



Department of Hawaiian Home Lands

RELEASE DATE: December 1, 2023

REQUEST FOR QUALIFICATIONS
No. RFQ-24-HHL-003

SEALED OFFERS
FOR
VILLAGES OF LA'I 'ŌPUA
VILLAGE 1, VILLAGE 2, VILLAGE 4 (PHASE 2, HEMA), AND NORTH KONA WATER DEVELOPMENT
KEALAKEHE, HAWAI'I

WILL BE RECEIVED UP TO 2:00 P.M. (HST) ON January 5, 2024

AT HALE KALANIANAOLE, 91-5420 KAPOLEI PARKWAY, KAPOLEI, HAWAII 96707. DIRECT QUESTIONS RELATING TO THIS SOLICITATION TO SARA OKUDA, PROJECT MANAGER, TELEPHONE (808) 620-9273, E-MAIL AT sara.t.okuda@hawaii.gov

KALI WATSON
CHAIRMAN, HAWAIIAN HOMES COMMISSION
PROCUREMENT OFFICER

TABLE OF CONTENTS

	<u>Page</u>
SECTION ONE:	INTRODUCTION, TERMS AND ACRONYMS, KEY DATES..... 3
SECTION TWO:	BACKGROUND AND SCOPE OF WORK 9
SECTION THREE:	QUALIFICATIONS FORMAT AND CONTENT 15
SECTION FOUR:	EVALUATION CRITERIA..... 18
SECTION FIVE:	CONTRACTOR SELECTION AND CONTRACT AWARD 20
ATTACHMENTS AND EXHIBITS	
ATTACHMENT 1	QUALIFICATIONS FORM, QF-1
ATTACHMENT 2	NOTICE OF INTENT TO SUBMIT QUALIFICATIONS
EXHIBIT A	GENERAL PROVISIONS
EXHIBIT B	AG 008 103D GENERAL CONDITIONS
EXHIBIT C	DHHL CONSTRUCTION GENERAL CONDITIONS
EXHIBIT D	BOND FORMS
EXHIBIT E	LOCATION MAP
EXHIBIT F	SITE PARCEL/TMK MAP
EXHIBIT G	DHHL BENEFICIARIES STUDY APPLICANT REPORT, 2020
EXHIBIT H	DHHL'S HO'OMALUŌ ENERGY POLICY
EXHIBIT I	HUD INCOME GUIDELINES (2023)
EXHIBIT J	DHHL NAHASDA INCOME ELIGIBILITY MANUAL (NOV. 2012)
EXHIBIT K	KEALAKEHE PLANNED COMMUNITY FINAL ENVIRONMENTAL IMPACT STATEMENT, SEPTEMBER 1990

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 Villages of La'i 'Ōpua Village 1 Village 2, Village 4 (Phase 2, Hema), and North Kona Water Development, Kealakehe, Hawai'i, Island of Hawai'i, Hawai'i. This project consists of the design and construction of 1) On- and Off-site infrastructure for subdivision development for Villages 1 and Village 2; 2) off-site North Kona water source, storage, and transmission; 3) design, construction, financing, and marketing of houses in Village 1 (estimated 200 new lots), Village 2 (estimated 200 new lots), and Village 4 (Phase 2, Hema) (125 finished single-family lots).

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 Developer 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 Kealakehe, Kailua-Kona, Island of Hawai‘i, Hawai‘i.

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

Qualifications – A document submitted by a Developer 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 Developer 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 Developer 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	Dec 01, 2023
Pre-submittal Conference Location: TEAMS meeting https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting?rtc=1 Meeting ID: 274 651 981 679 Passcode: RgXjdC or call in (audio only) +1 808-829-4853 , 597119845# United States, Honolulu Phone Conference ID: 597 119 845#	10:00 AM, Dec 08, 2023
Site Inspection: None	
Final deadline for written inquiries	Dec 15, 2023
DHHL's responses to Developers’ written inquiries distributed	Dec 20, 2023
Deadline for DHHL to receive written Notice of Intent to Submit Qualifications (Attachment 2) Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI 96707; or via email: sara.t.okuda@hawaii.gov	4:00 PM, Dec 21, 2023
Qualifications Due Location: DHHL, 91-5420 Kapolei Parkway, Kapolei, HI, 96707; or via email: sara.t.okuda@hawaii.gov	2:00pm Jan 05, 2024
Determination of "Priority List" Developers	Jan 16, 2024 (tentative)
Notice of Selection	Jan 23, 2024 (tentative)

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 Developers 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 Developers 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, Developers are encouraged to attend to gain a better understanding of the requirements of this RFQ.

Developers 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: December 08,2023
Time: 10:00 am
Location: Teams Meeting

<https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting?rtc=1>

Meeting ID: 274 651 981 679

Passcode: RgXjdC

or call in (audio only)

[+1 808-829-4853](tel:+18088294853),597119845# United States, Honolulu

Phone Conference ID: 597 119 845#

A site visit will **not** be conducted in conjunction with the pre-submittal conference. Interested parties may view parcels from public roadway.

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 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 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 Developer to ensure that the written Notice is received by the deadline indicated in the RFQ. The Department assumes no responsibility for Developer'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 127-acre aggregate project site is located at Kealakehe, Kailua-Kona, Hawai‘i, designated as Tax Map Key: (3) 7-4-021: parcels 012, 014, and 015 (EXHIBITS E and F). County of Hawai‘i Zoning is A-1a, A-5a, RS-7.5, RS-10, RS-15, Agricultural and Single-Family Residential Districts. The Department anticipates that the Project will be designed and built pursuant to the Kealakehe Planned Community FEIS. Should the zoning standards vary, this may require a Supplemental EIS.

The project consists of housing lots, developer-built homes, and backbone roadway and utilities infrastructure, and development of offsite water system components as described in Section 2.2.2 of this RFQ.

The Department has not determined the mix of housing types as appropriate for this Project, but encourages Developer to address a wide array of housing types which address affordable housing needs consistent with the DHHL Beneficiaries Study Applicant Report, 2020, shown in Exhibits.

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 homestead leases from Department for one dollar (\$1.00) a year, except for participants in the Rent-with-option-to-purchase Program.

2.1.1 Site Conditions

Landowner

State of Hawaii, Department of Hawaiian Home Lands.

Current Use of the Site

Vacant

Surrounding Uses

DHHL Village 3 – 225 turnkey homes completed in 2000.

DHHL Village 5 – 42 turnkey homes completed 2012; 20 self-help homes completed; 55 vacant lots, homes to be constructed by 2024.

DHHL Village 4, Phase 1 ‘Ākau – 60 homes completed/occupied in 2022; 24 homes to be occupied by end of 2023; 34 lots, homes to be constructed by 2024.

DHHL Village 4, Phase 3 Hema – infrastructure currently in construction, scheduled to be completed by February 28, 2024.

Kealakehe High School for grades 9 – 12 was established in 1997.

Conservation Land – 95.650 acres in Kealakehe, sensitive lands such as watersheds, endangered species habitat, and sensitive historic or cultural site.

Infrastructure

Utilities

Water: The Project will be connected to the County of Hawai‘i Department of Water Supply. Water credits are satisfied for Village 4 Hema, 125 lots; however, offsite water source, storage and transmission will be required to provide water credits for approximately 400 homes in Village 1 and Village 2.

Wastewater: The project will be connected to the County of Hawai'i sewer system. There may be an offsite requirement to make improvements to the sewer collector system.

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

Telecommunication: The community can be serviced by all major providers.

Access, Roadway: Keanalehu Drive from Kealakehe Parkway to Manawalea Street, Manawalea Street from Ane Keohokalole Highway to Kealakaa Street.

Environmental Issues

See Kealakehe Planned Community Final Environmental Impact Statement prepared by Hawaii Housing Finance and Development Corporation, shown in Exhibit K.

Beneficiary Survey

The 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 purchase (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 County of Hawai'i standards. Specific developer responsibilities:

- A. Village 4, Phase 2, Hema

- 1) Design, construct, finance, and market turn-key houses.
 - 2) Manage Rent-with-option-to purchase Program, if applicable.
- B. Villages 1 and 2
- 1) Plan and design roadways and utilities for each increment.
 - 2) Obtain approvals for subdivision and construction plans.
 - 3) Solicit for and execute contract with contractor to construct on-site infrastructure for each increment.
 - 4) Design, construct, finance, and market turn-key houses.
 - 5) Manage Rent-with-option-to-purchase Program, if applicable.
- C. North Kona Water Development
- 1) Planning, design, and construction of exploratory well, production well, storage, and transmission, as needed.
 - 2) Coordination with the Commission on Water Resource Management and County of Hawai'i.

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 county a declaration that the Project shall be developed in accordance with zoning standards, to be determined, 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 Hawai'i 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, Stewart Matsunaga, (808) 620-9283, or authorized representative, is designated the Contract Administrator.

2.5 DEVELOPER QUALIFICATIONS

Minimum Qualifications for Developer's, at the time Qualifications are submitted:

- 1) A principal member of the Developer's company must have at least five (5) years of single-family housing development experience in the State of Hawaii.

- 2) The Developer 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 Developer shall show evidence of credit worthiness and financial resources to complete the design and construction of the Project lien-free.
- 4) The Developer 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 Developer 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 Developer shall provide its two (2) most recent audited annual financial statements, a statement of financial net worth, and statement of bonding capacity.
- 7) The Developer shall provide evidence of two prior projects similar to that documented in the RFQ, and provide completed cost data.

2.6 DISQUALIFICATION OF DEVELOPERS

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

- 1) Non-compliance with HRS § 103D-310.
- 2) Evidence of collusion among Developers.
- 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 DEVELOPER’S AUTHORITY TO SUBMIT QUALIFICATIONS

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

3.2 REQUIRED REVIEW

3.2.1 Before submitting Qualifications, each Developer must thoroughly and carefully examine this RFQ, any attachment, addendum, and other relevant document, to ensure Developer understands the requirements of the RFQ. Developer 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 Developer find defects and questionable or objectionable items in the RFQ, Developer 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 Developer in preparing and submitting Qualifications shall be the Developer’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 GET Exemption – 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. Developer 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 Developer is doing business in the State and that Developer 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 Developer believes that any portion of a submittal, protest, or correspondence contains information that should be withheld from disclosure as confidential, then the Developer shall inform the Procurement Officer in writing and provide justification to support the Developer's confidentiality claim. Price is not considered confidential and will not be withheld.
- 3.6.2 A Developer shall request in writing nondisclosure of information such as designated trade secrets or other proprietary data a Developer 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 Developer take any exception to the terms, conditions, specifications, or other requirements listed in the RFQ, Developer shall list such exceptions in this section of the Developer's submittal. The Developer 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 Developer 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 Developer's exact legal name as registered with the Department of Commerce and Consumer Affairs.

The Developer's authorized signature on the Qualifications Form, QF-1 shall be an original signature in ink. The submission of Qualifications shall indicate Developer'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 Developers 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.

3.12 OFFER GUARANTY

A solicitation security deposit is not required for this RFQ.

SECTION FOUR
EVALUATION CRITERIA

The award will be made to the responsible Developer 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 Developer and the Developer’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 Developer 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 Developer 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 Developer 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 Developer and the Developer’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 Developer 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. Developer’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 Developer and the Developer’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 Developer 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 Developer may be involved in. 2. The Developer’s financial capacity (as developer and provider of guarantees) as evidenced by financial statements, most recent audit and bank references, and statement of how Developer intends to honor all guarantees should the need arise. 3. The extent of the Developer 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 Developer will undertake to assist DHHL in awarding homestead lots to native Hawaiians on DHHL’s application waitlist. 2. Unique approaches or solutions the Developer 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 Developer will undertake to provide a mixture of development models (e.g., turn-key, lease-with-option-to-purchase, owner-builder, etc.), addressing the economic diversity of Beneficiary families. 4. Unique approaches or solutions the Developer 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 Developers.

5.2 DISCUSSION WITH PRIORITY LISTED DEVELOPERS

The State may invite priority listed Developers 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 Developer 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 DEVELOPERS

Developer is advised that to be awarded a contract under this solicitation, Developer 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 Developer 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 Developer 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 Developer's written request for debriefing.

Any protest by a Developer 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 Developer 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 Developer 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 Developer. Should the second round of negotiations also fail to result in a development agreement, the Department may commence negotiations with the third ranked Developer.

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
<u>Construction Defect</u>	<u>10 year tail coverage</u>

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.