



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RELEASE DATE: May 22, 2023

REQUEST FOR PROPOSALS
No. RFP-23-HHL-017
SEALED OFFERS
FOR
**LAND ACQUISITION AND DEVELOPMENT,
STATEWIDE**

WILL BE RECEIVED UP TO 2:00 P.M. (HST) ON JULY 7, 2023

AT HALE KALANIANAOLE, 91-5420 KAPOLEI PARKWAY, KAPOLEI, HAWAII 96707.
DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO DARRELL ING,
TELEPHONE (808) 620-9276, FACSIMILE (808) 620-9299 OR E-MAIL AT
darrell.h.ing@hawaii.gov.

KALI WATSON
CHAIRMAN, HAWAIIAN HOMES COMMISSION
PROCUREMENT OFFICER

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SECTION ONE

INTRODUCTION, TERMS AND ACRONYMS, KEY DATES

1.1 INTRODUCTION

The Department of Hawaiian Home Lands ("Department" or "DHHL") is asking for proposals from interested landowners/developers ("Offerors") to offer real property for acquisition by the Department to be developed by the Offeror. The proposal will include an offer of real property to be acquired by the Department, along with a proposal to develop the property that shall include, but is not limited to, the design and construction of on- and off-site infrastructure, and the design, construction, and marketing of residential units to Department beneficiaries.

Offerors may elect to submit a proposal that only offers real property for acquisition by the Department, without an offer to develop the property. However, all proposals that only offer real property for acquisition will not be evaluated under section 4 of this Request for Proposals (RFP). Such proposals will be considered on a case-by-case basis at the sole discretion of the Department. Acquisitions of real property are not subject to the requirements of Hawaii Revised Statutes (HRS) Chapter 103D.

The Department may accept more than one submitted proposal, and reserves the right to reject unacceptable proposals. If the proposal includes offers for both land acquisition and development, the Department, at its discretion, may elect to accept only the acquisition portion of the proposal. In the event the Department only accepts the acquisition portion of the proposal, the acquisition will be evaluated as described above.

1.2 CANCELLATION

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

1.3 TERMS AND ACRONYMS USED THROUGHOUT THE SOLICITATION

ADA	=	Americans with Disabilities Act
AMI	=	Area Median Income
BAFO	=	Best and Final Offer
CPO	=	Chief Procurement Officer
DA	=	Development Agreement
DAGS	=	Department of Accounting and General Services
DCAB	=	Disability and Communication Access Board
DHHL	=	Department of Hawaiian Home Lands
FHA	=	Federal Housing Administration
GC	=	103D General Conditions, issued by the Department of the Attorney General
GET	=	General Excise Tax
HAR	=	Hawaii Administrative Rules
HCE	=	Hawaii Compliance Express
HHC	=	Hawaiian Homes Commission
HRS	=	Hawaii Revised Statutes
HUD	=	Department of Housing and Urban Development.

NAHASDA	=	Native American Housing Assistance and Self Determination Act of 1996
RFP	=	Request for Proposals
UFAS	=	Uniform Federal Accessibility Standards
VA	=	Department of Veteran Affairs

Addendum – A written document which may be issued by the Chairman during the solicitation period establishing changes to the request for proposals.

Advertisement – A public announcement inviting proposals for work to be performed or materials to be furnished.

Area Median Income (AMI) – the median income for a County as defined by HUD, and as adjusted for family size.

Chairman – Chairman of the Hawaiian Homes Commission. The Chairman also serves as the Director of the Department of Hawaiian Home Lands and is the Procurement Officer for the department.

Commission – The Hawaiian Homes Commission (HHC).

Contact Person – The person designated by the Department to receive various communications in writing to the Department in conjunction with the project.

Department of Hawaiian Home Lands (DHHL, or Department) – A public body responsible for administering the day-to-day operations of the Hawaiian Homes Commission Act of 1920, as amended.

Developer – The entity or person retained by the Department to implement the Project.

Development Agreement – The contract through which the Offeror will implement the Project.

Developer-Built Homes – Houses constructed by the developer (as opposed to self-help, owner-builder, etc.).

Federal Labor Standards – U.S. Department of Housing and Urban Development form HUD-4010, as may be amended from time to time.

Federal Rate Schedule – HUD General Decision HI20230001 3/17/2023, as may be amended from time to time.

Green building – Design and construction practices that minimize environmental impact, maximize the quality of homes and reduce the cost of maintenance and operation.

Hawaii Housing Finance & Development Corp. (HHFDC) – The State housing entity that awards State & Federal tax credits, Hula Mae Bonds, Rental Housing Revolving and Dwelling Unit Revolving Funds.

Hawaiian Home Lands Trust Fund – The trust fund created by Act 14, Special Session Laws of Hawaii, 1995, which established a trust fund within the State Treasury to which all specified appropriations from the State legislature shall be deposited therein.

Hawaiian Homes Commission Act of 1920 (HHCA) – The Act of July 9, 1921, c 42, 42 Stat. 108, which is now part of the Hawaii State Constitution, and is subject to amendment or repeal as prescribed in Article XII of the Hawaii State Constitution.

Hawaii BuiltGreen - A program for building-industry professionals enrolled in the Hawaii BuiltGreen Program of the Building Industry Association of Hawaii. It is designed to

support the Self-Certification Checklist used to certify Hawaii BuiltGreen Home Builder projects.

Housing Contractor ("Contractor") – For the purpose of this RFP, a company whose primary or a significant portion of business is the construction of residential dwellings.

Infrastructure Contractor – For the purpose of this RFP, a company whose primary or a significant portion of business is the construction of sitework, roadways and utilities.

Inspector – The person assigned to make detailed inspections of contract performance and services supplied.

Laws – All Federal, State, County laws, ordinances, rules and regulations including any amendments thereto effective as of the date of the solicitation for sealed proposals.

Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) – A program of block grant assistance to native Hawaiians administered by HUD.

Native Hawaiian – Defined as any descendant of not less than one-half (50%) part of the blood races inhabiting the Hawaiian Islands previous to 1778 (a lower case "n" is commonly used in the phrase "native Hawaiian" when referring to Hawaiian Homes Commission Act beneficiaries. The upper case "N" is used when more generally describing persons with any percentage of Hawaiian ancestry).

Offeror – Any individual, partnership, firm, corporation, joint venture, or representative or agent, submitting an offer in response to this solicitation.

Project – Development of the acquired property. (see Section Two: Background and Scope of Work)

Procurement Officer – The contracting officer for the State of Hawaii, Department of Hawaiian Home Lands.

Proposal – A document submitted by an Offeror in the prescribed manner in response to this RFP.

Responsible Managerial Employee (RME) – The individual who is designated by the Developer to be responsible for all work of the project and is authorized by the Developer to receive and fulfill instructions and notices from the Department.

Sales Agreement – The contract through which the Department will purchase the property or Project.

Selection Committee – A committee consisting of at least three governmental employees, appointed by the Chairman, which will evaluate proposals and recommend the Selected Developer for this Project to the Chairman for approval.

Selected Developer – The Offeror selected by the Selection Committee and approved by the Chairman.

State – The State of Hawaii acting through its authorized representative.

Subcontractor – An individual, partnership, firm, corporation, joint venture or other legal entity, as covered in Chapter 444, HRS, which enters into an agreement with the Contractor to perform a portion of the work for the Contractor.

Surety – The qualified individual, firm or corporation other than the Developer, which executes a bond for the benefit of the Developer and the Department to insure acceptable performance of the Construction Contract.

Term Sheet – The agreement executed by DHHL and the successful Offeror that articulates basic terms and conditions that the parties agree to further negotiate and refine, and ultimately set forth in detail in the Development Agreement.

1.4 RFP SCHEDULE AND SIGNIFICANT DATES

The schedule represents the State’s best estimate of the schedule that will be followed. All times indicated are Hawaii Standard Time (HST). If a component of this schedule, such as "Proposal Due date/time" is delayed, the rest of the schedule will likely be shifted by the same number of days. Any change to the RFP Schedule and Significant Dates shall be reflected in and issued in an addendum. The approximate schedule is as follows:

Release of Request for Proposals	May 22, 2023
Pre-proposal Conference	May 30, 2023
Due date to Submit Questions	June 22, 2023
State’s Response to Questions	June 29, 2023
Proposals Due date/time	July 7, 2023, 2:00 pm
Acquisition	
Property Evaluations	July 21, 2023
Discussion with Priority Listed Offerors (if necessary)	July 26, 2023
Best and Final Offer (if necessary)	August 4, 2023
Notice(s) of Acceptance	August 11, 2023
Development	
Proposal Evaluations	August 17, 2023
Discussion with Priority Listed Offerors (if necessary)	August 23, 2023
Best and Final Offer (if necessary)	September 1, 2023
Notice(s) of Acceptance	September 8, 2023
Execution of Sale Agreement and/or Developer Agreement	October 27, 2023

1.5 PRE-PROPOSAL CONFERENCE

The pre-proposal conference is to brief potential Offerors on this procurement. It also gives the Offerors the opportunity to ask clarifying questions. While the pre-proposal conference is not mandatory, Offerors are encouraged to attend to gain a better understanding of the requirements of this RFP.

Offerors are advised that anything discussed at the pre-proposal conference does not change any part of this RFP. All changes and/or clarifications to this RFP shall be done in the form of an addendum.

The pre-proposal conference will be held as follows:

- Date: May 30, 2023
- Time: 10:00 am
- Location: [TEAMS Meeting](#)

1.6 QUESTIONS AND ANSWERS PRIOR TO OPENING OF PROPOSALS

All questions shall be submitted by the due date specified in Section 1.4, *RFP Schedule and Significant Dates*, as amended.

The State will respond to questions through Addenda/Amendments by the date specified in Section 1.4, *RFP Schedule and Significant Dates*, as amended.

SECTION TWO
BACKGROUND AND SCOPE OF WORK

2.1 PROJECT OVERVIEW AND HISTORY

Act 279 of 2022 SLH appropriated \$600,000,000 in funds to address the needs of those on the DHHL waitlist and those beneficiaries still waiting to get on the land. The Hawaiian Homes Commission (HHC) has approved the Strategic Approach to Implement Act 279 - August 2022, which included:

DHHL will entertain opportunities to acquire new lands close to existing infrastructure and suitable for residential use. DHHL may also entertain acquiring property needed for water source development in areas where DHHL lands do not have sufficient water for homestead development.

In addition, the Consolidated Appropriations Act, 2022 included \$22,300,000 for Fiscal Year 2022, the highest level of funding for the Native Hawaiian Housing Block Grant program as authorized under NAHASDA. The 2022-2023 Native Hawaiian Housing Block Grant Annual Housing Plan accepted by the HHC and subsequently determined to be compliant by HUD includes property acquisition as a program activity to increase affordable housing inventory.

For FY2024 and FY 2025, the Legislature appropriated \$280 million for the Rental Housing Revolving Fund and \$100 million for the Dwelling Unit Revolving Fund.

DHHL will entertain opportunities to acquire new lands close to existing infrastructure and suitable for residential use. DHHL may also entertain acquiring property needed for water source development in areas where DHHL lands do not have sufficient water for homestead development.

2.2 SCOPE OF WORK

Proposals shall consider the Department's objectives for this project, which are summarized as follows:

- A. To identify readily available real property (developed, or not) for acquisition by the Department. Projects with environmental, health and safety, archaeological, or community concerns are not acceptable.
- B. To plan, design, and construct residential neighborhoods that consider the opportunities and constraints of the Department's waiting list and the existing site conditions, show respect to the area, and harmonize with adjacent land uses.
- C. To utilize planning, design standards and concepts that will foster a sense of community interaction and identity.
- D. To develop single-family improved finished lots and houses for applicants on the Department's waiting list who are financially qualified to purchase a house through turnkey, self-help, or owner-builder methods.
- E. To provide applicants on the Department's Residential Waitlist an opportunity to choose an improved vacant lot for the purpose of constructing their house as owner-builders, or through Habitat for Humanity, or other self-help housing construction program.

- F. To provide the lower-income applicants an opportunity to participate in a low-income housing tax credit with option to purchase program.
- G. To incorporate green building practices, including implementation of DHHL'S Ho'omalūō Energy Policy (EXHIBIT E) into the design and construction of the facilities to achieve a lower cost of operation and maintenance by minimizing energy use.

2.3 Developer's Responsibilities

- A. Convey the project property to DHHL.

If the offer includes a proposal to develop the property, which is accepted by the Department, the Developer shall have exclusive responsibility for all aspects of development planning and execution. The Developer's responsibility shall include, but not be limited to, compliance with all Federal, State, and County environmental, preservation and other statutory requirements necessary for development, the planning, design, and construction of all off-site and on-site infrastructure improvements; the subdivision of lots; improvement and completion of lots; design and construction of the housing units; and marketing and sales of the units to qualified native Hawaiians in a lien-free condition.

The following shall also apply:

- B. Assemble and coordinate a development team for the project. Identify the Responsible Managerial Employee who shall be the authorized representative for the entire project.
- C. Compile and process an Environmental Impact Statement (EIS) or Environmental Assessment (EA) to comply with the requirements of HRS Chapter 343, including but not limited to: preparing presentations for the HHC, beneficiary consultation meetings, and neighborhood board meetings.
- D. Complete all required elements for submission and publication of an EA with the HUD Environmental Review Only System (HEROS) for NAHASDA funding.
- E. Perform a soil investigation and analysis for the site and provide results to the Department within forty-five (45) days of signing the Development Agreement (DA).
- F. Plan the development and provide construction drawings and specifications for the site including the interior roadway and utility systems, the subdivision and fine grading of individual house lots, and connection to off-site infrastructure. House lots shall meet HUD/FHA standards for drainage and compaction. The design for the site, lots, and the houses shall be done by qualified design professionals licensed by the State.
- G. Obtain all necessary permits and approvals from appropriate State and County agencies for infrastructure construction, unless provided by DHHL or it's third-party consultant.
- H. Construct infrastructure and lot improvements.
 - 1) For improved vacant lots for owner-builder, Habitat for Humanity, or other self-help construction program, developer shall provide a "ready-to-build" lot in compliance with FHA-HUD standards for drainage and compaction, with utility stub-outs to the lot boundary.

- 2) For owner-builder houses, the lot owner (lessee) will be responsible for location of the house footprint, house pad compaction, driveway location, all excavations for foundation, drainage swales and utilities, and connection to utilities, including water meter.
- I. Develop a menu of housing and financing options that addresses the spectrum of buyer economic needs as reflected in the Beneficiaries Study, Applicant Report (EXHIBIT F), and/or through the developer's own study.
 - J. If applicable, prepare and submit a funding application with HHFDC, DHHL's NAHASDA program and any other Federal, State, and County programs.
 - K. Obtain interim house construction financing.
 - L. Provide house plans and site the houses on the Project Lots. All homes shall be designed to meet all County code requirements on all lots. Every house model should fit on every lot (please indicate exceptions). House designs shall be consistent with the soil engineer's recommendations.
 - M. Provide house designs and specifications to support implementation of the Project Green Building Strategy. Particularly, the designs and specifications for each house shall achieve or exceed the minimum two-star Hawaii BuiltGreen certification level.
 - N. Prepare Composite Plot Plans for the Project Lots. The Plot Plan shall show the location of the house and driveway relative to the property lines, finish elevation of the house, and fine grading, including individual lot swales around each house.
 - O. Obtain all permits (e.g., Building and Grading Permits) and approvals required for the construction of the homes, in accordance with the requirements of the County and other agencies having jurisdiction over the Project, including, but not limited to, a Fine Grading Permit for installation of the imported top soil on the Project Lots. Close permits after final inspections.
 - P. Construction contractors and sub-contractors will be required to provide performance and payment bond, each in the full amount of the infrastructure construction contract.
 - Q. Construct houses per DHHL and County approved house plans and specifications and according to applicable Codes. Including connections to utilities.
 - R. Install water meter for each lot. Cost of water meter shall be included in house price.
 - S. Provide geotechnical inspections and compaction tests prior to concrete pours for the driveways and house foundations. Written reports and compaction test results shall be provided to DHHL.
 - T. Construct concrete driveways for the Project Lots. Driveways shall be a minimum of 18 feet in width and 20 feet in length.
 - U. Install privacy fences at rear and side yards. Cost of fencing shall be included in prices for houses.
 - V. Upon completion of each house, the Developer shall import and install top soil and grass all exposed areas around the house. Developer shall maintain all common area

grassing within the subdivision until all houses are accepted by DHHL and lessees. Grassing and vegetation on each lot shall be cut just prior to homeowner move-in.

- W. Be responsible for dust control, noise control, erosion control and related damages.
- X. Provide periodic and ongoing inspections by licensed architects and/or engineers to insure that the infrastructure and houses are built according to the plans and specifications accepted by the Department. Written reports of these inspections shall be provided to the Department. The receipt of such inspection reports by the Department shall not relieve or constitute a waiver or modification of any duty and requirement the Developer may have under the Development Agreement.
- Y. Observe and comply with all provisions of Chapter 104, HRS, the significant requirements of which are emphasized in the Department of Labor and Industrial Relations Publication No. H104-3 entitled "Requirements of Chapter 104, HRS, Wages and Hours of Employees on Public Works Law" and Federal Davis-Bacon Act (40 U.S.C. § 3141 *et. seq.*, and Code of Federal Regulation (CFR) Title 29 and related Acts. Including, but not limited to, submittal of a certified copy of each weekly payrolls and a certified copy of a fringe benefit reporting form supplied by the department or any certified form that contains all of the required fringe benefit information to the Department within seven calendar days after the end of each weekly payroll period. Failure to do so on a timely basis shall be cause for withholding of payments, termination of the contract, and/or debarment. The Developer shall be responsible for the timely submission of certified copies of payrolls of all subcontractors. The certification shall affirm that payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision, any amendments thereto during the period of the contract, and that the classifications set forth for each laborer and mechanic conform with the work they performed. Maintain payroll records for all laborers and mechanics working at the site of the work during the course of the work and preserve for a period of four (4) years thereafter.
- Z. Provide any other services or functions that are necessary for successful completion of the proposed construction, including, but not limited to, final inspection of each house, turnover of each house to DHHL/Buyer, preparation and submittal of final Warranty Packages for each house to DHHL/Buyer, and any unique circumstances of their proposal.
- AA. Prepare and issue to each buyer a Homeowner's Manual consisting of warranty information (including claim filing procedures), important telephone numbers, recommendations for periodic maintenance, and community association information.
- BB. Market turnkey houses, including participation in information/orientation meetings; coordinating loan pre-qualifications; establishing escrow accounts; coordinating sale and mortgage loan closings; and providing financial and homeownership/warranty counseling to applicants.
- CC. Maintain and protect each house until sale and loan closing, and turnover of the home to a lessee takes place.
- DD. Provide sufficient warranties to ensure correction of construction defects during the warranty period.

EE. Establish a Community Association, as appropriate.

2.4 DEPARTMENT'S RESPONSIBILITIES

A. Acquire the project property, including all legal and transaction costs.

If the offer includes a proposal to develop the property, which is accepted by the Department, the following shall also apply:

B. Grant development rights to the selected Developer for the project.

C. Review the Developer's soils investigation and analysis within 14 days of its receipt and determine if the project is to be canceled.

D. Submit HRS Chapter 343 documentation for approval: EIS to the HHC and Governor; EA to HHC.

E. Pay for planning and design of roadways and utilities servicing the site.

F. Pay for site construction not to exceed the cost of on- and off-site infrastructure construction, utility connections up to the lot boundary and grading. Pay for utility development fees or facility costs, less any development credits as may be applicable. Pay for the cost of clearing and grubbing and mass grading of property to building pad sub-grade elevations. All additional finished grading inclusive of building pad and utility excavation and installation within each house lot will be included as on-site building cost to be borne by the Developer and/or lot owner.

G. Interim Loan fund. The department may provide zero-interest interim construction loan funds to qualified developers to fund the construction of the turn-key housing units. Said loans will require no monthly re-payments; loan will be paid down from the proceeds of the sales of turn-key homes through escrow to the department. These funds may be made available and utilized in lieu of developer financing from a commercial lending institution provided that the developer offers a reduction of the sales price for houses constructed utilizing the interim loan fund. Term of loan shall be for a period of twenty-four (24) months from the recordation of Contract of Loan.

H. Affordable Housing Credits may be made available to the Developer.

I. Confirm eligibility of buyers pursuant to the HHCA.

J. If deemed feasible, request Hawaii Housing Finance and Development Corporation (HHFDC) assistance to certify the persons or entities who are contractually participating in the project and are involved in the design, development/planning, construction, financing, marketing and sale of the project and whom the Department has approved in writing, for exemption from applicable Hawaii general excise taxes on gross income received from the Project pursuant to section 201H-36, HRS.

K. Conduct initial mailout to applicants on the appropriate Island-wide Residential Waiting Lists or any other appropriate and applicable waiting lists.

L. Conduct orientation and lot selection meetings.

M. Monitor house construction for compliance with approved plans and specifications.

- N. Provide and record executed leases and the consent to mortgage documents. Record any mortgage documents. (The recordations are internal Department records.)
- O. If the house is funded by a tax credit or bond financing with an option to purchase, the Department will provide a separate ground homestead lease to the homesteader(s).

2.5 TERM OF CONTRACT

If the offer includes a proposal to develop the property, the contract shall be for the period stated in the Offeror's proposal.

When interests of the State or the Contractor so require, the State or the Contractor may terminate the contract for convenience by providing six (6) weeks prior written notice to the other party.

2.6 CONTRACT ADMINISTRATOR

For the purposes of this contract, Stewart Matsunaga, Acting Land Development Division Administrator, (808) 620-9283, or authorized representative, is designated the Contract Administrator.

SECTION THREE
PROPOSAL FORMAT AND CONTENT

3.1 OFFEROR'S AUTHORITY TO SUBMIT AN OFFER

The State will not participate in determinations regarding an Offeror's authority to sell a product or service. If there is a question or doubt regarding an Offeror's right or ability to obtain and sell a product or service, the Offeror shall resolve that question prior to submitting an offer.

The Offeror shall have title to the proposed project property, or written authorization to negotiate the sale of the property on behalf of the owner.

3.2 REQUIRED REVIEW

- A. Before submitting a proposal, each Offeror must thoroughly and carefully examine this RFP, any attachment, addendum, and other relevant document, to ensure Offeror understands the requirements of the RFP. Offeror must also 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 required.
- B. Should Offeror find defects and questionable or objectionable items in the RFP, Offeror shall notify the department in writing prior to the deadline for written questions as stated in the RFP *Schedule and Significant Dates*, as amended. This will allow the issuance of any necessary corrections and/or amendments to the RFP by addendum, and mitigate reliance of a defective solicitation and exposure of proposal(s) upon which award could not be made.

3.3 PROPOSAL PREPARATION COSTS

Any and all costs incurred by the Offeror in preparing or submitting a proposal shall be the Offeror's sole responsibility whether or not any award results from this RFP. The State shall not reimburse such costs.

3.4 TAX LIABILITY

- A. State GET Exemption. It is intended that gross income derived from the development of the Project will be not certified for exemption from Hawaii General Excise Taxes pursuant to Section 201H-36 HRS. The proposed budget shall include GET.
- B. Federal I.D. Number and Hawaii General Excise Tax License I.D. Offeror shall submit its current Federal I.D. No. and Hawaii General Excise Tax License I.D. number in the space provided on Offer Form, page OF-1, thereby attesting that the Offeror is doing business in the State and that Offeror will pay such taxes on all sales made to the State.
- C. Conveyance Tax. Seller shall be responsible for payment of conveyance tax.

3.5 PROPERTY OF STATE

All proposals become the property of the State of Hawaii.

3.6 CONFIDENTIAL INFORMATION

- A. If an Offeror believes that any portion of a proposal, offer, specification, protest, or correspondence contains information that should be withheld from disclosure as confidential, then the Offeror shall inform the Procurement Officer named on the cover of this RFP in writing and provided with justification to support the Offeror's confidentiality claim. Price is not considered confidential and will not be withheld.
- B. An Offeror shall request in writing nondisclosure of information such as designated trade secrets or other proprietary data Offeror considers to be confidential. Such requests for nondisclosure 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.

3.7 EXCEPTIONS

Should Offeror take any exception to the terms, conditions, specifications, or other requirements listed in the RFP, Offeror shall list such exceptions in this section of the Offeror's proposal. Offeror shall reference the RFP section where exception is taken, a description of the exception taken, and the proposed alternative, if any. The State reserves the right to accept or not accept any exceptions.

No exceptions to statutory requirements of the Attorney General's General Conditions shall be considered.

3.8 PROPOSAL CONTENTS

- A. To be considered responsive, the Offeror's proposal shall respond to and include all items specified in this RFP and any subsequent addendum. Any proposal offering any other set of terms and conditions that conflict with the terms and conditions providing in the RFP or in any subsequent addendum may be rejected without further consideration.
- B. Proposals shall be organized into sections, following the exact format using all titles, subtitles, and numbering, with tabs separating each section described below. Each section must be addressed individually and pages must be numbered.
 - 1) Transmittal letter confirming that the Offeror shall comply with the requirements, provisions, terms, and conditions specified in this RFP.
 - 2) Offer Form, OF-1. Offer Form, OF-1 (Attachment 1) shall be completed using Respondent's exact legal name as registered with the Department of Commerce and Consumer Affairs.

The Respondent's authorized signature on Offer Form, OF-1 shall be an original signature in ink. The submission of qualifications shall indicate Respondent's intent to be bound.

- 3) Offer Form, OF-2. Description of land and Development Proposal shall be submitted on Offer Form OF-2 (Attachment 2).
- 4) Submit an original set and a flash drive containing a set of electronic files of all documents.

C. Handwritten offers are not acceptable.

3.11 RECEIPT AND REGISTER OF PROPOSALS

- A. Proposals will be received and receipt verified by two or more procurement officials on or after the date and time specified in Section One, or as amended.
- B. The register of proposals and proposals of the Offeror(s) shall be open to public inspection upon posting of award(s) pursuant to section 103D-303, HRS.

3.12 BEST AND FINAL OFFER (BAFO)

If the State determines a BAFO is necessary, it shall request one from the Offeror. The Offeror shall submit its BAFO and any BAFO received after the deadline or not received shall not be considered.

3.13 MODIFICATION PRIOR TO SUBMITTAL DEADLINE OR WITHDRAWAL OF OFFERS

- A. The Offeror may modify or withdraw a proposal before the proposal due date and time.
- B. Any change, addition, deletion of attachment(s) or data entry of an Offer may be made prior to the deadline for submittal of offers.

3.14 MISTAKES IN PROPOSALS

- A. Mistakes shall not be corrected after award of contract.
- B. When the Procurement Officer knows or has reason to conclude before award that a mistake has been made, the Procurement Officer should request the offeror to confirm the proposal. If the Offeror alleges mistake, the proposal may be corrected or withdrawn pursuant to this section.
- C. Once discussions are commenced or after BAFO are requested, any priority-listed Offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.
- D. If discussions are not held, or if the BAFO upon which award will be made have been received, mistakes shall be corrected to the intended correct offer whenever the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn.
- E. If discussions are not held, or if the BAFO upon which award will be made have been received, an Offeror alleging a material mistake of fact which makes a proposal non-responsive may be permitted to withdraw the proposal if: the mistake is clearly evident on the face of the proposal but the intended correct offer is not; or the Offeror submits evidence which clearly and convincingly demonstrates that a mistake was made.
- F. Technical irregularities are matters of form rather than substance evident from the proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other Offerors; that is, when there is no effect on price, quality, or quantity. If discussions are not held or if BAFO upon which award will be made have been received, the Procurement Officer may waive such irregularities or allow an Offeror to correct them if either is in the best interest of the State. Examples include

the failure of an Offeror to: return the number of signed proposals required by the request for proposals; sign the proposal, but only if the unsigned proposal is accompanied by other material indicating the Offeror's intent to be bound; or to acknowledge receipt of an amendment to the request for proposal, but only if it is clear from the proposal that the Offeror received the amendment and intended to be bound by its terms; or the amendment involved had no effect on price, quality or quantity.

SECTION FOUR

EVALUATION CRITERIA

4.1 Scoring System

Evaluation criteria for offers to convey property to the Department and develop said property are listed below. All proposals will be scored to determine which properties are suitable for acquisition by the department (potential acquisitions). Of the potential acquisitions, those with offerors for development will be scored. The Department may accept more than one proposal submitted, and reserves the right to reject any or all proposals as unacceptable.

As explained above, proposals that only offer real property for acquisition will not be evaluated under this section of the RFP, and instead will be considered on a case-by-case basis at the sole discretion of the Department. If the proposal includes both land acquisition and development, the Department, at its discretion, may elect to accept only the offer for acquisition, which will be evaluated as described above.

<i>Criteria Description</i>	<i>Points</i>	
Suitability of Property		
Location and Site Characteristics	20	
Cost of Acquisition	10	
Off-Site Infrastructure	10	
Total Possible Points		40

Development		
Proposal		25
DHHL Cost	10	
Developer input	5	
Schedule	5	
Site and House Designs	5	
Team's Qualifications		35
Previous Projects	15	
Capacity	20	
Total Possible Points		60

4.2 SUITABILITY OF PROPERTY

Properties offered shall be evaluated on the following criteria:

- 1) Location and Site Characteristics:
 - a. Higher consideration will be given to properties on Oahu which has the greatest waitlist demand and where DHHL has the smallest inventory.
 - b. Even, gently sloping topography.
 - c. No environmental concerns (flood zones, archaeology, flora/fauna, hazmat, etc.).
 - d. Compatibility with surrounding development.
 - e. Proximity of community services (police, fire, medical, schools, etc.).
- 2) Cost of Acquisition

- a. Total proposed price versus appraised value and/or tax assessed value.
 - b. Price per acre versus similar properties.
- 3) Off-Site Infrastructure
- a. Proximity to existing roadways and utility systems.
 - b. Capacity of utility systems expected to serve the development (water, wastewater, electricity, telecommunications).

4.3 DEVELOPMENT PROPOSAL

If the offer includes a proposal to develop the property, development proposals shall be evaluated on the following criteria:

- 1) DHHL Cost: Proposed cost for design and construction of on- and off-site infrastructure.
- 2) Developer input: Proposed methods to leverage existing sources of funds to lower the cost of infrastructure to the department and/or cost of housing units to beneficiaries.
- 3) Schedule: Proposed times for major milestones to develop the project.
- 4) Site and House Designs: Proposed mixture of development models (turnkey, rent-with-option-to-purchase, owner-builder, etc.) addressing the various economic statuses of beneficiary families.

4.4 OFFEROR QUALIFICATIONS

If the offer includes a proposal to develop the property, minimum Qualifications for Offerors, at the time the proposal is submitted are as follows:

- 1) A principal member of the Offeror's company must have at least five (5) years of housing development experience in the State of Hawaii, including but not limited to single-family, multi-family, affordable rental, apartment, townhouse and condominium development.
- 2) The Offeror shall name the Responsible Managerial Employee (RME) who will be responsible for day-to-day operations and oversight throughout the design and construction of the Project. The RME shall have had substantial responsibility, or been materially involved in the development and/or operation of at least three (3) separate subdivision or housing development projects with at least one project consisting of thirty (30) or more units. Offerors having experience with developing projects over one hundred (100) units may be afforded additional consideration.
- 3) The Offeror shall demonstrate its team's capacity to complete projects of similar size and scope.
- 4) The Offeror shall show evidence of credit worthiness and financial resources to complete the design and construction of the Project lien-free. Offerors may provide evidence of financing related to completed projects. If applicable, Offerors shall include proposals for providing equity, or lender financing, which would lessen the burden on DHHL.

- 5) At the time of the submittal of the proposal, the Offeror must be authorized to do business in the State of Hawaii and have all licenses necessary to carry out the design, construction, and management of the Project. All persons and entities to be used on the design and construction shall possess all required professional and other licenses issued by the State of Hawaii including, but not limited to, planners, architects, engineers, contractors, subcontractors, sales agents, and lenders.
- 6) At the time of submittal of the proposal, the Offeror shall not be in default or have failed to perform under any contract, agreement, development or design-build agreement, or lease with the State of Hawaii, and not have any outstanding judgments.
- 7) The Offeror shall provide its two (2) most recent audited annual financial statements, a statement of financial net worth, or statement of bonding capacity.

4.4 DISQUALIFICATION OF OFFERORS

Any one or more of the following causes will be considered as sufficient for the disqualification of an Offeror and the rejection of its proposal or proposals:

- 1) Non-compliance with Section 103D-310 HRS.
- 2) Evidence of collusion among Offerors.
- 3) More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.
- 4) Delivery of proposals after the deadline specified in the advertisement calling for proposals.
- 5) Debarment or suspension pursuant to Section 103D-702, HRS.

SECTION FIVE

CONTRACTOR SELECTION AND CONTRACT AWARD

5.1 EVALUATION OF PROPOSALS

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.

Prior to holding any discussions with Offerors, a priority list shall be generated consisting of offers determined by the Evaluation Committee to be acceptable or potentially acceptable. However, proposals may be accepted without such discussions.

If numerous acceptable and potentially acceptable proposals are submitted, the Evaluation Committee may limit the priority list to the three highest ranked, responsible Offerors for each major island.

5.2 DISCUSSION WITH PRIORITY LISTED OFFERORS

The State may invite priority listed Offerors to discuss their proposals to ensure thorough, mutual understanding. The State in its sole discretion shall schedule the time and location for these discussions, generally within the timeframe indicated in *RFP Schedule and Significant Dates*. The State may also conduct discussions with priority listed Offerors to clarify issues regarding the proposals before requesting Best and Final Offers, if necessary.

5.3 AWARD OF CONTRACT

The Department may accept more than one proposal submitted, and reserves the right to reject any or all proposals as unacceptable. If a proposal to develop the land is included, the Department may accept only the offer for land acquisition.

5.4 RESPONSIBILITY OF OFFERORS

Offeror is advised that in order to be awarded a contract under this solicitation, Offeror will be required to be compliant with all laws governing entities doing business in the State including the following chapters of the Hawai'i Revised Statutes and pursuant to HRS §103D-310(c):

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Worker's Compensation Law;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and
6. §103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.

The State will verify compliance on Hawaii Compliance Express (HCE).

Hawaii Compliance Express. The HCE is an electronic system that allows vendors/contractors/service providers doing business with the State to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department

of Taxation, Federal Internal Revenue Service; Department of Labor and Industrial Relations, and Department of Commerce and Consumer Affairs.

Vendors/contractors/service providers should register with (HCE) prior to submitting an offer at <https://vendors.ehawaii.gov>. The annual registration fee is \$12.00 and the 'Certificate of Vendor Compliance' is accepted for the execution of contract and final payment.

Timely Registration on HCE. Vendors/contractors/service providers are advised to register on HCE soon as possible. If a vendor/contractor/service provider is not compliant on HCE at the time of award, an Offeror will not receive the award.

5.5 PROPOSAL AS PART OF THE CONTRACT

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

5.6 PUBLIC EXAMINATION OF PROPOSALS

Except for confidential portions, the proposals shall be made available for public inspection upon posting of award pursuant to HRS §103D-303.

If a person is denied access to a State procurement record, the person may appeal the denial to the office of information practices in accordance with HRS §92F-42(12).

5.7 DEBRIEFING

Pursuant to HAR §3-122-60, a non-selected Offeror may request a debriefing to understand the basis for award.

A written request for debriefing shall be made within three (3) working days after the posting of the award of the contract. The Procurement Officer or designee shall hold the debriefing within seven (7) working days to the extent practicable from the receipt date of written request.

Any protest by the requestor following a debriefing, shall be filed within five (5) working days, as specified in HAR §103D-303(h).

5.8 PROTEST PROCEDURES

Pursuant to HRS §103D-701 and HAR §3-126-3, an actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Procurement Officer at:

Kali Watson, Chairman
Hawaiian Homes Commission
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, HI 96707

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 or if requested, within five (5) working days after the PO's debriefing was completed.

The notice of award, if any, resulting from this solicitation shall be posted on the Hawaii Awards & Notices Data System (HANDS), which is available on the SPO website: <https://hands.ehawaii.gov/hands/welcome>.

5.9 APPROVALS

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

5.10 CONTRACT EXECUTION

If the offer includes a proposal to develop the property, which is accepted by the Department, a successful Offeror receiving award shall enter into a development agreement. No performance or payment bond is required for the development agreement.

In the event that the parties are not able to come to a mutually agreeable development agreement prior to the deadline to execute the development agreement specified in section 1.4 of this RFP, the Department, at its discretion, may elect to rescind an award from a successful Offeror.

No work is to be undertaken by the Contractor prior to the effective date of the contract. 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 effective date of the contract.

5.11 INSURANCE

A. Prior to the effective date of the contract, the Contractor shall procure at its sole expense and maintain insurance coverage acceptable to the State in full force and effect throughout the term of the Contract. The Offeror shall provide proof of insurance for the following minimum insurance coverage(s) and limit(s) to be awarded a contract. The type of insurance coverage is listed as follows:

<u>Insurance Coverage</u>	<u>Minimum Policy Limits</u>
General Liability	\$2,000,000.00 in the aggregate for property damage; \$1,000,000.00 per occurrence for injuries to or death of any one person in any accident in the aggregate
Workers' Compensation	As required by Hawaii laws
Fire and extended coverage	100% replacement value
Builder's risk covering the general contractor and all subcontractors	100% replacement value
Malicious mischief	100% replacement value
Flood insurance (if required)	Maximum coverage available

B. The Contractor shall deposit with the Department, on or before the effective date of the Contract, certificate(s) of insurance necessary to satisfy the Department that the provisions of the Contract have been complied with, and to keep such insurance in effect and provide the certificate(s) of insurance to the Department

during the entire term of the Contract. Upon request by the Department, the Contractor shall furnish a copy of the policy or policies.

- C. The Contractor will immediately provide written notice to the Department should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed up expiration.
- D. The certificates of insurance shall contain the following clauses:
 - 1. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
 - 2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."
- E. Failure of the Contractor to provide and keep in force such insurance shall constitute a material default under the Contract, entitling the State to exercise any or all of the remedies provided in the Contract (including without limitation terminating the Contract). The procuring of any required policy or policies of insurance shall not be construed to limit the Contractor's liability hereunder, or to fulfill the indemnification provisions of the Contract. Notwithstanding said policy or policies of insurance, the Contractor shall be responsible for the full and total amount of any damage, injury, or loss caused by the Contractor's negligence or neglect in the provision of services under the Contract.

5.12 PAYMENT

- A. Payment for purchase of the land will be made through an escrow company upon closing.
- B. If the offer includes a proposal to develop the property, incremental payments shall be made to the awarded Developer monthly, upon receipt of reports that meet the expectations of the RFP. The submittal of monthly reports shall be in accordance with the Development Agreement.

5.14 CONTRACT INVALIDATION

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

SECTION SIX

SPECIAL PROVISIONS

6.1 OFFER GUARANTY

A proposal security deposit is NOT required for this RFP.

6.2 PROPERTY ACCESS

The Department shall be allowed reasonable access to conduct "due diligence" investigations of the selected parcel(s), including, but not limited to title search, appraisal, environmental assessment, and phase 1 environmental hazard assessment. The revelation of false or misleading statements, or major omissions in a proposal will be grounds to cancel selection of the proposal and terminate negotiation of the Development Agreement.