyra Atoll) that are transinfected with the *Wolbachia pipientis* supergroup B strain (known as wAlbB) isolated from *Aedes albopictus* KLP strain mosquitoes originating from Kuala Lumpur, Malaysia. The wAlbB *Wolbachia* strain and the species of mosquito it was isolated from are to be chosen for this process as both are already widespread across the Hawaiian Islands since the introduction of *Aedes albopictus* to Hawaii over a century ago. Females that are produced during the production process will be sorted out and discarded.

At least 500,000 incompatible male southern house mosquitoes will be produced and shipped to Kaua'i every week for one year of deployment by the BNM partner team on Kaua'i. The Offeror will ensure that the vendor not only executes production of the mosquitoes but that they also cover all logistics and costs of shipments.

### **PERIOD OF PERFORMANCE**

October 1, 2024 – December 31, 2025, with the possibility of up to three one-year no-cost extensions

### **PROPOSAL FORMAT AND CONTENT**

Submit proposals **VIA E-MAIL ONLY** to [lindsey.nietmann@hawaii.gov](mailto:lindsey.nietmann@hawaii.gov). Please use page numbering. All proposals must use the following format:

1. Transmittal and offer form (can also be submitted on business letterhead)
2. Proposal Scope of Work
3. Budget and budget justification, including details on all salary, fringe, supplies, equipment, contractual, travel, other, and overhead costs

4. Evidence of Experience: Submit a brief Statement of the contractor's qualifications to accomplish program objectives and tasks as described in this RFP; a statement of these qualifications should be supported by a resume(s) identifying how the contractor's qualifications meet these requirements. Offeror shall verify that it possesses at least three (3) years of experience producing, executing, managing, and maintaining long-term contracts. Previous experience, capability, and proficiency in such projects will be reviewed. Additionally, the offeror shall include a list of key personnel who will be dedicated to this project and information on their background

## **SPECIAL PROVISIONS**

TRANSMITTAL and OFFER LETTER

Can also be submitted on business letterhead.

Contact:

Address: Phone/ Email:

TO: Lindsey Nietmann, lindsey.nietmann@hawaii.gov  
Department of Land and Natural Resources, Division of Forestry and Wildlife  
1151 Punchbowl St Rm 325, Honolulu HI 96813

The undersigned has carefully read and understands the terms and conditions specified in RFP No. **DOFAW-24-Kauai IIT Mosquito**, the Special Provisions attached hereto, and in the current Hawaii Attorney General's General Conditions, by reference, made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all following the true intent and meaning thereof.

The undersigned further understands and agrees that by submitting this offer, I) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Proposal Title: **DOFAW-24-Kauai IIT Mosquito**: *(include organization name after colon)*

If awarded a grant, the contract or purchase order with the State would be made with the following entities (please use the exact legal name as registered with the Dept. of Commerce and Consumer Affairs):

Fiscal Entity No.1  
Name  
Amount  
Requested

Fiscal Entity No.2 (not  
required) Name  
Amount  
Requested

A separate budget page has been submitted for  
each fiscal entity. Sincerely,

---

Offeror Signature                      Date

---

Print Name                                      Title

DRAFT



### **SECTION 3: EVALUATION PROCESS**

The award will be made to the responsive, responsible Offeror whose proposal is the most advantageous to the State based on the evaluation criteria below. All complete proposals submitted before the deadline will be considered. All proposals will be selected competitively, based on the requirements identified, and reviewed by an evaluation committee familiar with endangered species facilities. For those proposals listed as “priority listed offerors” under section 3-122-53, the RFP administrator may contact the Offeror with any clarifying questions regarding the proposal (however, proposals may also be accepted without discussion).

The evaluation process is designed to award the contract not necessarily to the Offeror with the lowest price but to the Offeror that will provide the highest quality product. Evaluation criteria reflect the purpose and priorities for the project's accomplishment: planning, compliance, and construction.

#### **Evaluation Committee**

An evaluation committee, selected by the Procurement Officer, will make all decisions regarding the evaluation, the acceptability of proposals, and the selection of a proposal, if any. The committee will consist of at least three (3) qualified state employees. The following individuals have been selected for the evaluation committee for this RFP:

Paul Radley, DOFAW, Mosquito Control Project Coordinator  
Lindsey Nietmann, DOFAW, Forest Bird Recovery Coordinator  
Jason Omick, DOFAW, Game Program Coordinator

Should any of the committee members above be unable to participate, alternates with similar knowledge will be substituted.

#### **Opening of Proposals and Confidentiality of the Evaluation Process**

Proposals will not be publicly opened. Only members of the evaluation committee or State of Hawai'i personnel having legitimate interest in the RFP will be provided access to the proposals and evaluation results during the evaluation period. All proposals, evaluation worksheets and subsequent Best and Final Offer (BAFO), if any, and including documentation, correspondence, and meetings, will be kept confidential until after the contract is awarded. All proposals will be made public only after the review and selection process is completed.

#### **Compliance with Minimum Criteria**

Proposals will be reviewed for conformance with the instructions and requirements of the RFP. The proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable. All responsible Offerors who submit acceptable or potentially acceptable proposals are eligible for a priority list. Discussions will be limited to only “priority-listed” offerors.

### Acceptance/Rejection of Proposals

The evaluation committee will review all proposals that meet the minimum criteria listed above and then rank them according to the comparative criteria evaluation listed below. The committee will then enter into discussions with the Offeror that submitted the highest-ranked proposal to verify and clarify said proposal and to discuss the final terms and conditions of the Agreement.

### Modification or Withdrawal of Proposals

A modification of a proposal already received will be accepted by the State only if the modification is received before the proposal's due date or is made via an addendum issued by the State. All modifications shall be made in writing and submitted in the same form and manner as the original proposal. An Offeror may withdraw a proposal already received before the proposal's due date by submitting a written request to the State for withdrawal executed by the Offeror's authorized representative. This provision for modifications and withdrawals of proposals may not be utilized by an Offeror to submit a late proposal and, as such, will not alter the State's right to reject a proposal.

## **COMPARATIVE CRITERIA EVALUATION**

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

### **1) Technical capability and approach for meeting performance requirements (35 points)**

The evaluation committee will review the description of the methods and approach the Offeror intends to use to prepare their contract for IIT mosquito procurement and evaluate whether the proposal:

- Meets quality standards in terms of integration with existing and planned efforts (i.e., can the Offeror successfully contract with a vendor to procure mosquitoes and coordinate with existing BNM partners?).
- Will be completed on a timely basis (i.e., the likelihood that the Offeror's schedule meets DLNR's schedule of procuring mosquitoes for release on Kaua'i by October 2024).

### **2) Managerial capability: Previous experience and expertise (35 points)**

- Has the Offeror met or exceeded minimum qualifications?
- Has the Offeror provided information demonstrating their experience and expertise in similar work in the Hawai'i archipelago?
- Has the Offeror demonstrated an ability to develop and manage contracts involving large budgets.

### **4) Pricing (15 points)**

- Reasonableness (i.e., does the proposed pricing accurately reflect the Offeror's effort to meet requirements and objectives)
- Affordability (i.e., the ability of DLNR-DOFAW to finance the proposal)
- 5 of the 15 points allocated to pricing shall be allocated to cost.  
The proposal offering the lowest cost will be automatically allocated 5 points.  
The number of points assigned to other proposals will be determined using the

following formula:

$$\frac{\text{Lowest price (\$)} \times 5 \text{ points (maximum)}}{\text{Offeror's proposal (\$)}} = \text{points}$$

DRAFT

## ATTACHMENT 1: SPECIAL PROVISIONS

1. **SCOPE-** All proposals shall be in accordance with this RFP, including the special provisions in this section, the Scope of Work specified herein, and the General Conditions (GC), included by reference and available at <http://spo.hawaii.gov/wp-content/uploads/2014/02/103D-General-Conditions.pdf>
2. **RESPONSIBILITY OF OFFERORS-** Offeror is advised that if awarded a contract under this solicitation, Offeror 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. **OFFEROR QUALIFICATIONS-** Offeror shall meet all of the qualifications required by this RFP. Failure to meet the qualifications as specified in the section Experience and Capabilities will likely have an adverse effect on Offeror's proposal evaluation.
4. **TERM OF CONTRACT-** Successful Offeror 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 FY2023 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, Lainie Berry, Wildlife Program Manager, or authorized representative, is designated the Contract Administrator.
6. **OVERVIEW OF THE RFP PROCESS**
  - a) The RFP is issued pursuant to Subchapter 6 of HAR Chapter 3-122, implementing HRS Section 103D-303.
  - b) The procurement process begins with the issuance of the RFP and the formal response to any written questions or inquiries regarding the RFP. Changes to the RFP will be made only by Addendum.
  - c) Proposals shall not be opened publicly, but shall be opened in the presence of two (2) or more procurement officials. The register of proposals and Offerors' proposals shall be open to public inspection after posting of the award. All proposals and other material submitted by Offerors become the property of the State and may be returned only at the State's option.
  - d) The Procurement Officer, or an evaluation committee selected by the Procurement Officer, shall evaluate the proposals in accordance with the evaluation criteria. The proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable.
  - e) Proposals may be accepted on evaluation without discussion. However, if deemed necessary, prior to entering into discussions, a "priority list" of responsible Offerors submitting acceptable and potentially acceptable proposals shall be generated. The priority list may be limited to a minimum of three responsible Offerors who submitted the highest-ranked proposals. The objective of these discussions is to clarify issues regarding the Offeror's proposal before the BAFO is tendered.
  - f) If during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate such clarification or change. Addenda to the RFP shall be distributed only to priority listed Offerors who submit acceptable or potentially acceptable proposals.
  - g) Following any discussions, Priority Listed Offerors will be invited to submit their BAFO, if required. The Procurement Officer or an evaluation committee reserves the right to have

additional rounds of discussions with the top three (3) Priority Listed Offerors prior to the submission of the BAFO.

- h) The date and time for Offerors to submit their BAFO, if any, is indicated in the RFP Schedule and
  - i) Significant Dates. If Offeror does not submit a notice of withdrawal or a BAFO, the Offeror's immediate previous offer shall be construed as its BAFO.
  - j) After receipt and evaluation of the BAFOs in accordance with the evaluation criteria, the Procurement Officer or an evaluation committee will make its recommendation. The Procurement Officer will award the contract to the Offeror whose proposal is determined to be the most advantageous to the State taking into consideration price and the evaluation factors.
  - k) The contents of any proposal shall not be disclosed during the review, evaluation, discussion, or negotiation process. Once award notice is posted, all proposals, successful and unsuccessful, become available for public inspection. Those sections that the Offeror and the State agree are confidential and/or proprietary should be identified by the Offerors and shall be excluded from access.
  - l) The Procurement Officer or an evaluation committee reserves the right to determine what is in the best interest of the State for purposes of reviewing and evaluating proposals submitted in response to the RFP. The Procurement Officer or an evaluation committee will conduct a comprehensive, fair and impartial evaluation of proposals received in response to the RFP.
  - m) The RFP, any addenda issued, and the successful Offeror's proposal shall become a part of the contract. All proposals shall become the property of the State of Hawaii.
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 RFP should be so advised in writing and provided with justification to support confidentiality claim. Price is not considered confidential and will not be withheld. An Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data considered confidential. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Pursuant to HAR Section 3-122-58, the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with HRS Chapter 92F. If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with HRS Section 92F-42(12).
8. REQUIRED REVIEW -Offeror shall carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter must be made in writing and should be received by the Department of Land and Natural Resources, Division of Forestry and Wildlife prior to the deadline for written questions as stated in the RFP Schedule and Significant Dates. This will allow issuance of any necessary corrections and/or amendments to the RFP. It will help prevent the opening of a defective solicitation and exposure of Offeror's proposal upon which award could not be made. Any exceptions taken to the terms, conditions, specifications, or other requirements listed herein, must be listed in the *Exceptions* section of the Offeror's proposal, if the exception is unresolved by the Proposal Due date.
9. QUESTIONS PRIOR TO OPENING OF PROPOSALS- All questions must be submitted by email and directed to Lainie Berry, Department of Land and Natural Resources, Division of Forestry and Wildlife, at [lainie.berry@hawaii.gov](mailto:lainie.berry@hawaii.gov) . The State will respond to written questions by the date indicated in the RFP Schedule and Significant Dates, or as amended.
10. CANCELLATION OF RFP AND PROPOSAL REJECTION- The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, pursuant to HAR Section 3-122-96 through 3-122-97.
11. OFFER ACCEPTANCE PERIOD-The State's acceptance of offer, if any, will be made within ninety (90) calendar days after the opening of proposals. Prices or commissions quotes by the Offeror shall remain firm for a ninety (90) day period.

12. PROPOSAL AS PART OF THE CONTRACT- This RFP and all or part of the successful proposal may be incorporated into the contract.
13. CONTRACT MODIFICATIONS- UNANTICIPATED AMENDMENTS During the course of this contract, the Contractor may be required to perform additional work that will be within the general scope of the initial contract. When additional work is required, the Contract Administrator will provide the Contractor a written description of the additional work and request the Contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Changes to the contract may be modified only by written document (contract modification) signed by the Department of Land and Natural Resources, Division of Forestry and Wildlife and Contractor personnel authorized to sign contracts on behalf of the Contractor. The Contractor will not commence additional work until a signed contract modification has been issued.
14. 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 in 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.
15. GOVERNING LAW: COST OF LITIGATION- The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, shall be governed by the laws of the State of Hawaii. Any action at law or equity to enforce or interpret the provisions of this contract shall be brought in a state court or competent jurisdiction in Honolulu, Hawaii. In case the State shall, without any fault on its part, be made a part to any litigation commenced by or against the Contractor in connection with this contract, the Contractor, shall pay all costs and expenses incurred by or imposed on the State, including attorneys' fees.
16. SUBMISSION OF PROPOSAL- The submission of a proposal shall constitute an incontrovertible representation by the Offeror of compliance with every requirement of the RFP, and that the RFP documents are sufficient in scope and detail to indicate and convey reasonable understanding of all terms and conditions of performance of the work. Before submitting a proposal, each Offeror must:
  - a) Examine the solicitation documents thoroughly. Solicitation documents include this RFP, any attachments, plans referred to herein, and any other relevant documents;
  - b) 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.
17. PROPOSAL PREPARATION
  - a) TRANSMITTAL AND OFFER FORM. Proposals shall be submitted using Offeror'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 Offeror's intent to be bound.
  - b) Offer Guaranty. An offer guaranty is NOT required for this RFP.
  - 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 4% rate and the applicable use tax at the current 1/2% rate. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror 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 §1030-1008, the Offeror's tax-exempt price offer submitted in response to an IFB shall 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.

- e) Original Proposal and Copies to be Submitted. Offeror shall submit one (1) original proposal marked "ORIGINAL". DO NOT SUBMIT MORE THAN ONE ORIGINAL.
  - f) Costs for developing the Proposal are solely the responsibility of the Offeror, whether or not any award results from this solicitation. The State of Hawaii will not reimburse such costs.
  - g) All proposals become the property of the State of Hawaii.
  - h) Copies of documents transmitted by Offerors via facsimile machines shall be limited to the modifications or withdrawal of an offer pursuant to HAR Sections 3-122-108 and 3-122-28, respectively.
18. **SUBMISSION OF PROPOSAL-** Offers shall be received at the Department of Land and Natural Resources, Division of Forestry and Wildlife, at [lainie.berry@hawaii.gov](mailto:lainie.berry@hawaii.gov), no later than the date and time stated in Significant Dates, as amended. Timely receipt of offers shall be evidenced by the date and time registered by the state of Hawaii e-mail system time when the file is sent. Use RFP DOFAW-Forest bird captive propagation facilities in the subject line. Offers received after the deadline shall be returned unopened. If the Offeror chooses to deliver its offer by United States Postal Service (USPS), please be aware that the USPS does not deliver directly to the Department of Land and Natural Resources, Division of Forestry and Wildlife, but to a central mailroom. This may cause a delay in receipt by the Department of Land and Natural Resources, Division of Forestry and Wildlife and the offer may reach the Division of Forestry and Wildlife after the deadline, resulting in automatic rejection.
19. **Buy America Provision:** The work must be carried out in compliance with the Buy American Provision - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials for Infrastructure As required by Section 70914 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58), on or after May 14, 2022, none of the funds under a federal award that are part of a Federal financial assistance program for infrastructure may be obligated for a project unless all the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. Recipients must include the requirements in this section all subawards, including all contracts and purchase orders for work or products under this program.

None of the funds provided under this award may be used for a project for infrastructure unless:

- a) All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States,
- b) All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation, and
- c) all construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

This Buy America preference only applies to articles, materials, and supplies consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

- 20. **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.
- 21. **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 Offeror's proposal, it shall be provided within four (4) business days.
22. **PROPOSAL OPENING-**Proposals will be opened at the date, time, and place specified in Section One, or as amended. Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The register of proposals and Offeror's proposals shall be open to public inspection after all parties sign the contract.
  23. **EVALUATION OF PROPOSALS-** The Procurement Officer, or an evaluation committee of at least three (3) qualified state employees selected by the Procurement Officer shall evaluate proposals. The evaluation will be based solely on the evaluation criteria set out in Section Four of this RFP. Proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable. Discussion may be conducted with priority listed Offerors who submit proposals determined to be acceptable or potentially acceptable of being selected for award, but proposals may be accepted without such discussions. The objective of these discussions is to clarify issues regarding the Offeror's proposals before the best and final offer, if necessary. If numerous acceptable and potentially acceptable proposals are submitted, the evaluation committee may rank the proposals and limit the priority list to three responsive, responsible offerors who submitted the highest-ranked proposals.
  24. **DISCUSSION WITH PRIORITY LISTED OFFERORS-**Priority listed offerors shall have a discussion with the evaluation committee to discuss their proposal to ensure thorough, mutual understanding. The State in its sole discretion shall schedule the time and location for these discussions, normally within the timeframe indicated in the RFP schedule.
  25. **CANCELLATION OF RFP AND PROPOSAL REJECTION-** The State reserves the right to cancel this RFP and to reject any and all proposals in whole or in part when it is determined to be in the best interest of the State, pursuant to HAR Section 3-122-96 through 3-122-97. The State shall not be liable for any costs, expenses, loss of profits or damages whatsoever, incurred by the Offeror in the event this RFP is cancelled or a proposal is rejected.
  26. **ADDITIONAL TERMS AND CONDITIONS-** The State reserves the right to add terms and conditions during the contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluation.
  27. **CONTRACT EXECUTION-** Successful Offeror 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.
  28. **PAYMENT-**Incremental payments shall be made to the awarded Contractor upon receipt of reports that meets the expectations of the RFP. 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 in the budget section of the proposal.
  29. **AWARD- Method of Award.** The award will be made to the responsive, responsible Offeror(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 offeror(s) shall produce documents to the procurement officer to demonstrate compliance with this section.
  30. **HRS Chapter 237 tax clearance requirement for award.** Instructions are as follows:



Pursuant to HRS §103D-328, lowest responsive Offeror(s) shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by the Department of Land and Natural Resources, Division of Forestry and Wildlife.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX *TAX CLEARANCE APPLICATION* Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): [http://www.hawaii.gov/tax/a1\\_1alphalist.htm](http://www.hawaii.gov/tax/a1_1alphalist.htm)

DOTAX Forms by Fax/Mail: (808) 587-7572  
1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are: DOTAX:(808) 587-1488

IRS: (808) 539-1573

The application for the clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to the Department of Land and Natural Resources, Division of Forestry and Wildlife. However, the tax clearance certificate shall be submitted to the Department of Land and Natural Resources, Division of Forestry and Wildlife.

HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award. Instructions are as follows:

Pursuant to HRS §103D-310(c), the lowest responsive Offeror shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (OUR). The certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by the [Dept/Agency]. A photocopy of the certificate is acceptable to the [Dept/Agency].

The certificate of compliance shall be obtained on the State of Hawaii, OUR APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH HAR SECTION 3-122-112, Form LIR#27 which is available at <http://hawaii.gov/labor/formsall.shtml> or at the neighbor island OUR District Offices. The OUR will return the form to the Offeror who in turn shall submit it to the [Dept/Agency].

The application for the certificate is the responsibility of the Offeror, and must be submitted directly to the OUR and not to the [Dept/Agency]. However, the certificate shall be submitted to the [Dept/Agency]. Compliance with Section 103D-310(c), HRS, for an entity doing business in the State. The lowest responsive Offeror shall be required to submit a CERTIFICATE OF GOOD STANDING (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received by the [Dept/Agency]. A photocopy of the certificate is acceptable to the [Dept/Agency]. To obtain the Certificate, the Offeror must first be registered with the BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate. On-line business registration and the Certificate are available at [www.BusinessRegistrations.com](http://www.BusinessRegistrations.com) register or to obtain the Certificate by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

**Final Payment Requirements.** Contractor is required to submit a tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

In addition to the tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the Form is also available at [www.spo.hawaii.gov](http://www.spo.hawaii.gov). Select "Forms for Vendors/Contractors" menu.

Hawaii Compliance Express. Alternately, instead of separately applying for these paper certificates at the various state agencies, vendors may choose to 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 1030-310(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.

31. **CONTRACT INVALIDATION**-If any provision of this contract is found to be invalid, such invalidation will not be construed to invalidate the entire contract.
32. **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.
33. **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.
34. **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.
35. **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.
36. **CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS**- It has been determined that funds for this contract have been appropriated by a legislative body. Therefore, Offeror, 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.
37. **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.
38. **Cancellation of Solicitations and Rejection of Offers.** The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in HAR §§3-122-95 through 3-122-97.
39. **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.
40. All information, data, or other material provided by the Offeror or the Contractor to the State shall be subject to the Uniform Information Practices Act, HRS chapter 92F. The Offeror shall designate in writing to the Procurement Officer those portions of its unpriced offer or any subsequent submittal that are trade secrets or other proprietary data that the Offeror desires to remain confidential, subject to HAR §3-122-58, in the case of an RFP, or HAR §3-122-30, in the case of an IFB. The Offeror shall state in its written communication to the Procurement Officer, the reason(s) for designating the material as confidential, for example, trade secrets. The Offeror shall submit the material designated as confidential in such manner that the material is readily separable from the offer in order to facilitate inspection of the non-confidential portion of the offer.

Price is not confidential and will not be withheld. In addition, in the case of an IFB, makes and models, catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of opening 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 Offeror protests under HAR chapter 3-126. If the request to inspect the confidential material is denied, the decision may be appealed to the Office of Information Practices in accordance with HRS §92F-15.5.

- 41. 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.
- 42. 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.
- 43. Competency of Offeror.** Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the purchasing agency may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the STATE. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.