



Department of Hawaiian Home Lands

RELEASE DATE: August 7, 2023

REQUEST FOR QUALIFICATIONS
No. RFQ-24-HHL-001

SEALED OFFERS
FOR
KAULUOKAHAI MASTER-PLANNED COMMUNITY, INCREMENTS II-C, II-D, II-E AND II-F AND
ASSOCIATED BACKBONE ROADWAY AND UTILITIES INFRASTRUCTURE, EAST KAPOLEI, OAHU

WILL BE RECEIVED UP TO 2:00 P.M. (HST) ON SEPTEMBER 8, 2023

AT HALE KALANIANAOLE, 91-5420 KAPOLEI PARKWAY, KAPOLEI, HAWAII 96707. DIRECT
QUESTIONS RELATING TO THIS SOLICITATION TO DARRELL ING, PROJECT MANAGER, TELEPHONE
(808) 620-9276, FACSIMILE (808) 620-9299; 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 State Department of Hawaiian Home Lands (DHHL) is issuing this Request for Qualifications (RFQ) for the Kauluokahai Master-planned Community, East Kapolei, Oahu, Hawaii. The selected developer's responsibilities shall include design and construction of on- and off-site infrastructure; and design, construction, financing, and marketing of an approximately 115.5-acre single-family residential subdivision. DHHL is specifically interested in design/build concepts that are "green build" in nature and affordable to buyers in a wide range of AMI categories and to renters in the 60% AMI or lower category. Proposals that bring these often conflicting concepts together will be viewed favorably.

The Project consists of Increments II-C, II-D, II-E, and associated backbone roadway and utilities infrastructure, of DHHL's Kauluokahai Master-planned Community in East Kapolei, Oahu, Hawaii.

1.2 CANCELLATION OF RFQ

This RFQ may be cancelled and any or all submittals 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
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

RFQ	=	Request for Qualifications
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 qualifications.

Advertisement – A public announcement inviting submittals of qualifications for work to be performed or materials to be furnished.

Applicant – A native Hawaiian who is a member of one of DHHL’s island-wide residential waiting lists.

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

Beneficiary – A native Hawaiian beneficiary of the Hawaiian Homes Commission Act.

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 Respondent 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.

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

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.

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

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 qualifications.

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).

Project – Development of the DHHL property at East Kapolei, Oahu, Hawaii.

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

Qualifications – A document submitted by a Respondent in the prescribed manner in response to this RFQ.

Respondent – Any individual, partnership, firm, corporation, joint venture, or representative or agent, submitting qualifications in response to this solicitation.

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.

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

Selected Developer – The Respondent 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 Respondent 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 RFQ SCHEDULE AND SIGNIFICANT DATES

The schedule set out herein 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 "Qualifications Due" date is delayed, the rest of the schedule will likely be shifted by the same number of days. The approximate schedule is as follows:

Release of Request for Qualifications	8/7/2023
Deadline for DHHL to receive written inquiries to be answered at the Pre-submittal Conference Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI 96707	8/11/2023
Pre-submittal Conference Location: TEAMS Meeting	9:00am, 8/14/2023
Site Inspection: None	
Final deadline for written inquiries	8/25/2023
Deadline for DHHL to receive written Notice of Intent to Submit Qualifications (Attachment 2) Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI 96707	8/29/2023
DHHL's responses to Respondents’ written inquiries distributed	9/1/2023
Qualifications Due Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI, 96707	2:00pm, 9/8/2023
Determination of "Priority List" Respondents	9/15/2023
Discussion with Priority Listed Offerors, if needed	week of 9/18/23
Notice of Selection	9/25/2023

Solicitation documents may be obtained at the Hawaii Awards & Notices Data System (HANDS) Web site:

<https://hands.ehawaii.gov/hands/opportunities/>

There is no fee assessment to download the RFQ documents from the SPO Web site. It is the responsibility of potential Respondents to check the SPO Web site for any addenda issued by DHHL.

1.5 PRE-SUBMITTAL CONFERENCE

The purpose of the pre-submittal conference is to provide Respondents an opportunity to be briefed on this procurement and to ask any questions about this procurement. While attendance at the pre-submittal conference is not mandatory, Respondents are encouraged to attend to gain a better understanding of the requirements of this RFQ.

Respondents are advised that anything discussed at the pre-submittal conference does not change any part of this RFQ. Any and all changes and/or clarifications to this RFQ shall be done in the form of an addendum.

The pre-submittal conference will be held as follows:

Date: 8/14/2023
Time: 9:00 am
Location: TEAMS Meeting

A site visit will not be conducted in conjunction with the pre-submittal conference. Access to the Project land is not restricted. Potential Respondents are encouraged to contact DHHL for a limited right-of-entry to inspect the land at their convenience.

1.6 QUESTIONS AND ANSWERS PRIOR TO RECEIPT OF QUALIFICATIONS

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

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

1.7 NOTICE OF INTENT TO SUBMIT QUALIFICATIONS

In accordance with Section 103D-310, Hawaii Revised Statutes, and Section 3-122-111, Hawaii Administrative Rules, a written Notice of Intention to Submit Qualifications ("Notice") must be submitted to the Chairman. The Notice may be faxed, hand carried, mailed, or e-mailed to the office indicated in the RFQ.

The written Notice must be received by the office indicated in the RFQ. The written Notice will be time stamped when received. If the written Notice is hand carried, then the bearer is responsible to ensure that the Notice is time stamped. If the notice is faxed, the time of receipt as indicated by the Department fax machine shall be date and. If the Notice is sent by email, the date and time indicated in the "Sent" field of the email shall be the presumptive date and time of receipt.

It is the responsibility of the prospective Respondent to ensure that the written Notice is received by the deadline indicated in the RFQ. The Department assumes no responsibility for Respondent's failure to timely deliver the Notice.

SECTION TWO

BACKGROUND AND SCOPE OF WORK

2.1 PROJECT OVERVIEW AND HISTORY

The Hawaiian Homes Commission Act of 1920, as amended (HHCA), was enacted by the U.S. Congress to rehabilitate native Hawaiians. The Department of Hawaiian Home Lands (“DHHL”), created by the first Hawaii State Legislature, is tasked with administering certain public lands, called Hawaiian home lands, for homesteading by eligible native Hawaiians, defined as individuals having at least 50 percent Hawaiian blood.

Act 279 of 2022 Hawaii State Legislature appropriated \$600,000,000 in funds to address the needs of HHCA beneficiaries still waiting for a Hawaiian home lands lease. The Hawaiian Homes Commission (“HHC”) has approved the Strategic Approach to Implement Act 279 - August 2022 (the “Act 279 Plan”), which provides:

For projects in the Engineering Design Phase, DHHL will explore Design-Build contract agreements utilizing Developer Agreements with private developers to expedite development timeframes.

The proposed Project in this RFQ is part of the Act 279 Plan. In the development of the Project, the Developer shall comply with all applicable Federal, State and County laws, regulations, and standards.

The approximately 115.5-acre aggregate project site is located at Kapolei, Oahu, designated as Tax Map Key: (1) 9-1-017: portion of parcel 110 (EXHIBITS E and F). City and County of Honolulu Zoning is AG-1, Agricultural District. The Department has declared that the Project will be designed and built in accordance with R-5, Residential District standards.

The project consists of housing lots (both subdivided lots and condominium units), Developer-Built Homes and backbone roadway and utilities infrastructure as described in Section 2.2.2 of this RFQ. Also, the following information is specifically brought to the Respondent’s attention:

Increment II-C (23.9 acres, 127 lots). Construction of the fine grading and infrastructure (including all roadways and utilities) for this increment has started. The Contractor is Hawaiian Dredging Construction Company; the contract amount is \$29,039,673.10. The civil engineer is Community Planning and Engineering, Inc. The construction manager is Bowers + Kubota Consulting, Inc. Notice to Proceed was issued effective July 10, 2023, with a contract time of performance of 548 calendar days.

This increment has received tentative subdivision approval.

Backbone Infrastructure: Planning, design and construction of the backbone roadway infrastructure, associated utilities and mass grading for Increments II-E (36.3 acres), II-D (25.5 acres), and II-F (34.6 acres). Tentative Approval granted by the City & County of Honolulu Department of Planning and Permitting (“DPP”) on April 21, 2023 (EXHIBIT K). Construction plans in progress. The backbone roadway will be subdivided roadway lots.

Increment II-E: The approved master plan indicates the inclusion of a 5-acre park site, to be located at a remediated Brownfields site (Exhibit M) which is approximately a half-acre in size.

School Impact Fees: The Project is not subject to the payment of school impact fees (EXHIBIT N).

Board of Water Supply (BWS) Facility Charges: DHHL has a credit at the BWS to use against water facility charges (EXHIBIT O). The balance as of March 7, 2023 is \$517,710. The credits are not applicable to the cost of the water meters and their installation – those costs shall be included in the house price.

The Department has determined the following mix of housing types as appropriate for this Project:

- 75% turn-key houses for sale to beneficiaries;
- 15% turn-key houses to be financed, constructed and used by Developer for a low income Rent-with-Option-to-Purchase program;
- 10% self-help and owner-builder constructed homes by beneficiaries on finished lots/units.

The housing mix is subject to negotiations between the developer and DHHL, and may be modified based on market conditions, availability of financing programs, or other factors.

All residential housing lots shall be leased to eligible native Hawaiians who at closing will be awarded 99-year residential leases from Department for one dollar (\$1.00) a year except for participants in the Rent-with-Option-to-Purchase Program.

DHHL reserves the right to modify terms of Homeownership programs subject to financing program(s) used.

2.1.1 Site Conditions

Landowner

State of Hawaii, Department of Hawaiian Home Lands.

Current Use of the Site

Vacant

Surrounding Uses

DHHL Increment II-B (160 residential lots) – infrastructure completed August 2015. 139 turnkey houses completed and occupied. 21 vacant lots selected November 2019 – construction by owner-builders in progress.

DHHL Increment II-A (32.6 acres) – transit-oriented development: multi-family units with amenities. To be solicited through separate Request for Qualifications.

DHHL LDA3 (23.976 acres) – future transit-oriented mixed-use development. To also be solicited through separate Request for Qualifications.

Kroc Community Center, developed and operated by The Salvation Army – opened February 1, 2012.

Honouliuli Middle School (DOE) – Phase 1 construction: April 2018 – May 2020; opened for classes: August 2020.

Ko’oloa’ula (HHFDC) – Affordable multi-family complex developed and managed by Mutual Housing Association of Hawaii. 308 units: construction completed, occupied.

Keahumoa Place (HHFDC) – Affordable multi-family complex developed and managed by The Michaels Organization. 320 units: construction completed, occupied.

Honolulu Rail Transit Project –commenced limited operations June 30, 2023.

Ho’opili master-planned community by D.R. Horton – estimated 11,750 homes on 1,600 acres, build-out over 20-30 years – under construction/occupancy.

Infrastructure

Utilities

Water: The Project will be connected to the Honolulu Board of Water Supply system, including the reservoir HI0000335 at the 215’ elevation and transmission lines within the Kualaka’i Parkway.

Wastewater: The project will be connected to the City & County of Honolulu sewer system.

Electricity: The project will be connected to the Hawaiian Electric Company’s system.

Telecommunication: The surrounding community is serviced by all major providers.

Access

Roadway: Off Kualaka’i Parkway, through Kulanihako Street (from north), from Keahumoa Parkway (from south).

Environmental Issues

The former Office of Environmental Quality Control has determined (EXHIBIT L) that the proposed master development is generally consistent with the previously accepted Final Environmental Impact Statement for the East Kapolei Master Plan (available on the State Environmental Review website:

https://files.hawaii.gov/dbedt/erp/EA_EIS_Library/1998-07-23-OA-FEIS-East-Kapolei-Master-Plan.pdf)

Remediation of the former pesticide mixing plant site has been completed. Per the Remediation Verification Report (EXHIBIT M): “At no time should this area be used for residential purposes.” Therefore, a portion of Increment II-E has been designated as a park.

Abutilon menziesii (commonly known as red ilima or ko’oloa’ula) is federally and state listed as endangered. A habitat conservation plan (HCP) was initiated in 1996 to mitigate for the effects of development on the population of plants in the East Kapolei region. The HCP and related Incidental Take License expired in 2021 without the success criteria of the HCP being met. The HCP and annual reports are available on the Division of Forestry and Wildlife, Wildlife Program website:

<https://dlnr.hawaii.gov/wildlife/hcp/approved-hcps/>

Beneficiary Survey

DHHL Beneficiaries Study Applicant Report, 2020 by SMS (EXHIBIT G) indicated that while a majority of applicants prefer a turn-key lot award (53.9%), there are some who would prefer a vacant lot with utilities (water, electricity, and sewer) readily available (22.2%), or a single-family rental home with option to buy (8.9%).

2.2 SCOPE OF WORK

2.2.1 DHHL Project Objectives

- 1) To plan, design, and construct a residential neighborhood that considers the needs of the Department's waiting list and the existing site conditions, shows respect to the area, harmonizes with adjacent land uses, and will foster a sense of community interaction and identity.
- 2) To develop single-family residential units for applicants on the Department's Residential Waitlist who are financially qualified to purchase a turn-key house.
- 3) To provide applicants on the Department's Residential Waitlist an opportunity to lease an improved vacant lot for the purpose of constructing a house as owner-builders, or through Habitat for Humanity, or other self-help housing construction program, within their financial capabilities.

- 4) To provide low-income applicants an opportunity to participate in a Low Income Housing Tax Credit (LIHTC) Rent-with-Option-to-Purchase program.
- 5) To incorporate green building practices, including implementation of DHHL'S Ho'omalū Energy Policy (EXHIBIT H) into the design and construction of the facilities to achieve a lower cost of operation and maintenance by minimizing energy use.

2.2.2 Developer's Responsibilities

The Developer shall have exclusive responsibility for all aspects of development planning and execution. The Developer's responsibilities shall include, but not be limited to, 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. All backbone and secondary roadways and utilities infrastructure, including (without limitation) all sidewalks, curbs, gutters, planter strips, hydrants, roadway signage and lighting, shall be designed and constructed to the applicable City and County of Honolulu ("C&CH") standards. Specific developer responsibilities by component are:

1) Increment II-C:

During construction of infrastructure, assume project management responsibilities from DHHL.

Design, construct, finance, and market turn-key houses.

Manage Rent-with-Option-to-Purchase program, if applicable.

2) Backbone Infrastructure (subdivided roadway lots):

During approval of subdivision and construction plans, assume project management responsibilities from DHHL.

Solicit for and execute contract with contractor to construct backbone infrastructure and perform mass grading for Increments II-D, II-E, and II-F.

3) Increments II-D, II-E, and II-F (condominium property regime with possible subdivision overlay):

Plan and design roadways and utilities for each increment.

Obtain approvals for subdivision and construction plans.

Solicit for and execute contract with contractor to construct on-site infrastructure.

Design, construct, finance, and market turn-key houses.

Manage Rent-with-Option-to-Purchase program, if applicable.

2.2.3 Department's Responsibilities

DHHL shall be responsible for the following:

- 1) Execute a Development Agreement with the Developer for the design, financing, construction, and marketing of the Project.
- 2) Submit to DPP a declaration that the Project shall be developed in accordance with R-5 Residential zoning standards, and include exemptions to county requirements, as appropriate.
- 3) Pay the Developer monthly progress payments for infrastructure design and construction based on the value of services performed by the Developer, as estimated by the Developer and approved by DHHL. Reimburse Developer for utility development fees or facility assessments, 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 single-family housing lot or unit will be included as on-site building cost to be borne by the Developer and/or the purchaser of the single-family house.
- 4) Conduct initial mailout to applicants on the Oahu Island-wide Residential Waiting Lists or any other appropriate and applicable waiting lists.
- 5) Assist with information/orientation meetings and selection of lots/houses.
- 6) Certify the native Hawaiian qualification status of prospective buyers.
- 7) Award homestead leases in accordance with HHCA and DHHL Administrative Rules. Record leases, mortgages, and other documents necessary for Developer's conveyance of homes or lots to beneficiaries.
- 8) May make Affordable Housing Credits available to the Developer, subject to Affordable Housing Credits policy and negotiations with DHHL.
- 9) May provide zero-interest interim construction loan funds to qualified developers to fund the construction of turn-key housing units. Said loans will require no monthly re-payments; loan will be paid down from 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 reduces the sales price by the amount that would have been paid to the commercial lending institution.

- 10) Pursuant to HRS § 201H-36, 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, as exempt from applicable Hawaii general excise tax on gross income earned from the Project.
- 11) If a home was financed by a tax credit or bond financing and is rented to a Beneficiary with an option to purchase, the Department will provide a separate homestead ground lease to the Beneficiary.

2.3 TERM OF CONTRACT

The term of contract shall be per the Development Agreement.

2.4 CONTRACT ADMINISTRATOR

For the purposes of this contract, Russell Kaupu, Office of the Chairman, (808) 620-9525, or authorized representative, is designated the Contract Administrator.

2.5 RESPONDENT QUALIFICATIONS

Minimum Qualifications for Respondents, at the time Qualifications are submitted:

- 1) A principal member of the Respondent's company must have at least five (5) years of single-family housing development experience in the State of Hawaii.
- 2) The Respondent 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 development projects with at least one project consisting of one hundred (100) or more units.
- 3) The Respondent shall show evidence of credit worthiness and financial resources to complete the design and construction of the Project lien-free.
- 4) The Respondent 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, architects, engineers, contractors, subcontractors, sales agents, managing agents and lenders.
- 5) The Respondent 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 shall not have any outstanding judgments against it.

- 6) The Respondent shall provide its two (2) most recent audited annual financial statements, a statement of financial net worth, and statement of bonding capacity.
- 7) The Respondent shall provide evidence of two prior projects similar to that documented in the RFQ. Actual completed cost data shall be provided.

2.6 DISQUALIFICATION OF RESPONDENTS

Any one or more of the following causes will be considered as sufficient for the disqualification of a Respondent and the rejection of its submittal:

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

SECTION THREE
QUALIFICATIONS FORMAT AND CONTENT

3.1 RESPONDENT’S AUTHORITY TO SUBMIT QUALIFICATIONS

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

3.2 REQUIRED REVIEW

3.2.1 Before submitting Qualifications, each Respondent must thoroughly and carefully examine this RFQ, any attachment, addendum, and other relevant document, to ensure Respondent understands the requirements of the RFQ. Respondent must also become familiar with State, County, and Federal laws, statutes, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the work required.

3.2.2 Should Respondent find defects and questionable or objectionable items in the RFQ, Respondent shall notify the Department of Hawaiian Home Lands in writing prior to the deadline for written questions as stated in the RFQ *Schedule and Significant Dates*, as amended. This will allow the issuance of any necessary corrections and/or amendments to the RFQ by addendum and mitigate reliance of a defective solicitation and exposure of proposal(s) upon which award could not be made.

3.3 SUBMITTAL PREPARATION COSTS

Any and all costs incurred by the Respondent in preparing and submitting Qualifications shall be the Respondent’s sole responsibility whether or not any award results from this RFQ. The State shall not reimburse such costs.

3.4 TAX LIABILITY

3.4.1 State General Excise Tax (GET) Exemption – The Governor’s Emergency Proclamation Related to Housing dated July 17, 2023 exempts state or county housing projects from the GET. Should the proclamation be amended or not be extended, DHHL shall apply to HHFDC for exemption from GET for gross income derived from the development of the Project pursuant to HRS § 201H-36.

3.4.2 Federal I.D. Number and Hawaii General Excise Tax License I.D. Respondent shall submit its current Federal I.D. No. and Hawaii General Excise Tax License I.D. number in the space provided on Qualifications Form, QF-1, thereby attesting that the Respondent is doing business in the State and that Respondent will pay such taxes on all sales made to the State, as applicable.

3.5 PROPERTY OF STATE

All submittals become the property of the State of Hawaii.

3.6 CONFIDENTIAL INFORMATION

3.6.1 If a Respondent believes that any portion of a submittal, protest, or correspondence contains information that should be withheld from disclosure as confidential, then the Respondent shall inform the Procurement Officer in writing and provide justification to support the Respondent's confidentiality claim. Price is not considered confidential and will not be withheld.

3.6.2 A Respondent shall request in writing nondisclosure of information such as designated trade secrets or other proprietary data Respondent considers to be confidential. Such requests for nondisclosure shall accompany the submittal, be clearly marked, and shall be readily separable from the submittal in order to facilitate eventual public inspection of the non-confidential portion of the submittal.

3.7 EXCEPTIONS

Should Respondent take any exception to the terms, conditions, specifications, or other requirements listed in the RFQ, Respondent shall list such exceptions in this section of the Respondent's submittal. Respondent shall reference the RFQ 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 AG General Conditions shall be considered.

3.8 QUALIFICATIONS CONTENTS

3.8.1 To be considered responsive, the Qualifications submittal shall respond to and include all items specified in this RFQ and any subsequent addendum. Any submittal offering any other set of terms and conditions that conflict with the terms and conditions providing in the RFQ or in any subsequent addendum may be rejected without further consideration.

3.8.2 Submittals 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 Respondent shall comply with the requirements, provisions, terms, and conditions specified in this RFQ.

- 2) Qualifications Form, QF-1. Qualifications Form, QF-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 the Qualifications Form, QF-1 shall be an original signature in ink. The submission of Qualifications shall indicate Respondent's intent to be bound.

- 3) Submit an original set of Qualifications and a set of electronic files of all documents on a flash drive.

3.8.3 Handwritten Qualifications are not acceptable.

3.9 RECEIPT AND REGISTER OF QUALIFICATIONS

Qualifications 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.

The register of Qualifications shall be open to public inspection upon posting of award pursuant to HRS § 103D-303.

3.10 MODIFICATION PRIOR TO SUBMITTAL DEADLINE

3.10.1 Respondents may modify or withdraw a submittal before the due date and time.

3.10.2 Any change, addition, or deletion of attachment(s) or data entry of Qualifications may be made prior to the deadline for submittal.

3.11 OFFER GUARANTY

A solicitation security deposit is not required for this RFQ.

SECTION FOUR
EVALUATION CRITERIA

The award will be made to the responsible Respondent whose proposal is determined to be the most advantageous to the State based on the evaluation criteria listed in this section. The total number of points used to score this contract is 100. Evaluation of Qualifications will be based on the following point distribution.

<i>Criteria Description</i>	<i>Points</i>
<p><u>A. Experience</u></p> <p>The degree to which the submittal demonstrates the Respondent and the Respondent’s team experience and professional qualifications relevant to the Project. Points will be awarded based on the following:</p> <ol style="list-style-type: none"> 1. The Respondent and the team’s experience with developing projects of similar scope and size, with weight given to experience in directing a multidisciplinary team and facilitating a community involvement process. 2. The Respondent and team’s experience in efficiently planning, constructing, and managing of projects similar to that proposed in the RFQ and familiarity with Hawaii real estate development requirements and challenges. 3. The Respondent and the team’s experience working on State or County housing agency projects, and participation in low-income housing financing programs. 	25
<p><u>B. Past Performance</u></p> <p>The degree to which the submittal demonstrates the Respondent and the Respondent’s team’s experience on projects of similar size and scope for public agencies and/or the private sector. Points will be awarded based on the following:</p> <ol style="list-style-type: none"> 1. The Respondent and team’s ability to complete a project on schedule and within budget, obtain innovative financing, employ alternative construction techniques, and integrate community and supportive services into the overall development of projects similar to that proposed in the RFQ. 2. Respondent’s demonstration that it is not in default and has not failed to perform under any contract, agreement, development design-build agreement, or lease with the State of Hawaii, and does not have any outstanding judgments against it. 	25

<p><u>C. Capacity</u></p> <p>The degree to which the submittal demonstrates the Respondent and the Respondent’s team’s capacity to complete projects of similar size and scope for public agencies and/or the private sector. Points will be awarded based on the following:</p> <ol style="list-style-type: none"> 1. The Respondent and team’s organization size, and number of employees; and description of the type, location, scheduled completion date, dollar value, and number of units of any concurrent projects that Respondent may be involved in. 2. The Respondent’s financial capacity (as developer and provider of guarantees) as evidenced by financial statements, most recent audit and bank references, and statement of how Respondent intends to honor all guarantees should the need arise. 3. The extent of the respondent team’s organization chart clearly demonstrates the team’s capacity to meet the requirements of the RFQ. 	20
<p><u>D. Project Approach</u></p> <p>The degree to which the submittal addresses the DHHL’s requirements and goals relevant to the project. Points will be awarded based on the following:</p> <ol style="list-style-type: none"> 1. Unique approaches or solutions the Respondent will undertake to assist DHHL in awarding homestead lots to native Hawaiians on DHHL’s application waitlist. 2. Unique approaches or solutions the Respondent will undertake to leverage existing sources of funds to lower the cost of infrastructure to DHHL and/or the cost of housing units to beneficiaries. 3. Unique approaches or solutions the Respondent will undertake to provide a mixture of development models (e.g., turn-key, rent-with-option-to-purchase, owner-builder, etc.), addressing the economic diversity of Beneficiary families. 4. Unique approaches or solutions the Respondent will undertake to incorporate green building practices into the development, including implementing DHHL’S Ho’omalū Energy Policy. 	20
<p><u>E. Fees</u></p> <p>The degree to which the proposed fees are reasonable as compared to projects of similar size and scope for public agencies and/or private industry.</p>	10
Total Possible Points	100

SECTION FIVE

CONTRACTOR SELECTION AND CONTRACT AWARD

5.1 EVALUATION OF QUALIFICATIONS

The Procurement Officer, or an evaluation committee of at least three (3) qualified State employees selected by the Procurement Officer, shall evaluate Qualifications. The evaluation will be based solely on the evaluation criteria set out in Section Four of this RFQ.

Prior to holding any discussion, a priority list shall be generated consisting of Qualifications determined to be acceptable or potentially acceptable.

If numerous acceptable and potentially acceptable Qualifications are submitted, the evaluation committee may limit the priority list to the three highest ranked, responsible Respondents.

5.2 DISCUSSION WITH PRIORITY LISTED RESPONDENTS

The State may invite priority listed Respondents to discuss their Qualifications 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 *RFQ Schedule and Significant Dates*.

5.3 AWARD OF CONTRACT

Award will be made to the responsible Respondent whose qualifications are determined to be the most advantageous to the State based on the evaluation criteria set forth in the RFQ.

5.4 RESPONSIBILITY OF RESPONDENTS

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

1. HRS Chapter 237, General Excise Tax Law;
2. HRS Chapter 383, Hawaii Employment Security Law;
3. HRS Chapter 386, Worker's Compensation Law;
4. HRS Chapter 392, Temporary Disability Insurance;
5. HRS Chapter 393, Prepaid Health Care Act; and
6. HRS § 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, the Respondent will not receive the award.

5.5 QUALIFICATIONS AS PART OF THE CONTRACT

This RFQ and all or part of the Qualifications may be incorporated into the contract.

5.6 PUBLIC EXAMINATION OF PROPOSALS

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

If a person is denied access to a State procurement record, the person may appeal the denial to the State of Hawaii Office of Information Practices in accordance with HAR Chapter 2-73.

5.7 DEBRIEFING

Pursuant to HRS § 103D-303(h) and HAR § 3-122-60, a non-selected Respondent 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 contract award. The Procurement Officer or designee shall, to the extent practicable, hold the debriefing within seven (7) working days from the receipt date of Respondent's written request for debriefing.

Any protest by a Respondent following a debriefing, shall be filed within five (5) working days after the date upon which the debriefing is completed, as specified in HRS § 103D-303(h) and HAR § 3-122-60.

5.8 PROTEST PROCEDURES

Pursuant to HRS §103D-701 and HAR §3-126-3, an actual or prospective Respondent 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:

Honorable 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 Qualifications. 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/awards>.

5.9 APPROVALS

Any agreement arising out of this solicitation 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

Successful Respondent receiving award shall enter into an agreement (Term Sheet) executed with DHHL 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.

In the event that the parties are not able to come to a mutually agreeable development agreement the Department, at its discretion, may elect to rescind the award, then start negotiations with the second ranked respondent. Should the second round of negotiations also fail to result in a development agreement, the Department may commence negotiations with the third ranked respondent.

5.11 INSURANCE

5.11.1 Prior to the contract start date, the Developer shall procure and maintain, at its sole expense, insurance coverage acceptable to the State in full force and effect throughout the term of the Development Agreement. The name of the Insuree and Developer will be the same. The Developer 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
Construction Defect	10 year tail coverage

The insurance policies shall be in a form and substance including amounts of coverage, acceptable to DHHL.

Developer shall furnish DHHL with insurance policies and/or certificates, which shall name DHHL as an additional insured. Such insurance policies shall provide that the insurance company shall give DHHL no less than thirty (30) days prior written notice of any termination or cancellation of such insurance policies.

- 5.11.2 Developer shall deposit with DHHL, on or before the effective date of the Development Agreement, certificate(s) of insurance necessary to satisfy DHHL that the insurance coverage provisions of the Development Agreement have been complied with. Developer shall keep such insurance in effect and provide the certificate(s) of insurance to DHHL during the entire term of the Development Agreement. Upon request by DHHL, Developer shall furnish a copy of the insurance policy or policies.
- 5.11.3 Developer will immediately provide written notice to DHHL should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

- 5.11.4 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."
- 5.11.5. Failure of the Developer to provide and keep in force such insurance shall constitute a material default under the Development Agreement, entitling the State to exercise any or all of the remedies provided in the Development Agreement (including without limitation terminating the Development Agreement). The procuring of any required policy or policies of insurance shall not be construed to limit the Developer's liability hereunder, or to fulfill the indemnification provisions of the Development Agreement. Notwithstanding said policy or policies of insurance, the Developer 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 Development Agreement.

5.12 REQUIREMENTS FOR PERFORMANCE AND PAYMENT BONDS

Pursuant to HAR §3-122-224, before any construction contract is entered into, the Contractor shall provide performance and payment bonds to the State. The bonds shall each be in the penal sum of one hundred percent (100%) of the amount of the contract awarded.

5.13 PAYMENT

Incremental payments for infrastructure design and construction work shall be made to the awarded Developer monthly, in accordance with the Development Agreement.

5.14 DEVELOPMENT AGREEMENT INVALIDATION

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

5.15 NO ASSIGNMENTS

The Developer may not assign the Development Agreement without DHHL's written consent. If the Developer desires to assign the Development Agreement, the assignee must meet all requirements imposed by DHHL, and must be acceptable to DHHL. If DHHL consents to an assignment of the Development Agreement, DHHL shall not be required to release the Developer, including any guarantor nor security which secures the payment and performance of the Developer's obligations under the Development Agreement.

5.16 RELATIONSHIP BETWEEN THE DEVELOPER AND DHHL

There will be no partnership, joint venture, employer and employee, master and servant, or other agency relationship between DHHL and Developer. The Developer, inclusive of any person acting by, through, under, or for the benefit of the Developer, such as, for example, any real estate broker or sales person, will not represent or hold itself out as being a partner, joint venture, employee, servant, or agent of DHHL, nor will the Developer, inclusive of any person acting by, through, under, or for the benefit of Developer, have any authority to bind, act for, or represent DHHL in any respect. The Developer will be constructing the Project in the Developer's own behalf and will release, indemnify, defend, and hold DHHL harmless from all claims, demands, lawsuits, judgments deficiencies, damages (whether paid by DHHL as part of a settlement or as a result of a judgment), and expense, including attorney's fees, and all costs of suit, made against DHHL or incurred or paid by DHHL arising out of or in connection with Developer's design, construction, management, and maintenance of the Project.