

# REQUEST FOR PROPOSALS

RFP No:  
**HHSC 22-003**

COMPETITIVE SEALED PROPOSALS  
TO PROVIDE:

Comprehensive Radiology Services for the West Hawaii Region

Of the

Hawaii Health Systems Corporation

Hawaii Health Systems Corporation  
3675 Kilauea Avenue  
Honolulu, Hawaii 96816  
An Agency of the State of Hawaii

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# SECTION 1

## ADMINISTRATION

### 1.0 INTRODUCTION

This Request for Proposal (hereinafter “RFP”) is issued by the West Hawaii Region, a division of Hawaii Health Systems Corporation (hereinafter “HHSC”), a public body corporate and politic and an instrumentality and agency of the State of Hawaii. West Hawaii Region is comprised of Kona Community Hospital (“KCH”) and Kohala Hospital (“KOH”). This solicitation is governed by the applicable provisions of Hawaii Revised Statutes (“HRS”) and implementing rules. All procedures and processes will be in accordance with applicable HRS Chapters including but not limited to 323F. To the extent this solicitation contains any terms or provisions inconsistent with applicable HRS Chapters and implementing policies, the statutes and then the policies will govern.

Thank you for your interest in submitting a proposal for this solicitation. The rationale for this competitive sealed RFP is to promote and ensure the fairest, most efficient means to obtain the **best value** to HHSC, i.e., the proposal offering the greatest overall combination of service and price, all of which shall be assessed in accordance with the evaluation criteria established in this RFP. Hereinafter, organizations interested in submitting a proposal in response to this RFP shall be referred to as “OFFEROR”.

In order for HHSC to evaluate OFFEROR’s response in a timely manner, please thoroughly read this RFP and follow instructions as presented.

### 1.1 RFP TIMETABLE AS FOLLOWS

The timetable as presented represents HHSC’s best estimated schedule. If an activity of the timetable, such as “Closing Date for Receipt of Questions” is delayed, the rest of the timetable dates may be shifted. OFFEROR will be advised, by addendum to the RFP, of any changes to the timetable. Contract start date will be subject to the issuance of a Notice to Proceed.

ACTIVITY	SCHEDULED DATES	
1.	RFP Public Announcement	March 21, 2022
2.	RSVP Date for Pre-Proposal Conference and Site Visit	April 5, 2022
3.	Pre-Proposal Conference and Site Visit	April 26, 2022
4.	Closing Date for Receipt of Questions	May 2, 2022
5.	Addendum for HHSC Response to OFFEROR’s Questions	May 13, 2022
6.	Closing Date for Receipt of Digital Proposals	May 20, 2022 - No Later Than 4:00 p.m., HST
7.	Mandatory Requirements Evaluation	May 23-May 24, 2022
8.	Proposal Evaluations	May 24-June 17, 2022
9.	Proposal Discussions (optional, at HHSC’s sole discretion)	June 20-June 24, 2022
10.	Best and Final Offers (optional)	June 20-June 24, 2022
11.	Contractor Selection/Award Notification (on/about)	June 27, 2022

12.	Contract Execution Period	June 27-June 28, 2022
13.	Contract Tentative Award Date	June 28, 2022
14.	Contract Implementation Phase	June 29 – September 30, 2022
15.	“Go-Live”	Monday, October 3, 2022

**1.2 AUTHORITY**

This RFP is issued under the provisions of the HRS Chapter 323F and implementing rules. All OFFERORS are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any OFFEROR shall constitute admission of such knowledge on the part of such OFFEROR.

**1.2.1 RFP Organization**

This RFP is organized into six (6) sections:

**SECTION 1: ADMINISTRATIVE**

Provides information regarding administrative requirements.

**SECTION 2: SCOPE OF SERVICES**

Provides a detailed description of goods and/or services to be provided and delineates HHSC and OFFEROR’s responsibilities.

**SECTION 3: PROPOSALS**

Describes the required format and content for submission of a proposal.

**SECTION 4: COMPENSATION & FEE SCHEDULE**

**SECTION 5: EVALUATION**

Describes how proposals will be evaluated and lists the “value weight percentages” of the evaluation categories.

**SECTION 6: AWARD OF CONTRACT**

Describes procedures for selection and award of contract.

**1.3 HEAD OF PURCHASING AGENCY (“HOPA”)**

The HOPA for HHSC, or designee, is authorized to execute any and all Contracts (sometimes referred to herein as “Agreement”), resulting from this RFP.

The HOPA for this RFP is:

James Y. Lee, FACHE  
West Hawaii Regional Chief Executive Officer  
Hawaii Health Systems Corporation

**1.4 DESIGNATED OFFICIALS**

The officials identified in the following sections have been designated by the HOPA as HHSC'S procurement officials responsible for execution of this RFP, award of Contract and coordination of CONTRACTOR'S satisfactory completion of Contract requirements.

#### **1.4.1 Issuing Officer**

The Issuing Officer is responsible for administrating/facilitating all requirements of the RFP solicitation process and is the **sole point of contact** for OFFEROR from date of public announcement of the RFP until the selection of the successful OFFEROR. The Issuing Officer will also serve as the Contract Manager responsible for contractual actions throughout the term of the Contract. The Issuing Officer is:

Alison Stransky, Senior Corporate Contracts Manager  
HHSC  
3675 Kilauea Avenue, Honolulu, HI 96816  
Astransky@hhsc.org

### **1.5 HHSC ORGANIZATIONAL INFORMATION**

#### **1.5.1 Charter**

HHSC is a public body corporate and politic and an instrumentality and agency of the State of Hawaii. HHSC is administratively attached to the Department of Health, State of Hawaii, and was created by the legislature with passage of Act 262, Session Laws of the State of Hawaii 1996. Act 262 affirms the State's commitment to provide quality health care for the people in the State of Hawaii, including those served by small rural facilities.

#### **1.5.2 Structure And Services**

HHSC currently owns and operates nine public health hospitals, including their associated clinics, throughout the Hawaiian Island chain, including Oahu, Kauai and Hawaii. HHSC reserves the right to remove or add additional hospitals and clinics during the term of the Contract.

HHSC is organized into a corporate office located in Honolulu, Hawaii and four operational regions which are East Hawaii Region, West Hawaii Region (both located on the Big Island of Hawaii), Kauai Region and Oahu Region. HHSC provides a broad range of health care services including acute, long term, rural and ambulatory services. In fiscal year 2020, HHSC's acute discharges for the four regions were 13,599, which accounted for approximately 12% of all acute discharges in the State of Hawaii. In fiscal year 2020, HHSC's emergency department visits for the four regions were 80,288, representing approximately 18.3% of all emergency department visits statewide. Specifically for the Big Island, (East Hawaii and West Hawaii Regions) HHSC facilities cared for 73% of all acute care discharges and 84% of all emergency department visits. HHSC is the largest provider of health care services in the Islands, other than on Oahu.

The West Hawaii Region has two hospitals - Kohala Hospital and Kona Community Hospital.

#### **1.5.3 Mission**

The mission of HHSC is to provide and enhance accessible, comprehensive health care services that are quality-driven, customer-focused and cost-effective.

### **1.6 FACILITY INFORMATION**

Detailed information pertaining to HHSC facilities is located at <http://www.hhsc.org>.

### 1.7 SUBMISSION OF QUESTIONS

Questions must be submitted in writing via electronic mail to the Issuing Officer no later than the "Closing Date for Receipt of Questions", identified in Section 1.1 to generate an official answer. All written questions will receive an official written response from HHSC and become addenda to the RFP available to all OFFERORS.

**- IMPORTANT -**

**OFFEROR may request changes and/or propose alternate language to the attached HHSC General Conditions (Purchase of Goods & Services from Healthcare Service Providers) (Non-103D) v. 7/16 during this phase only. All requests will be presented to the HHSC Legal Department for review. No requests to change the HHSC General Conditions will be entertained after the proposals have been submitted or during the contracting process. All written questions and/or approved changes will receive an official written response from HHSC and shall be recorded as addenda to the RFP.**

HHSC reserves the right to reject or deny any request(s) made by OFFEROR.

Responses by HHSC shall be due to the OFFEROR no later than the dates for initial questions and final questions stipulated in Section 1.1.

Impromptu, un-written questions are permitted and verbal answers will be provided during pre-proposal conferences and other occasions, but are only intended as general direction and will not represent the official HHSC position. The only official position of HHSC is that which is set forth in writing and issued in the RFP to all OFFERORS as addenda thereto.

No other means of communication, whether oral or written, shall be construed as a formal or official response/statement and may not be relied upon.

**SEND QUESTIONS TO:**

Alison Stransky, Sr. Corp. Contracts Manager

Email: [Astransky@hhsc.org](mailto:Astransky@hhsc.org)

### 1.8 SOLICITATION REVIEW

OFFEROR should carefully review this solicitation for defects and questionable or objectionable matter. Comments concerning defects and questionable or objectionable matter, **excluding requests to revise the HHSC General Conditions**, must be made in writing and should be received by the Issuing Officer, **Alison Stransky**, no later than the "Closing Date for Receipt of Questions" " as identified in Section 1.1. This will allow issuance of any necessary amendments to the RFP. It will also assist in preventing the opening of proposals upon which award may not be made due to a defective solicitation package.

### 1.9 RFP AMENDMENTS

HHSC reserves the right to amend the RFP any time prior to the ending date for the proposal evaluation period. RFP Amendments will be in the form of addenda.

### 1.10 CANCELLATION OF RFP

The RFP may be canceled when it is determined to be in the best interests of HHSC

## 1.11 GRIEVANCE

Pursuant to HHSC West Hawaii policy, an actual or prospective OFFEROR who is aggrieved in connection with the solicitation or award of the Contract may submit a grievance. Any grievance shall be submitted in writing to the HOPA as noted below. It is the policy of the West Hawaii Region to work collaboratively with the vendor community to achieve fair and fiscally sound procurement decisions. In the event an OFFEROR believes a procurement decision has been made, or is about to be made, that is not in accordance with applicable laws or polices, the OFFEROR is encouraged to proceed as follows:

A. Request a written a debriefing by the Issuing Officer.

B. If the written debriefing does not satisfy the OFFEROR, a telephonic meeting may be requested with the Issuing Officer.

C. If the Issuing Officer does not resolve the issue, the OFFEROR may request a meeting with the HOPA. The HOPA is the last recourse for disputes relating to procurement decisions, and all decisions rendered by the HOPA shall be final.

A grievance based upon the content of the solicitation shall be submitted in writing **within five (5) working days after** the aggrieved individual/business knows or should have known of the facts giving rise thereto; provided further that the grievance shall not be considered unless it is submitted in writing prior to and not later than the "Closing Date for Receipt of Questions" identified in Section 1.1.

A grievance of an award or proposed award shall be submitted within **five (5) working days after the posting of award** of the Contract. The notice of award, if any, resulting from this solicitation shall be posted on the Kona Community Hospital website:

<http://www.kch.hhsc.org/Procurement/>

All grievances shall be submitted in writing to the HOPA, as follows: James Lee, Regional CEO, Kona Community Hospital, 79-1019 Haukapila St., Kealahou, HI 96750.

## **SECTION 2**

### **SCOPE OF SERVICES**

#### **2.0 INTRODUCTION**

The purpose of this competitive solicitation is to award a single, fixed-priced Contract for OFFEROR to provide **“Comprehensive Radiology Services”** at Kona Community Hospital and Kohala Hospital. In order to provide high-quality, cost-effective health care services, the HOSPITALS desire to provide the population residing in West Hawaii (Big Island of Hawaii) with access to and availability of physician specialty services in the area of Radiology. The CONTRACTOR shall provide **“Comprehensive Radiology Services”** pursuant to provisions of the Scope of Services, as described below; and pursuant to the HHSC *General Conditions (Purchase of Goods & Services from Healthcare Service Providers) (Non-103D) v.7/16* (APPENDIX C) of the RFP.

- Services to be provided at both HOSPITALS are described in Section 2.5 and 2.6, below. Kohala Hospital requires only a subset of Services including Teleradiology, Administrative, Operational and Diagnostic Services as described in Sections 2.5 and 2.6.
- Kona Community Hospital requires the full scope of Comprehensive Radiology Services as described in Section 2.7.

The OFFEROR awarded a Contract under this RFP shall be referred to as **“CONTRACTOR”** or **“OFFEROR”**. CONTRACTOR’s physicians shall be referred to as **“TELERADIOLOGISTS”** and **“RADIOLOGISTS”**.

#### **2.1 PRE-PROPOSAL CONFERENCE AND SITE VISIT.**

Please note the date of Tuesday, April 26, 2022 as the date for OFFERORS to visit the Imaging and Radiology Departments at Kona Community Hospital, to tour Kona Community Hospital, and to meet the HOSPITAL’s CMO and staff. This Pre-Proposal Conference is not mandatory, but is advised particularly if the OFFEROR is not familiar with the HOSPITAL and surrounding area. HOSPITAL is located at 79-1019 Haukapila St. Kealahou, Hawaii 96750 approximately 18 miles south of the Kona International Airport. As of the date of RFP posting, HOSPITAL requires visitors to furnish proof of full COVID-19 vaccination status and to wear a mask, in order to be on the premises.

R.S.V.P. Offerors who plan to attend the Pre-Proposal Conference and Site Tour are asked to notify the Issuing Officer no later than the date identified for **“RSVP Date for Pre-Proposal Conference and Site Visit”** in Section 1.1.

#### **2.2 CONTRACT PERIOD OF PERFORMANCE**

The term of Contract shall be for a primary period of thirty-six (36) months, commencing on June 28, 2022 (award) with **“Go-Live”** on October 3, 2022, with two (2) one-year option periods. If all option periods are exercised this will be a five (5) year Contract.

#### **2.3 DEFINITIONS**

For the purposes of this document, the following definitions shall be used:

**“Imaging”** shall mean all of the radiologic services provided by Kona Community Hospital (**“KCH”**) and Kohala Hospital (**“KOH”**) including x-ray, Nuclear Medicine (**“NM”**), Computed Tomography (**“CT”**), Ultrasound (**“US”**), Magnetic Resonance Imaging (**“MRI”**) and interventional procedures. Imaging includes contrast monitoring and obtaining informed consent. Interventional procedures for the purposes of this solicitation do not include vascular procedures. However, CONTRACTOR is not excluded from providing vascular procedures its RADIOLOGISTS are qualified and privileged to perform.

**“Teleradiology”** shall mean the interpretation of diagnostic imaging examinations at a site geographically remote from that of image acquisition.

**“Comprehensive Radiology Services”** shall mean the provision of Teleradiology, On-Site Interventionist/Procedural Radiologists, On-Site Mid-Level Providers, On-Call Interventionist/Procedural Radiologists, Dictation and Transcription of preliminary and final interpretations to include written and electronic format; and Consultation on



all Imaging / Radiology / Invasive procedures performed in the Imaging Department. Operational and Administrative support is required. Services also include the provision of the necessary computer hardware, software, licenses and maintenance for Teleradiology, Dictation and Transcription services.

#### **2.4 PARTICIPATING FACILITIES**

Two facilities are included in this solicitation; each with unique requirements. Kohala Hospital's requirements are more limited in nature and are confined to Teleradiology, Administrative and Operational services. Kona Community Hospital requires Comprehensive Radiology Services.

A. **Kona Community Hospital's** Imaging Department offers CT, MRI, Nuclear Medicine, Sonography, X-ray and Interventional procedures. Located in Kealahou, Hawaii, KCH is a 94-bed acute care hospital with a Level III Trauma Center designation, offering 24-hour emergency services. KCH performs approximately 25,000 imaging studies per year.

B. **Kohala Hospital's** Imaging Department offers diagnostic x-ray and ECG imaging. Located in Kapaau, Hawaii KOH has 25 beds and can accept both acute and long term care patients. KOH offers 24-hour emergency services.

C. HHSC reserves the right to remove or add additional hospitals, clinics and other facilities during the term of the Contract.

#### **2.5 SHARED REQUIREMENTS for KONA COMMUNITY HOSPITAL & KOHALA HOSPITAL**

##### **2.5.1 Standards of Care**

A. CONTRACTOR shall ensure that its Teleradiology and On-site and On-Call Interventionist/Procedural Radiology services ("Services") shall be provided in a manner that complies with the policies and standards outlined by the HOSPITAL, and that such Services are consistent with currently approved methods and practices in its professional specialty. Reference policies and standards shall be those stated in the published *American College of Radiology Appropriateness Criteria* and by The Joint Commission.

B. CONTRACTOR shall comply with bylaws, policies, procedures, rules and regulations of the Hawaii Health System Corporation, HOSPITAL's Medical Staff, as they apply to the CONTRACTOR, and with all local, state and federal law and regulations governing healthcare, and all requirements and guidelines of the United States Nuclear Regulatory Commission, and faithfully and diligently perform its duties and responsibilities during the term of the Contract.

C. CONTRACTOR shall uphold the standards of professional behavior, practice quality and related medical care of patients as directed by the HOSPITAL's Medical Staff and all related documents the Medical Staff may use in directing physician interaction with HOSPITAL employees, Medical Staff, patients, patient family members and visitors to HOSPITAL.

D. Patient Grievances. CONTRACTOR shall respond in writing to grievances submitted by HOSPITAL's patients to HOSPITAL's Patient Advocate that name CONTRACTOR's staff. Response shall be provided directly to HOSPITAL's Patient Advocate and shall comply with HOSPITAL's Policy "*Complaints & Grievance from Patients*" Policy #1263.

##### **2.5.2 Administrative Services**

A. CONTRACTOR shall chair and/or sit on HOSPITAL committees as requested by KCH and KOH Administration or Medical Staff for the purpose of maintaining acceptable standards as required by The Joint Commission and other certifying agencies, and for the purpose of continuous improvement of medical care. RADIOLOGISTS asked to chair or sit on committees shall adhere to HOSPITAL's policy for Medical Staff regarding standards of meeting attendance. CONTRACTOR shall provide a RADIOLOGIST to serve in the following roles:

B. **Radiology Chairperson** to serve as the single point of contact for the HOSPITAL's Technical Representative(s) and to act as **Medical Director of the Imaging Department**. Radiology Chairperson also serves as the **RADIOLOGIST representative for accreditation purposes**;

- C. Attend and participate in the **Radiation Safety Committee** meetings, serving as the secondary Radiation Safety Officer.
- D. Participate in the HOSPITAL Medical Staff's regular and special meetings, assist in their planning work as required for accreditation by The Joint Commission and per Medicare/Medicaid regulations.
- E. Assist in review/evaluation of HOSPITAL Medical Staff's clinical work as required by Medical Staff and/or HOSPITAL's Chief Medical Officer.
- F. CONTRACTOR shall support HOSPITALS with quality assurance, performance improvement, risk management and accreditation as follows:
  1. Provide RADIOLOGIST to work with KCH and KOH Administration to develop cost effective solutions for Imaging Technologist staffing shortages;
  2. Participate in performance improvement throughout KCH and KOH within the Imaging Department, including peer review;
  3. Identify patient safety issues, working with the Imaging Department to reduce errors, patient falls, contrast reactions, and adverse outcomes related to imaging procedures as part of the KCH and KOH Quality Assurance program;
  4. Participate in all Root Cause Analyses conducted in Imaging Department.

### **2.5.3. Operational Services**

- A. RADIOLOGIST Qualifications
  1. RADIOLOGISTS shall be employed by or contracted with CONTRACTOR;
  2. RADIOLOGISTS shall be certified by the American Board of Radiology;
  3. RADIOLOGISTS shall be licensed to practice radiology in the State of Hawaii;
  4. RADIOLOGISTS shall have Medical Staff appointment and privileges at KCH and KOH.
- B. Risk Mitigation. The West Hawaii geographic region experiences power and/or internet failures multiple times each year. When there is a catastrophic power or internet failure such that HOSPITAL's Imaging Department is unable to acquire Teleradiology services, CONTRACTOR shall engage its risk mitigation strategies to maintain the daily functions of the radiology systems.
- C. Critical Results Reporting. A significant finding that may affect the course of evaluation or treatment of a patient, or that may result in further studies, shall be communicated directly by the RADIOLOGIST to the referring physician in a manner consistent with the importance and urgency of the finding.
- D. Technology, Hardware, Software, Licenses and Maintenance. KCH and KOH are reliant on the incumbent radiology services provider to provide the IT infrastructure for Teleradiology, Dictation and Transcription, including hardware, software, licenses, and maintenance.

KCH and KOH share a PACS system and a license to obtain Teleradiology interpretations from the incumbent radiology services provider, and to move results to the appropriate electronic health record ("EHR") for the patient. The majority of the incumbent provider's IT infrastructure is located within Kona Community Hospital.

CONTRACTOR shall provide the IT infrastructure necessary for Teleradiology, Dictation and Transcription and shall lead the implementation of services.

### **2.5.4. Teleradiology**

- A. CONTRACTOR shall provide Teleradiology Services twenty-four 24-hours per day, three hundred sixty-five (365) days per year, including all federal and state holidays (8,760 hours). Teleradiology services shall include imaging exam interpretation services with physician TELERADIOLOGIST consultation services. These consultation services shall be available 24/7 to the referring physician, HOSPITAL Medical Staff, Imaging Technologists, patients and their family members

B. CONTRACTOR shall provide twenty-four (24) hour, three hundred sixty-five (365) day IT support for HOSPITAL's Teleradiology systems in coordination with HOSPITAL's PAC Administrator. This shall include necessary training to HOSPITAL staff as they work with CONTRACTOR to mutually support the integration of HOSPITAL's PAC system, EHR and HL7 with CONTRACTOR's PAC, Dictation and Transcription system(s).

C. Report Turn-Around-Time (TAT) shall be within four (4) hours for Inpatient studies, eight (8) hours for Outpatient studies and thirty (30) minutes for STAT studies. CONTRACTOR's teleradiology service shall provide the TELERADIOLOGIST contact information so that ordering physician can discuss an interpretation.

D. CONTRACTOR, when necessary in the judgment of the HOSPITAL, shall arrange to have alternate, equally qualified TELERADIOLOGISTS to ensure adequate coverage and high quality, uninterrupted radiology services to the HOSPITAL. Alternate TELERADIOLOGISTS shall obtain medical staff privileges no later than forty-eight (48) hours prior to working for the CONTRACTOR at HOSPITAL. TELERADIOLOGISTS shall be members of the KCH and KOH Medical Staffs with privileges in accordance with their education, training, and current competency, prior to being assigned to KCH/KOH to perform professional services.

E. No fewer than twenty-one (21) calendar days prior to schedule start, provide written schedule to the HOSPITAL's Regional Director of Radiology, the Medical Staff Office, the Emergency and the Admissions Departments with the names of the TELERADIOLOGISTS providing services to KCH and KOH. The schedule shall include the telephone and/or pager numbers of scheduled TELERADIOLOGISTS.

#### **2.5.5 Diagnostic Reporting Requirements**

A. CONTRACTOR shall manage the Critical Results Reporting system.

B. RADIOLOGISTS shall transmit Final Reports for all inpatient and outpatient procedures to the HOSPITAL's Electronic Health Record (EHR) system. West Hawaii Region currently uses Cerner Soarian for its EHR, and is planning a 2023 migration to Epic via a shared license with The Queen's Medical Center via the "Epic Community Extension" program.

C. CONTRACTOR shall utilize its own voice Dictation Transcription system to generate and transmit Final Reports into the EHR. HOSPITAL has no Dictation Transcription capability.

D. RADIOLOGIST shall prioritize outpatient radiology requests/orders received during normal business hours according to his/her professional judgment and in conjunction with referring physician's assessment, however, outpatient orders shall be processed within twenty-four (24) hours.

#### **2.5.6 Operational Reporting Requirements**

A. The CONTRACTOR shall provide quarterly quality management reports to include peer review reports, critical results tracking and all data necessary to complete Joint Commission Ongoing Professional Practice Evaluation (OPPE) reports to the HOSPITAL's Technical Representative. The HOSPITAL shall monitor CONTRACTOR'S quality management to include but not be limited to misinterpretations, timely dictations and re-dictations by both CONTRACTOR and any approved subcontractor.

B. CONTRACTOR shall provide semi-annual reports to HOSPITAL in conjunction with HOSPITAL's Quality Assurance program, cooperating with, but not responsible for, HOSPITAL's Quality Assurance program relating to performance of HOSPITAL'S Imaging Department employees.

C. CONTRACTOR shall provide the following reports with the data in format as requested by HOSPITAL:

1. Quarterly Peer Review Reports;
2. Quarterly OPPE Reports;
3. Quarterly Communication of Critical Results Reports

## **2.6 BILLING & COLLECTIONS**

- A. CONTRACTOR shall perform billing and collection of all charges for professional medical services rendered by its staff for radiology services provided for the HOSPITAL. CONTRACTOR shall bill patients and third-party payers for the professional fees at its own expense and under its own provider number.
- B. HOSPITAL shall perform billing and collection of all other charges, including but not limited to, facility fees.
- C. CONTRACTOR shall accept current year Medicare rates as payment in full for medical care provided to HOSPITAL employees and for other patients whose bills are being paid by the HOSPITAL.
- D. HOSPITAL shall make available to CONTRACTOR, in a practical manner consistent with current practices, legible copies of all records and other supporting documentation necessary for the accurate billing of patients for professional services provided by CONTRACTOR pursuant to this Contract.

## **2.7 SPECIFIC REQUIREMENTS FOR KONA COMMUNITY HOSPITAL**

### **2.7.1 Administrative Services at KCH**

- A. Radioactive Materials Program (**RAM**) License Designee;
- B. Member of HOSPITAL's **Cancer Committee**;
- C. Attend and participate in HOSPITAL or regional **tumor board**.
- D. Provide access to **American College of Radiology Guidelines and Standards** to Medical Staff members in KCH's Imaging department. KCH may adopt the current *American College of Radiology (ACR) Guidelines and Standards* for each Imaging modality covered by this Contract as provided by the RADIOLOGIST. *The Guidelines and Standards* shall be updated on a regular basis by the RADIOLOGIST in accordance with the ACR changes; the RADIOLOGIST shall put forth their best efforts to obtain continued acceptance of the *ACR Guidelines and Standards* as applicable to KCH by KCH's Medical Executive Committee ("MEC"). It is understood that the RADIOLOGIST cannot ensure any action by third parties, including the MEC.
- E. Cooperate with KCH in establishing and maintaining an in-service program for all Imaging personnel that includes procedures as part of KCH's Quality Assurance and Quality Management program.

### **2.7.2. Operational Services at KCH**

- A. Alternate Procedure. If RADIOLOGIST determines that exam ordered by the referring physician is inappropriate for the symptoms/diagnosis being made, the RADIOLOGIST shall contact referring physician directly to discuss the order, offering suggestions for alternate procedures.
- B. Modality Failure. In the event of a modality failure, the RADIOLOGIST will advise referring physician of alternate modalities/exams that may substitute for the exam/modality that is unavailable. RADIOLOGIST and referring physician will determine best alternate, which may include an alternate imaging procedure, rescheduling the exam or transferring the patient to another facility, in all cases consistent with patient's well-being, KCH/KOH policies, and applicable law.

### **2.7.3. On-Site Interventionist/Procedural Radiology Services at KCH**

- A. CONTRACTOR shall provide not less than one (1) board certified Interventionist/Procedural RADIOLOGIST and one (1) Mid-Level Provider necessary to support the activities of the Department.
- B. Hours of On-site coverage include Monday through Friday, 0800 to 1630, (8.5 hours per day, and 2,210 hours per year), excluding the following sixteen (16) State and federal holidays on which interventional procedures are not scheduled. Please note that the holiday observance dates may vary from year to year.

Jan. 1	New Year's Day	Jul 4	Independence Day
Jan. 17	Rev. Dr. ML King Day	Aug. 19	Hawaii Statehood Day
Feb. 21	President's Day	Sep. 5	Labor Day
Mar.25	Prince Kalaniana'ole Day	Oct. 10	Columbus Day
Apr. 15	Good Friday	Nov. 8	Election Day (in even numbered years)
May 30	Memorial Day	Nov. 11	Veterans' Day
Jun. 10	King Kamehameha Day	Nov. 24	Thanksgiving (Third Thursday in November)
Jun. 19	Juneteenth	Dec. 25	Christmas Day

C. CONTRACTOR, when necessary in the judgment of the HOSPITAL, shall arrange to have alternate, equally qualified RADIOLOGISTS to ensure adequate coverage and a high quality of uninterrupted radiology services to the HOSPITAL. Alternate RADIOLOGISTS shall obtain medical staff privileges no later than forty-eight (48) hours prior to working for the CONTRACTOR at HOSPITAL. RADIOLOGISTS shall be members of the KCH Medical Staff with privileges in accordance with their education, training, and current competency, prior to being assigned to KCH to perform professional services.

D. No fewer than twenty-one (21) calendar days prior to schedule start, provide written schedule to the HOSPITAL's Regional Director of Radiology, the Medical Staff Office, the Emergency and the Admissions Departments with the names of the RADIOLOGISTS providing services to KCH. The schedule shall include the telephone and/or pager numbers of scheduled RADIOLOGISTS.

E. **Interventional Procedures Required But Not Limited To:**

1. Biliary drainage & stenting;
2. Foreign body removal;
3. Infection & abscess draining;
4. Thrombolysis
5. Nephrostomy & ureteral stenting;
6. Med port placement;
7. Biopsy procedures including but not limited to:
  - a. Liver;
  - b. Kidney;
  - c. Thyroid;
  - d. Bone;
  - e. Fine needle aspiration

Following contract award, and then on an annual basis, CONTRACTOR shall provide to HOSPITAL a list of interventional procedures, to include the required services above and any additional services.

F. Crisis Management. On-site RADIOLOGISTS shall be responsible for managing and directing imaging-related emergency/crisis situations. This shall include management of the Code Blue procedure until HOSPITAL's Code Team physician arrives.

G. Procedural Sedation. All RADIOLOGISTS performing procedural sedations shall adhere to the KCH "Procedural Sedation" Policy #333. Sedation privileges are required including Advanced Cardiac Life Support Certification.

H. Bedside Procedures. At request of referring physician, RADIOLOGIST shall perform bedside procedures. If, in the RADIOLOGIST's judgment, the RADIOLOGIST concludes that the procedure may be safely and adequately performed in the Imaging Department, the RADIOLOGIST may decline to perform the procedure at bedside, and shall consult with referring physician to request that procedure be performed in Imaging Department.

I. HOSPITAL shall determine the procedure room to be used by Interventional/Procedural RADIOLOGIST for all procedures except in cases where patient safety could be jeopardized.

J. MRI and Nuclear Medicine (NM).

1. Availability: NM services shall be available weekdays from 0800 to 1630, and shall not be available after-hours or on weekends.

2. MRI services shall be available weekdays from 0800 to 2330. MRI services shall not available weekdays from 2331 to 0759. MRI services shall be available on weekends based on staff availability.

#### **2.7.5. On-Call Coverage Services at KCH**

A. On-Call Hours shall be from 1630 to 0800 (15.5 hours), Monday through Thursday, and from Friday at 1630 to 0800 the following Monday. Call coverage is inclusive of state and federal holidays. For holidays On-Call Hours will begin at 1630 the business day prior to the holiday and end at 0800 the business day after the holiday. Total On-Call Hours per Year = 6,550. Holidays are as noted above in Subsection 2.6.2 A.

B. Provide Radiology On-Call Coverage services (the "On Call Services") on an as-needed basis in accordance with the call coverage schedule established by KCH. RADIOLOGISTS are not required to stay on the KCH premises, but RADIOLOGISTS are required to carry a pager or mobile phone and to be on standby in order to respond immediately.

On-call radiology response time shall be thirty (30) minutes from the time of the request, including calls from KCH staff and the Medical Staff.

C. CONTRACTOR shall provide the full scope of interventional radiology services that HOSPITAL and RADIOLOGIST provide during the weekdays. RADIOLOGIST and ordering physician will determine the priority of an interventional procedure and whether it is appropriate for the on-call RADIOLOGIST to come into the HOSPITAL, or if the procedure can be placed on the schedule for the following workday.

D. The West Hawaii geographic region experiences power and/or internet failures multiple times each year. When there is a catastrophic power or internet failure of power such that HOSPITAL's Imaging Department is unable to acquire teleradiology services, Radiologist shall provide on-site interpretation services.

E. If a teleradiology interpretation is unacceptable, the CONTRACTOR shall instead provide an On-Call RADIOLOGIST who shall telephonically assist the referring physician and who will, if requested, be physically present at the HOSPITAL. RADIOLOGIST's response time shall be in compliance with Medical Staff bylaws and applicable regulations.

F. RADIOLOGIST consultation services shall be available 24/7 to the referring physician, HOSPITAL Medical Staff, Imaging Technologists, patients and their family members. Provide support to KCH's Emergency Department, regarding patient treatment and evaluations. These consultation services shall be either On-Site or telephonic based on the request from the Emergency Department.

#### **2.8 DUTIES of KONA COMMUNITY HOSPITAL AND KOHALA HOSPITAL**

A. Provide accurate and complete patient demographic information as necessary for the RADIOLOGISTS to complete their professional billing. This information will be provided within twenty-four (24) hours after professional services have been rendered. HOSPITAL will work to provide this information in an electronic format.

B. Ensure that comparison studies from within HOSPITAL's on-campus archives are provided within sixty (60) minutes when required or requested for STAT interpretation.

C. HOSPITAL shall provide bi-directional access to KCH and KOH Imaging to the CONTRACTOR as well as bi-directional access to HL7 data. "Bi-directional interface" is referring to an interface that has the ability to both send to other systems and to receive from other systems (electronically), radiology orders, patient demographics, and final reports, etc. This bi-directional interface will create "send and receive" capabilities between CONTRACTOR and their PACS system and HOSPITAL and its EMR and PACS systems. It is preferred that HL7 v2.7 be used to communicate between HOSPITAL and CONTRACTOR with its interface. The CONTRACTOR shall provide for network transfer of DICOM images, HL7 order messages & importing of electronic exam reporting

**2.8.1 SPECIFIC DUTIES FOR KONA COMMUNITY HOSPITAL**

A. Provide minimum of one (1) computer workstation with RIS/PACS capabilities, from which RADIOLOGIST may read, interpret and dictate results.

B. Provide supplies determined by KCH to be necessary for the operation of the Imaging Department, including, but not limited to:

1. Cardiolite
2. Radioisotopes
3. Contrast dyes
4. Injectables
5. Syringes
6. Tubing
7. Gauze

**2.9 OFFICE LEASE at KCH**

A. KCH and the CONTRACTOR may enter into a separate, written lease pursuant to which KCH shall provide a 10' X 10' office space for the CONTRACTOR within KCH's facility in which the CONTRACTOR may install its own equipment and furniture and may conduct non-hospital business. This office space shall be leased to the CONTRACTOR for an amount consistent with the fair rental value of the space, and the lease agreement shall be in writing, and its terms shall be consistent with all applicable legal and regulatory requirements. TENANT/CONTRACTOR shall occupy and use the Rental Premises for and only for the provision of physician services in the area of Radiology, including but not limited to Comprehensive Radiology Services pursuant to, and as that term is defined in the awarded Contract.

B. The primary responsibility of the CONTRACTOR while on KCH premises is to provide Comprehensive Imaging Services to KCH; all West Hawaii Region Imaging studies shall take precedence over activities conducted by the CONTRACTOR in any space the CONTRACTOR leases from KCH.

**2.10 TECHNICAL REPRESENTATIVES for KCH and KON**

Technical Representatives have the right to oversee the successful completion of contract requirements, including monitoring, coordinating and assessing CONTRACTOR performance; placing requests for services; and, approving completed work/services with verification of same for CONTRACTOR's invoices. Technical Representatives will also serve as points of contact for "technical" matters throughout the term of the contract. The Technical Representatives are:

<b>Kona Community Hospital</b>	<b>Kohala Hospital</b>
To be provided upon award	To be provided upon award

## **SECTION 3**

### **PROPOSALS**

#### **3.0 INTRODUCTION**

One of the objectives of the RFP is to make proposal preparation easy and efficient, while giving OFFEROR ample opportunity to highlight its Proposal. When an OFFEROR submits a Proposal, it shall be considered a complete plan for accomplishing the requirements described in this RFP.

#### **3.1 PROPOSAL PREPARATION**

OFFEROR shall prepare a written Proposal for DIGITAL (emailed) submission, in accordance with requirements of this Section. Proposals shall address and contain, at a minimum:

- A. The technical category information identified in Section 3.7 below.
- B. The price category information identified in Section 3.8 below and RFP Section 4, Compensation & Fee Schedule.

The Technical and Price Proposals shall be distinct, separate documents. Evaluators score the Technical Proposals strictly on technical merit and must not have access to OFFEROR's pricing. If Offeror submits a Proposal that combines technical and pricing data the Proposal shall be disqualified by HHSC. HHSC reserves the right to request or deny a corrected submission. Proposals shall include all data and information requested to qualify Proposals for evaluation and consideration for award. Non-compliance may be deemed sufficient cause for disqualification of a Proposal.

Organize Technical and Price Proposals into distinct sections, following the outline in Sections 3.7 and 3.8, below.

#### **3.2 COSTS FOR PROPOSAL PREPARATION**

Any and all costs incurred in the development of Proposals, i.e., preparing and submitting, on-site product/service demonstrations, on-site visits, oral presentations, travel and lodging, etc. shall be the sole responsibility of OFFEROR.

#### **3.3 DISQUALIFICATION OF PROPOSALS**

HHSC reserves the right to consider as acceptable only those Proposals submitted in accordance with all requirements set forth in the RFP and which demonstrate an understanding of the Scope of Services. HHSC reserves the right to ask for clarification of any item in the Proposal.

**- ATTENTION -**

**Any Proposal offering any other set of terms and conditions contradictory to those included in the RFP may be disqualified without further notice. Please refer to Section 1.7.**

An OFFEROR will be disqualified and the Proposal automatically rejected for any one or more of the following reasons:

- Proof of collusion among OFFERORs, in which case all Proposals involved in the collusive action will be rejected.
- The OFFEROR's lack of responsibility and cooperation as shown by past work or services.
- The Proposal shows any noncompliance with applicable law.



- The Proposal is conditional, incomplete, or irregular in such a way as to make the Proposal incomplete, indefinite, or ambiguous as to its meaning.
- The Proposal has any provision reserving the right to accept or reject award, or to enter into a contract pursuant to an award, or provisions contrary to those required in the solicitation.
- Proof of exclusion from participation in federal health care programs, as defined in the Social Security Act (Sections 1128 and 1128A), and other federal laws and regulations relating to health care.

### **3.4 SUBMISSION OF PROPOSALS**

Each OFFEROR may submit only one (1) two-part DIGITAL Proposal (a Technical and a Price Proposal). Because the Technical Proposal is evaluated separately from the Price Proposal please do not combine these two documents. Alternate proposals will not be accepted.

A. To ensure secure transmission, OFFERORS are asked to transmit their Proposal files to a Citrix ShareFile folder. OFFERORS should email the West Hawaii Regional IT Manager, David Frazier, at [Dfrazier@hhsc.com](mailto:Dfrazier@hhsc.com) with a cc to [Astransky@hhsc.org](mailto:Astransky@hhsc.org), to create their ShareFile folder. This ShareFile folder will be private, with no access by other OFFERORS. OFFERORS may take this step as early in the process as they wish, and are advised not to postpone this requirement.

B. OFFERORS shall transmit their Proposal files to the ShareFile folder no later than the “Closing Date for Receipt of Proposals”, identified in Section 1.1.

C. The Issuing Officer, Alison Stransky, must receive email notification to [Astransky@hhsc.org](mailto:Astransky@hhsc.org) from the OFFEROR confirming submission of one (1) two-part digital Proposal no later than the “Closing Date for Receipt of Proposals”, identified in Section 1.1. The email’s subject line shall clearly state “Proposal in Response to RFP 22-003”. Proposals received after this time/date may be rejected.

### **3.5 PROPOSAL TRANSMITTAL COVER LETTER**

OFFEROR is required to submit Proposal with a transmittal cover letter. The transmittal cover letter must be on the OFFEROR’S official business letterhead; signed by an individual authorized to legally bind the OFFEROR; affixed with the corporate seal or notarized; and minimally include information, as written/requested, on the “sample” letter in Section 6, APPENDIX A. Please note that because Proposal transmission is electronic, a scanned copy of the original cover letter on official letterhead with corporate seal or notarization is acceptable.

### **3.6 PUBLIC INSPECTION**

Proposals shall not be opened publicly, but shall be opened in the presence of two or more procurement officials. The Register of Proposals and OFFEROR’S Proposal shall be open to public inspection after the Contract is executed by all parties.

OFFEROR shall request in writing the nondisclosure of designated trade secrets or other proprietary data to be confidential. Such data shall accompany the Proposal and shall be readily separable from the Proposal to facilitate eventual public inspection of the non-confidential portion of the Proposal. The Proposals are subject to disclosure rules set forth in Chapter 92F, HRS. The OFFEROR bears the burden of establishing that the designated data is exempted from the disclosure requirements set forth in Chapter 92F.

All proposals and other material submitted by OFFEROR become the property of HHSC and may be returned only at HHSC’s option.

### 3.7 **TECHNICAL PROPOSAL**

The Technical Proposal shall include the following categories:

- SUMMARY
- BACKGROUND, QUALIFICATIONS AND EXPERIENCE
- PERSONNEL ORGANIZATION AND STAFFING
- MANAGEMENT AND CONTROL

#### **3.7.1 Summary**

Clearly, concisely and briefly summarize and highlight the contents of the Technical Proposal in such a way to provide HHSC with a broad understanding and the unique, most promising aspects of the Proposal.

#### **3.7.2 Background, Qualifications And Experience**

Provide explicit details on Company's background, qualifications and experience relative to performing requirements set forth in the Scope of Services, including but not limited to:

- A. Background of the Company, i.e., services offered, size, resources, years in business, address of all locations, State of Hawaii presence, state of incorporation, etc. If owned by a physician or physician group please identify. Please list by name, address and phone number all imaging centers owned or operated by OFFEROR.
- B. Brief description of Company's qualifications to perform Scope of Services requirements.
- C. Brief description of three (3) past and/or present contracts demonstrating Company's qualifications, experience and performance. Include customer name, contact name, **email and telephone number.**

If not available, provide contact name and telephone number of three (3) references that can discuss your Company's qualifications, experience and performance.

- D. As an agency of the State of Hawaii HHSC has an obligation to verify OFFEROR's financial capability. Please provide Company financial statements for the past two years, preferably audited, or a copy of filed tax returns. Certified Balance & Income Statements are acceptable; keep documentation simple/limited. HHSC is sensitive to OFFEROR's concerns about confidentiality. OFFEROR may segregate their financial information and mark as "Confidential". This information is viewed/evaluated by the West Hawaii Regional Controller and the Issuing Officer ONLY.
- E. Identification of litigation currently impacting the Company, if any. State "NONE", if none.

#### **3.7.3 Personnel Organization And Staffing**

Provide explicit details on the Company's personnel organization and staffing relative to performing requirements set forth in the Scope of Services, as follows:

- A. Assignment and management of personnel: Specifically, describe how OFFEROR proposes to provide RADIOLOGIST coverage and services to HOSPITAL 24/365. Please identify by name any third party entities to be included in the proposed services, for example, a night reading service.
- B. Please describe any areas of sub-specialty provided by OFFEROR and how services are provided. Please indicate the qualifications used to determine specialty service.
- C. What advantages does your organization have in its ability to recruit quality RADIOLOGISTS?
- D. How are your RADIOLOGISTS compensated and incentivized to achieve performance goals?
- E. Is it proposed that RADIOLOGISTS assigned will work exclusively at HOSPITAL?
- F. Please describe the proposed on-site staffing plan for HOSPITAL’s radiology department.
- G. How do you ensure the quality of new-hire RADIOLOGISTS?
- H. Please provide Company’s recruiting and retention metrics for past 3 years.
- I. Company’s managerial organizational chart and CV’s for key positions. Provide current leadership structure with current leader names and their titles. Please include key personnel identified to perform services, including: name, years of experience, and years with the Company and qualifications. Please provide a CV for each RADIOLOGIST in your group who will be supporting the Contract. Additionally, please provide a table with the information below:

Category	# Employees
General Radiologists	
Specialists:	
<ul style="list-style-type: none"> <li>• Mammography</li> <li>• Neuro</li> <li>• Cardiac</li> <li>• Musculoskeletal</li> <li>• Pediatric</li> <li>• Interventional</li> </ul>	
Quality and Process Improvement	
Data analysis and Reporting	
Other employees	

### 3.7.4 Management And Control

Provide a detailed summary of the methodology relative to performing requirements set forth in the Scope of Services, as follows:

- A. Governance
  - 1. Describe your Medical Director's duties and expectations;
  - 2. Describe the leadership structure used to ensure physician accountability;
  - 3. How are operational and strategic decisions made within your Company?
  - 4. List the education and management resources available to RADIOLOGISTS;
  
- B. Operations and Implementation
  - 1. Describe how referring physician consultations are supported. Please include hours of availability, how consultations are coordinated, and access to second-opinions.
  - 2. Describe any operations support that will be provided to HOSPITAL;
  - 3. Please provide all requirements for the Contract's implementation and "Go-Live" timeline. Describe how quickly the key IT and operations requirements can be initiated;
  - 4. Describe the steps involved in a typical new contract start-up program, including collaboration needed from HOSPITAL in the start-up process, space requirements, hardware and software requirements.
  
- C. Reporting
  - 1. Please describe coordination of reporting requirements with HOSPITAL personnel;
  - 2. If the use of "Preliminary Reports" is part of the proposed service, please describe when they are used, who generates them, and the process and timing for generating a "Final Report";
  - 3. Describe how report discrepancies are managed, reported, and communicated;
  - 4. Describe how report TATs are measured and reported;
  - 5. Describe Final Report TAT based on a 24/7 environment;
  - 6. Describe the process and technology used to generate and edit Final radiology reports.
  - 7. Describe steps taken to ensure report completeness and consistency across the group of individual radiologists.
  - 8. Describe any expectations or needs the OFFEROR has for HOSPITAL staff in the generation of radiology reports (technology, staffing, integration).
  - 9. Provide a representative sample of OFFEROR's radiology reports, including:
    - a) General Final reports;
    - b) Sub-specialty reports, if applicable;
    - c) Preliminary reports, if applicable;
    - d) Report addenda;
    - e) Revised reports;
    - f) Dictation system.
  
- D. Quality
  - 1. Describe OFFEROR's approach to ensuring quality;
  - 2. Describe OFFEROR's standard approach to "Peer Review" and the peer review process. Please include tools used, "blinding" process, how quality is measured, and the standards levels assessment used;
  - 3. Describe how identified quality issues are addressed, tracked, reported and communicated with the HOSPITAL;
  - 4. In the event of a quality issue with an identified RADIOLOGIST, describe the process to address and remove the RADIOLOGIST from the HOSPITAL practice. Please describe any potential impact to the level of services for the HOSPITAL as a result of this practice;

5. Describe OFFEROR’s approach to ensuring the “Critical Findings” are tracked and communicated effectively. Please include tools used and team staff involvement to support this process. Please include an example, via attachment, of the report;
6. Describe how Quality Improvement performance will be tracked and reported to HOSPITAL. Please include an example, via attachment, of the report;
7. Provide examples of internal and external surveys conducted to ensure continuous improvement;
8. Please provide the name and contact information for OFFEROR’s quality officer.

E. Obstacles

1. Please describe potential obstacles to achieving a timely and efficient Contract Implementation. These could be obstacles on the OFFEROR’s part and on the part of the HOSPITAL.

### 3.8 PRICE PROPOSAL

The evaluation of the Price Proposal found in the RFP’s Section 4 shall be based on the pricing information provided by OFFEROR in the Compensation and Fee Schedule to be submitted with Offeror’s Proposal. HHSC is not required to respond to OFFEROR for further negotiation, however that option is available.

#### 3.8.1 Non Applicable Proposal Requirement

Excluding HHSC General and Special Terms and Conditions, and any objectionable or defective RFP matters, if any proposal requirement, as describe in this Section, is not applicable to the OFFEROR and therefore will not or cannot be provided, list the requirement(s) and provide detailed explanation of the reasons why the requirement(s) is not applicable. HHSC reserves the right to consider as acceptable only those Proposals submitted in accordance with all requirements set forth in this Section.

#### 3.8.2 Non Acceptance Of Any RFP Requirement

If any RFP requirement, as described in this RFP, is not acceptable to the OFFEROR, list the requirement(s) and provide detailed explanation of the reasons why the requirement(s) is not acceptable and provide a recommended revision, if applicable. HHSC reserves the right to consider as acceptable only those Proposals submitted in accordance with all requirements set forth in the RFP.

**- ATTENTION -**

**Any Proposal offering any other set of terms and conditions contradictory to those included in the RFP will be disqualified without further notice. Please refer to Section 1.7.**

#### 3.8.3 Proposal Submission Checklist

The Proposal Submission Checklist be used by the OFFEROR to ensure that all required documents and information are being submitted with OFFEROR’s Proposal; and, as a supplementary means for HHSC in performing evaluation of the “Mandatory Requirements”, as set forth in Subsection 4.2.1. The checklist is required to be completed by each OFFEROR and included (as the last document) in the Proposal package. The Proposal Submission Checklist is located under APPENDIX B, following Section 5 of the RFP.

## **SECTION 4**

### **COMPENSATION & FEE SCHEDULE**

- 4.0 Compensation & Fee Schedule: OFFEROR submits the following pricing to HHSC:
- 4.1 **TELERADIOLOGY.** The HOSPITAL shall pay the CONTRACTOR the rate of \$ \_\_\_\_\_ per hour, in addition to CONTRACTOR's collection of professional fees, for unrestricted imaging examinations interpretation services as described in Section 2, Scope of Services, Section 2.5.4. Services are required twenty-four (24) hours a day, three hundred sixty-five days per year which is **8,760 hours**.
- 4.2 **ON-SITE INTERVENTIONIST PROCEDURAL RADIOLOGIST.** The HOSPITAL shall pay the CONTRACTOR the rate of \$ \_\_\_\_\_ per hour, in addition to CONTRACTOR's collection of fees, for the services of a Board Certified Interventionist/Procedural RADIOLOGIST in accordance with Section 2, Scope of Service, Section 2.7.3 **The estimated number of hours to be worked per year are 2,210.**
- 4.3 **ON-CALL INTERVENTIONIST PROCEDURAL RADIOLOGIST.** The HOSPITAL shall pay the CONTRACTOR the rate of \$ \_\_\_\_\_ per hour, in addition to CONTRACTOR's collection of fees, for the services of a Board Certified Interventionist/Procedural RADIOLOGIST in accordance with Section 2, Scope of Service, Section 2.7.5. **The estimated number of hours to be worked per year are 6,550.**
- 4.4 **MID-LEVEL PROVIDER.** The HOSPITAL shall pay the CONTRACTOR the rate of \$ \_\_\_\_\_ per hour, in addition to CONTRACTOR 's collection of professional fees, if any, for the services of a MID-LEVEL PROVIDER in accordance with Section 2, Scope of Service, Section 2.7.3. **The estimated number of hours to be worked per year are 2,210.**
- 4.5 The OFFEROR is to provide a Total Proposed Amount, inclusive of Hawaii General Excise Tax (G.E.T.) which shall be presented as a separate line item, for a three (3) year period based on the OFFEROR's proposed hourly rates listed in Sections 4.1, 4.2, 4.3 and 4.4 above, multiplied by the requested hours.  
Please note that HHSC allows CONTRACTOR to pass through to HHSC its Hawaii G.E.T. obligation for services provided to HOSPITAL. HHSC does not allow CONTRACTOR to pass through to HHSC any Hawaii G.E.T. obligation pertaining to patient and third party collections received by CONTRACTOR.
- 4.6 Invoices for services rendered pursuant to and during the term of this Contract, with a separate line item for Hawaii G.E.T., and in arrears, are subject to the prior receipt of the following:
- A. The Contract number (# To be Assigned Upon Award);
  - B. The date(s) of the service(s) performed;
  - C. A description of the tasks performed with sufficient detail as the Technical Representative may reasonable request;
  - D. Signed and dated by the OFFEROR's delegated signatory.
- 4.7 The CONTRACTOR's invoice is due to the Technical Representative named in the Contract by the tenth (10<sup>th</sup>) day of the month immediately following the month in which the services were provided. HHSC shall pay sums due SIXTY (60) days after receipt of CONTRACTOR's invoice or the last days of the month immediately following the month in which the services were provided, whichever is later.

4.8 The CONTRACTOR agrees that such amounts shall represent payment in full for all services rendered in accordance with the terms of the Contract

# **SECTION 5**

## **EVALUATIONS**

### **5.0 INTRODUCTION**

The evaluation of Proposals shall be conducted comprehensively, fairly, and impartially. Structural, quantitative scoring techniques will be utilized to maximize the objectivity of the evaluation.

### **5.1 PROPOSAL EVALUATION COMMITTEE**

An evaluation committee will be selected from HHSC to perform all evaluation requirements. The committee will be composed of individuals with experience in, knowledge of, and program responsibility for the requirements identified in the RFP. HHSC reserves the right to request information from OFFEROR to clarify the Proposal.

### **5.2 EVALUATION PHASES**

Evaluation phases will be conducted as follows:

- Phase 1.....Evaluation of Mandatory Requirements
- Phase 2.....Technical Proposal Evaluation
- Phase 3.....Price Proposal Evaluation
- Phase 4.....Proposal Discussions by Priority-List **(optional)**
- Phase 5.....Best and Final Offers by Priority List **(optional)**
- Phase 6.....Recommendation for Contract Award

#### **5.2.1 PHASE - 1 Evaluation of Mandatory Requirements**

The evaluation of the mandatory requirements, as listed below, shall be based upon a “Pass/ No Pass” basis. The purpose of this phase is to determine whether an OFFEROR’S Proposal is sufficiently responsible and responsive to RFP requirements to permit a complete evaluation, i.e. responsible in terms of “Does the OFFEROR have the capability to perform fully the Scope of Services requirements”; and, “Were Proposal documents, as identified below, received by HHSC and do they contain the required information?” Failure to meet any mandatory requirement will be grounds for deeming the Proposal non-responsible, non-responsive or both and disqualification (“No Pass”) thereof.

Proposal **MANDATORY REQUIREMENTS:**

- ✓ Proposal Cover Letter **with corporate seal or notarization**
- ✓ Technical Proposal
  - Background, Qualifications and Experience including Financial Statement
  - Personnel Organization and Staffing
  - Management and Control
  - Miscellaneous
- ✓ Price Proposal
- ✓ State of Hawaii Compliance Documents
- ✓ Proposal Submission Checklist

#### **5.2.2 PHASE - 2 Technical Proposal Evaluation**



Evaluation of OFFEROR'S Technical Proposal shall be conducted using the technical proposal categories and the value weight percentages identified in Section 5.3 and the evaluation scoring system identified in Section 5.4.

**5.2.3 PHASE - 3 Price Proposal Evaluation**

Evaluation of the Price Proposal shall be conducted using the Price Proposal category and the value weight percentages identified below in Section 5.3 and the evaluation scoring system identified in Section 5.4.

**5.2.4 PHASE - 4 Proposal Discussions with Priority-Listed OFFERORS (Optional)**

At its discretion, following the Mandatory Requirements Phase, HHSC may develop a Priority List of OFFERORS based on the evaluation of OFFEROR'S Technical and Price Proposals. OFFERORS on this Priority List may be asked to conduct discussions with HHSC. OFFEROR'S Proposal may be accepted without Discussions. In the event that HHSC elects to hold Discussions, HHSC shall inform Priority-Listed OFFERORS of specific Discussion topics and issues; and schedule Discussion proceedings.

**5.2.5 PHASE - 5 Best and Final Offers (Optional)**

At its discretion HHSC may request that OFFEROR submit a Best and Final offer. Best and Final offers shall be evaluated and scoring of the OFFEROR'S Proposal adjusted, accordingly. If a Best and Final offer is requested but not submitted, the previous submittal shall be construed as the Best and Final offer.

**5.2.6 PHASE - 6 Recommendation for Contract Award**

The Evaluation Committee shall prepare a report summarizing proposal evaluation findings/rankings and provide recommendation for award of contract to the HOPA.

**5.3 EVALUATION CATEGORIES AND VALUE WEIGHT PERCENTAGES**

**MANDATORY REQUIREMENTS**.....**PASS/NO PASS**

<u>Technical Proposal</u>	<u>Value Weight</u>
– Background, Qualifications and Past Performance.....	25%
– Personnel Organization and Staffing.....	25%
– Management and Control.....	20%
 <u>Price Proposal</u> .....	 30%
<b>TOTAL</b> .....	<b>100%</b>

#### 5.4 EVALUATION SCORING SYSTEM

The maximum number of Technical points available for scoring of each Technical Proposal is seven hundred (700) per Technical Evaluator. The evaluation categories are assigned a value weight percentage, as determined by HHSC, totaling 100%. See Section 5.3. Each category will be rated between one (1) and ten (10), with ten being the highest (the best rating) by each member of the Technical Evaluation committee. The OFFEROR'S total score will be determined by: a) multiplying the assigned weight value of each category by the numerical rating provided by the Technical Evaluation committee member to determine the score for each category; b) totaling the score for all categories of each Technical Evaluation committee member; and, c) totaling the score of all Technical Evaluators.

**Note:** In determining the total score, the OFFEROR'S Price Proposal with the lowest price will receive the highest available rating allocated to price. Each proposal that has a higher price than the lowest will have a lower rating for price. The points allocated to higher-priced proposals will be equal to the lowest proposal price multiplied by the maximum points available for price, divided by the higher proposal price. Price Proposal tabulations are conducted by the Issuing Officer.

The proposal receiving the highest number of Technical and Price points is considered statistically the best proposal and the **best value** to HHSC; and will be recommended for award of Contract, unless otherwise determined and justified by the Technical Evaluation Committee.

## **SECTION 6**

### **AWARD OF CONTRACT**

#### **6.0 AWARD OF CONTRACT**

Award of Contract shall be made to the most responsible and responsive OFFEROR whose proposal is determined by the Evaluation Committee to provide the best value to HHSC, considering all evaluation reviews and results.

#### **6.1 CONTRACT AWARD NOTIFICATION**

The notice of award, if any, resulting from this solicitation shall be posted on the Kona Community Hospital website:

<http://www.kch.hhsc.org/Procurement/>

This will serve as the official notification to all OFFERORS. In addition, the Issuing Officer will inform the successful OFFEROR of contract award selection by an official “notice of award” letter.

At its discretion and as a courtesy to the OFFERORS the Issuing Officer may issue a “Notice of Posting of Award” to the unsuccessful OFFERORS. However a delay in issuing the notice or the inadvertent omission of such courtesy notice will not extend the grievance filing time.

#### **6.2 CONTRACT AWARD DEBRIEFING**

If requested, HHSC shall provide a Contract award debriefing. The purpose of a debriefing is to inform the non-selected OFFEROR of the basis for the source selection decision and Contract award. A written request to the Issuing Officer for a debriefing shall be made within five (5) working days after receipt of non-award of Contract letter from HHSC and/or posting of the award of the Contract.

#### **6.3 METHOD OF AWARD**

##### **6.3.1 Contract Document**

The Contract will be awarded by executing a **“Hawaii Health Systems Corporation Physician Professional Clinical Services Agreement”** (hereinafter “Contract”) by HHSC and the successful OFFEROR (hereinafter “CONTRACTOR”). This document will serve as the official, legal contractual instrument between both parties. This document will incorporate (by attachments or reference) the RFP, with any and all addendums; GENERAL CONDITIONS and any SPECIAL CONDITIONS; and the CONTRACTOR’s accepted proposal, with any and all addenda, changes, negotiated agreements, all of which becomes part and whole of the contract.

#### **6.4. GENERAL AND SPECIAL CONDITIONS:**

The GENERAL CONDITIONS (Purchase of Goods & Services from Healthcare Service Providers) (Non-103D) v.7/16 are applicable and shall be part and whole and attached to the Contract. (APPENDIX C).

**Of particular significance, please note/review the following requirements:**

##### **6.4.1 General Excise/Use Tax**

Refer to the GENERAL CONDITIONS (Purchase of Goods & Services from Healthcare Service Providers) (Non-103D) v.7/16, APPENDIX C. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and Chapter 238, HRS, where applicable. Both out-of-state and Hawaii CONTRACTORS are advised that the gross receipts derived from this solicitation are subject to the general excise tax imposed by Chapter 237, HRS, and where applicable to tangible property imported into the State of Hawaii for resale, subject to the use tax imposed by Chapter 28, HRS.

Pursuant to Section 237-9, HRS, the CONTRACTOR is required to obtain and/or possess a valid General Excise Tax License from the Hawaii State Department of Taxation (DOTAX) prior to executing a contractual agreement with a State Agency.

The **General Excise Tax License** shall be obtained from the DOTAX offices in the State of Hawaii or the DOTAX Web Site and by mail or FAX. Refer to the next section for procedures in obtaining DOTAX forms and information.

#### **6.5 Contract Execution**

Upon receipt of the Contract document, the CONTRACTOR shall have TWO (2) business days to execute and return the Contract to the Issuing Officer. Explicit execution instructions will accompany the Contract. A copy of the fully executed Contract will be provided the CONTRACTOR within seven (7) business days of Contract execution.

Award of Contract may be withdrawn if the CONTRACTOR is unable to meet contract execution requirements.

#### **6.6 Contract Commencement Date**

Upon completion of Contract execution requirements, a **“Notice to Proceed”** letter will be provided the Contractor specifying the “Commencement” (start work) date of the CONTRACT. No work is to be undertaken by the Contractor prior to the commencement date specified in the Notice to Proceed letter. HHSC is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the CONTRACTOR prior to the official, notice to proceed “Commencement” date.

# APPENDIX A

## PROPOSAL TRANSMITTAL COVER LETTER

Mrs. Stransky:

(Name of Business) \_\_\_\_\_ proposes to provide any and all goods and services as set forth in the "Request for Proposals" to provide "**Comprehensive Radiology Services**", RFP # 22-0033, for which fees/costs have been set. The fees/costs offered herein shall apply for \_\_\_\_\_ (Please insert applicable period of time) \_\_\_\_\_.

It is understood and agreed that \_\_\_\_\_ (Name of Business) \_\_\_\_\_ have read HHSC's Scope of Services described in the RFP and that this proposal is made in accordance with the provisions of such Scope of Services. By signing this proposal, \_\_\_\_\_ (Name of Business) \_\_\_\_\_ guarantee and certify that all items included in this proposal meet or exceed any and all such Scope of Services.

\_\_\_\_\_ (Name of Business) \_\_\_\_\_ agree, if awarded the Contract, to provide the goods and services set forth in the RFP; and comply with all terms and conditions indicated in the RFP; and at the fees/pricing set forth in this proposal. The following individual(s) may be contacted regarding this proposal (Name and Contact Info.):

\_\_\_\_\_  
\_\_\_\_\_

### Other information:

Business Phone #:		Federal Tax ID #:	
E-mail address:		Hawaii GET Lic. ID #:	

\_\_\_\_\_(Name of Business)\_\_\_\_\_ is a:  Sole Proprietor  Partnership  Corporation  Joint Venture Other  
\_\_\_\_\_(Other Specify)\_\_\_\_\_

State of Incorporation is: \_\_\_\_\_(Specify)\_\_\_\_\_

The exact legal name of the business under which the contract, if awarded, shall be executed is:

\_\_\_\_\_  
\_\_\_\_\_

(Authorized Bidder's Signature, Printed Name/Title; Corporate Seal or Notarized)

Enc.: Proposal

# APPENDIX B

## MANDATORY - PROPOSAL SUBMISSION CHECKLIST

**\*IF SPECIFIC ITEM(S) IS NOT APPLICABLE, MARK WITH "N/A"---DO NOT LEAVE BLANK.  
PLEASE CHECK OFF:**

OFFEROR Shall Check Off Submitted	Proposal Items	HHSC Internal Use ONLY
	Mandatory Items for "Pass/No Pass"	
	Proposal Received "On-Time"	<input type="checkbox"/>
<input type="checkbox"/>	One (1) Digital 2-part Proposal including separate Technical and Price Proposals transmitted to Citrix ShareFile folder	<input type="checkbox"/>
<input type="checkbox"/>	Proposal Transmittal Cover Letter:	<input type="checkbox"/>
<input type="checkbox"/>	• Official Business Letterhead	<input type="checkbox"/>
<input type="checkbox"/>	• Authorized Signature	<input type="checkbox"/>
<input type="checkbox"/>	• Corporate Seal or Notarized	<input type="checkbox"/>
<input type="checkbox"/>	• Required Information in Cover letter	<input type="checkbox"/>
<input type="checkbox"/>	• Mandatory Company Financials as described in Section 3.7.2 D	<input type="checkbox"/>
<input type="checkbox"/>	Technical Proposal	<input type="checkbox"/>
<input type="checkbox"/>	• Background, Qualifications and Experience	<input type="checkbox"/>
<input type="checkbox"/>	• Personnel Organization and Staffing	<input type="checkbox"/>
<input type="checkbox"/>	• Management and Control	<input type="checkbox"/>
<input type="checkbox"/>	Price Proposal: Compensation & Fee Schedule-See Section 4	<input type="checkbox"/>
<input type="checkbox"/>	Optional Services Pricing ( if any)	<input type="checkbox"/>
<input type="checkbox"/>	Non Applicable Proposal Requirement(s) ( if any)	<input type="checkbox"/>
<input type="checkbox"/>	Proprietary Documents (if any)	<input type="checkbox"/>
<input type="checkbox"/>	Others (List) (if any)	<input type="checkbox"/>
<input type="checkbox"/>	Proposal Submission Checklist	<input type="checkbox"/>
<input type="checkbox"/>	Hawaii State General Excise Tax License	<input type="checkbox"/>
<input type="checkbox"/>	W-9	<input type="checkbox"/>

# APPENDIX C

## GENERAL CONDITIONS (PURCHASE OF GOODS AND SERVICES FROM HEALTHCARE SERVICE PROVIDERS)(NON-103D)

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1. **COORDINATION OF SERVICES BY THE HHSC.** The “head of the purchasing agency” (through the Technical Representative(s) or other designee as specified in the Agreement), shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Agreement. The CONTRACTOR shall communicate with the head of the purchasing agency through the Technical Representative(s) or other designee at all stages of the CONTRACTOR’s work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of this Agreement. “Purchasing agency” as used in these General Conditions means and includes any HHSC region or facility or the HHSC corporate office which is authorized to enter into contracts for the procurement of goods or services. The term “HHSC” refers to HHSC and its region or facility entering into this Agreement.

2. **REPRESENTATIONS AND WARRANTIES.** CONTRACTOR (including any and all individual physicians or other health care practitioners providing services hereunder [referred to individually and collectively as “Provider(s)”]) represents and warrants to HHSC, upon execution and while this Agreement is in effect, as follows:

a. CONTRACTOR is not bound by any agreement or arrangement that would preclude said CONTRACTOR from entering into or fully performing as required under this Agreement;

b. No Provider is bound by any agreement or arrangement that would preclude said Provider from fully performing the services required under this Agreement;

c. No Provider’s license to practice medicine in the State of Hawaii (“STATE”) or in any other jurisdiction has ever been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or restricted in any way;

d. No Provider’s medical staff privileges at any health care facility have ever been denied, suspended, revoked, terminated voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction;

e. No Provider has in the past conducted, or is presently conducting, his or her medical practice in such a manner as to cause such Provider to be suspended, excluded, barred or sanctioned under the Medicare or Medicaid Program, or any government licensing agency, nor has Provider ever been convicted of a criminal offense related to health care, or listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation;

f. Each Provider has, and shall maintain throughout the term of this Agreement, an unrestricted license to practice medicine in the STATE and medical staff privileges at the HHSC facility or facilities;

g. No Provider receives aggregate compensation from CONTRACTOR that varies with, or otherwise reflects, the volume or value of referrals or other business generated by Provider for the HHSC facility or facilities furnishing the designated health services as defined under 42 C.F.R. Section 411.351;

h. The aggregate services CONTRACTOR provides pursuant to the terms of this Agreement do not exceed those that are reasonable and necessary for the legitimate and commercially reasonable business purpose of the services;

i. The services provided pursuant to the terms of this Agreement do not involve the counseling or promotion of a business arrangement or other activity that violates any STATE or Federal law; and

j. CONTRACTOR warrants that: neither CONTRACTOR, any person with an ownership interest in CONTRACTOR, any Provider providing services hereunder, nor any member of any such Provider’s immediate family is employed by or has a financial relationship with HHSC or any of its subsidiaries or affiliates. If at any time during the term of this Agreement such a relationship becomes established, immediate notice shall be given by CONTRACTOR to HHSC as provided in this Agreement. HHSC will then review the situation and determine if such relationship complies with applicable law. If the relationship and this Agreement are found by HHSC to comply with applicable law, no further steps shall be taken. If the relationship and the Agreement are found to not comply with applicable law, then HHSC shall propose appropriate amendments to this Agreement or the other relationship (which may include termination) so as to ensure that this Agreement and the other relationship comply with all applicable laws.

For this purpose, “immediate family” means husband or wife, natural or adoptive parent, child or sibling; step-parent, step-child, step-brother or step-sister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.

3. **HHSC EMPLOYEES; PROVIDERS' OBLIGATIONS.** Neither CONTRACTOR nor Provider shall solicit the services of, or employ or procure on behalf of another the employment of, any individual currently employed by HHSC, except with the express written consent of HHSC; nor shall CONTRACTOR or any Provider engage in any other activity which would be in conflict with his/her/its respective obligations hereunder.

4. **CONTRACTOR EXCLUSION FROM FEDERAL PROGRAMS.** CONTRACTOR affirmatively states that neither CONTRACTOR nor any of its employees, agents or subcontractors, including Providers, performing services or providing goods pursuant to this Agreement are excluded from participation in federal health care programs as defined in the Social Security Act (Section 1128 and 1128A) and other federal laws and regulations relating to health care. HHSC reserves the right to verify that the above statement is true and to immediately cancel this Agreement in the event it is not true.

5. **CONTRACTOR'S AND PROVIDERS' STATUS; STANDARDS.**

a. CONTRACTOR and Providers shall act at all times under this Agreement as independent contractor(s) to HHSC. The parties agree that HHSC shall not have and shall not exercise any control or direction over the manner or method by which CONTRACTOR meets its obligations under this Agreement nor over the manner or method by which any Provider provides the Services. However, Contractor and Providers shall perform at all times in accordance with currently approved methods and standards of practice for the services in the medical community and as required by the HHSC, HHSC corporate, regional and facility rules, regulations, policies and bylaws, the recommendations of The Joint Commission as applicable, and relevant professional organizations. The provisions of this paragraph 5 shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

b. The CONTRACTOR and the CONTRACTOR's employees and agents, including Providers, are not by reason of this Agreement agents or employees of the HHSC or the STATE for any purpose, and the CONTRACTOR and the CONTRACTOR's employees and agents shall not be entitled to claim or receive from the HHSC or the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to HHSC or STATE employees.

c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR's performance under this Agreement. All services shall be performed in compliance with the applicable standards set forth by law or ordinance or established by the rules and regulations of any Federal, STATE or local legal authority, and applicable accreditation agencies, such as The Joint Commission. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability for all loss, damage, or injury to the CONTRACTOR's employees and agents, and to any individual not a party to this Agreement, caused by the CONTRACTOR or the CONTRACTOR's employees or agents in the course of their employment.

6. **SUBCONTRACTS AND ASSIGNMENTS.** Except as otherwise set forth in the Agreement, the CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Agreement and no such assignment or subcontract shall be effective unless the CONTRACTOR obtains the prior written consent of HHSC.. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Agreement shall be effective unless and until the assignment is approved by HHSC. This Agreement is assignable by HHSC without consent provided that HHSC provides prompt written notice of the assignment.

7. **INDEMNIFICATION AND DEFENSE.** The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, the HHSC, the contracting facility, and their directors, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees and all claims, suits, and demands therefor, arising out of or resulting from acts or omissions of the CONTRACTOR or the CONTRACTOR's employees, officers, agents, or subcontractors under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement.

8. **COST OF LITIGATION.** In case the STATE, the HHSC, the contracting facility, and their directors, officers, employees, and agents shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Agreement, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, the HHSC, the contracting facility, and their directors, officers, employees, and agents, including attorney's fees.

9. **NONDISCRIMINATION.** No person performing work under this Agreement, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable Federal, STATE, or County law.

10. **REQUIRED DISCLOSURES.** CONTRACTOR shall notify HHSC in writing within three (3) days after any of the following events occurs:

a. Any Provider's license to practice medicine in the STATE or any other jurisdiction lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction;

- b. Any Provider's medical staff membership and/or privileges at any health care facility are denied, suspended, revoked, terminated, voluntarily relinquished (under threat of disciplinary action) or made subject to terms of probation or other restriction;
- c. Any Provider is required to pay damages in any malpractice action by way of judgment or settlement;
- d. Any Provider becomes the subject of a disciplinary proceeding or action before any governmental or professional licensing board, medical staff or peer review body;
- e. Any Provider's DEA number is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way;
- f. Any event that substantially interrupts all or a portion of any Provider's professional practice or that materially adversely affects any Provider's ability to perform Provider's obligations hereunder; or
- g. Any Provider is convicted of a criminal offense related to health care or any Provider is listed by a federal agency as being debarred, excluded or otherwise ineligible for federal program participation.

**11. MANAGED CARE.** CONTRACTOR shall participate in all third-party payment or managed care programs in which HHSC participates, render services to patients covered by such programs, and accept the payment of amounts provided for under those programs as payment in full for services of the Providers to program patients.

**12. COMPENSATION.**

a. Entire Compensation. CONTRACTOR shall have the sole responsibility to compensate any Providers providing services hereunder for performance of the services, including payment of health insurance and other fringe benefits, payroll taxes, Social Security contributions, and premiums for any government-mandated employment-related insurance. CONTRACTOR reserves the right, in its sole discretion, to determine the compensation payable to each Provider. CONTRACTOR hereby agrees to indemnify and hold HHSC harmless in connection with any claims for compensation by such Providers for services rendered hereunder. The indemnification obligations herein stated in this subparagraph shall survive the termination and/or expiration of this Agreement.

b. Fair Market Value of Compensation Paid to Contractor. The parties agree that the compensation paid by HHSC to CONTRACTOR: (a) does not exceed fair market value; and (b) is not determined in a manner that takes into account the volume or value of referrals or other business that might be generated among HHSC, CONTRACTOR and Provider(s), except as may be permitted by law. The parties further agree that the Agreement does not require the limitation or withholding of items or services from patients in violation of any federal, STATE, or local law.

c. Notwithstanding the above provisions, or any other provision of this Agreement (including any attachments and exhibits), this Agreement is subject to appropriation should the contract term extend beyond the end of the current fiscal year and any renewal or extension of this Agreement is also subject to appropriation.

**13. TERM AND TERMINATION.**

a. Term. In the event the parties continue to abide by the terms of this Agreement after the expiration of an initial or renewal term of at least one (1) year without having agreed in writing to renew this Agreement, the term of this Agreement shall continue on a month-to-month basis thereafter for up to six (6) months, subject to termination by either party at any time upon the provision of thirty (30) days' prior written notice to the other party.

b. Termination.

(1) Termination without Cause. Either party may terminate this Agreement upon sixty (60) days prior written notice to the other party. If either party terminates this Agreement without cause prior to the expiration of the then-current term, Facility and Physician may not enter into an agreement for services similar to those provided by Physician hereunder, until the expiration of the then current term. Termination without cause does not constitute breach.

(2) Termination for Breach. Either party may terminate this Agreement upon breach by the other party of any material provision of this Agreement, provided such breach continues for fifteen (15) days after receipt by the breaching party of written notice of such breach from the non-breaching party.

(3) Effect of Termination. As of the effective date of termination of this Agreement, neither party shall have any further rights or obligations hereunder except: (i) as otherwise provided herein; (ii) for rights and obligations accruing prior to such effective date of termination; or (iii) arising as a result of any breach of this Agreement.

**14. IMMEDIATE REPLACEMENT OF PROVIDER OR TERMINATION.**

a. Upon the occurrence of any of the following events, HHSC may either: (a) immediately terminate this Agreement in the event CONTRACTOR providing services hereunder is a sole proprietor, solely-owned professional corporation, or other similar entity with only a single Provider providing services hereunder; or (b) require immediate removal and replacement of any Provider providing services hereunder (“Affected Provider”) by written notice to CONTRACTOR:

(1) the denial, suspension, revocation, termination, restriction, lapse or voluntary relinquishment (under threat of disciplinary action) of any Affected Provider’s medical staff membership and/or privileges at HHSC or of any Affected Provider’s license to practice medicine in the STATE;

(2) the denial, suspension, revocation, termination, relinquishment (under threat of disciplinary action) or restriction of any Affected Provider’s medical staff membership and/or privileges at any health care facility other than HHSC, or of any Affected Provider’s license to practice medicine in any jurisdiction other than the STATE;

(3) the death of any Affected Provider, or the disability of any Affected Provider which prevents such Affected Provider from performing the services in compliance with applicable standards as described above, as determined in the discretion of HHSC Administrator in consultation with an officer of HHSC’s medical staff;

(4) the termination, revocation, restriction, or relinquishment of any Affected Provider’s DEA number;

(5) the failure of CONTRACTOR to make a timely disclosure concerning the Affected Provider required pursuant to paragraph 10, “Required Disclosures”, hereof;

(6) conduct by an Affected Provider which, in the discretion of HHSC in consultation with an officer of the medical staff of HHSC, could adversely affect the quality of professional care provided to HHSC’s patients or the performance of duties required hereunder, or be prejudicial or adverse to the best interest and welfare of patients;

(7) breach by any Affected Provider of any of the confidentiality provisions hereof;

(8) any Affected Provider’s conviction of a criminal offense related to health care, or any Affected Provider’s listing by a federal agency as being debarred, excluded or otherwise ineligible for federal program participation; or

(9) Provider’s commission of any act, illegal or otherwise (including, but not limited to, fraud or misrepresentation), detrimental to the business or reputation of HHSC or any of its facilities.

b. If HHSC furnishes CONTRACTOR with written disapproval of an Affected Provider (the “Disapproval Notice”), CONTRACTOR shall immediately direct the Affected Provider to cease the performance of services at HHSC and shall arrange for a qualified interim replacement (“Interim Replacement”) for the Affected Provider, which replacement shall be reasonably acceptable to HHSC. HHSC shall act reasonably in disapproving an Affected Provider, but shall not be required to have legal “cause” or to conduct a formal or informal hearing as a requirement for disapproval or issuance of the Disapproval Notice. HHSC and CONTRACTOR shall meet and confer within seven (7) days following provision of the Disapproval Notice to discuss the reason(s) for issuance of the Disapproval Notice, the necessity for CONTRACTOR to furnish a permanent replacement provider (“Permanent Replacement”) for the Affected Provider, and the identity or desired qualifications for a Permanent Replacement. Within ninety (90) days after provision of the Disapproval Notice by HHSC, CONTRACTOR shall appoint a qualified Permanent Replacement for the Affected Provider acceptable to HHSC. CONTRACTOR’s failure to do so within such ninety (90) day period shall constitute grounds for termination of this Agreement by HHSC immediately upon the provision of written notice by HHSC to CONTRACTOR.

**15. CONFIDENTIALITY.**

a. HHSC Information. CONTRACTOR recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to HHSC hereunder, CONTRACTOR and Providers may have access to certain information of HHSC that is confidential and constitutes valuable, special and unique property of HHSC. CONTRACTOR agrees that neither CONTRACTOR nor any Provider will at any time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without HHSC’s express prior written consent, except pursuant to Provider’s duties hereunder, any confidential or proprietary information of HHSC, including, but not limited to, information which concerns HHSC’s patients, costs, or treatment methods developed by HHSC and which is not otherwise available to the public.

b. Terms of this Agreement. Except for disclosure to CONTRACTOR’s or any Provider’s legal counsel, accountant or financial advisors (none or whom shall be associated or affiliated in any way with HHSC or any of its affiliates) neither CONTRACTOR nor any Provider shall disclose the terms of this Agreement to any person who is not a party or signatory to this Agreement unless disclosure thereof is required by law or otherwise authorized by this Agreement or consented to by HHSC. Unauthorized disclosure of the terms of this Agreement shall be a material breach of this Agreement and shall provide HHSC with the option of pursuing remedies for breach or immediate termination of this Agreement in accordance with Paragraph 13.b.(2), “Termination for Breach”, hereof.

c. Patient Information. Neither CONTRACTOR nor any Provider, nor HHSC, shall disclose to any third party, except where permitted or required by law, any patient or medical record information regarding HHSC's patients; and CONTRACTOR, Providers, and HHSC shall comply with all federal and STATE laws and regulations, and all bylaws, rules, regulations, and policies of HHSC and HHSC's medical staff regarding the confidentiality of such information. CONTRACTOR and HHSC acknowledge that in receiving or otherwise dealing with any records or information about HHSC's patients receiving treatment for alcohol or drug abuse, CONTRACTOR, Providers and HHSC are fully bound by the provisions of the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records (42 C.F.R. Part 2, as amended from time to time).

d. Application of Uniform Information Practices Act. All information, data, or other material provided by the CONTRACTOR to the HHSC shall be subject to the Uniform Information Practices Act, chapter 92F, HRS, as modified by chapter 323F, HRS ("UIPA"). CONTRACTOR further acknowledges and agrees that the compensation terms of this Agreement are government records subject to disclosure under the UIPA.

e. Survival. The provisions of this paragraph shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

## **16. INSURANCE.**

a. During the term of this Agreement, CONTRACTOR shall maintain at all times or cause to be maintained comprehensive general liability and professional liability insurance (the "POLICY") covering the acts and omissions of Providers rendering the services at HHSC. The POLICY shall be maintained with a company or companies approved by HHSC, with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and per Provider and Three Million Dollars (\$3,000,000.00) in the aggregate, per Provider, or such greater amount as may be required from time to time by HHSC's Corporate Bylaws or Medical Staff Bylaws, whichever is the greater amount. Said POLICY shall provide that HHSC shall receive not less than thirty (30) days' notice prior to any cancellation or material change or reduction of coverage. Prior to the commencement of this Agreement, CONTRACTOR shall provide HHSC with a certificate of insurance naming HHSC as the certificate holder. Thereafter, prior to the expiration of each policy period, CONTRACTOR's insurance carrier shall provide HHSC with certificates of insurance evidencing the foregoing coverage and provisions. HHSC reserves the right to request and receive a certified copy of the POLICY. CONTRACTOR shall also carry workers' compensation insurance for CONTRACTOR's employees in the statutory amounts. Failure to maintain or cause to be maintained insurance in accordance with the provisions set forth herein shall be a material breach of this Agreement and shall provide HHSC with the option of pursuing remedies for breach and/or immediate termination of this Agreement.

b. The coverage required by this provision shall be either: (a) on an occurrence basis; or (b) on a claims made basis. If the coverage is on a claims made basis, CONTRACTOR hereby agrees that not less than thirty (30) days' prior to the effective date of termination by CONTRACTOR of any Provider's insurance coverage by the current carrier, CONTRACTOR shall: (a) purchase tail or extended reporting coverage insurance for a minimum period of five (5) years in the above-stated amounts for all claims arising out of incidents occurring prior to such termination of coverage; and (b) provide HHSC with a certificate of such coverage. If CONTRACTOR fails to purchase such coverage and provide HHSC with a certificate of same in accordance with the above-stated requirements, HHSC shall have the right, as hereby acknowledged by CONTRACTOR, to purchase such coverage and notify CONTRACTOR in writing of the total premium costs therefor. CONTRACTOR hereby expressly acknowledges and agrees that the total premium cost for such coverage purchased by HHSC under this provision shall be immediately due and payable by CONTRACTOR to HHSC upon CONTRACTOR's receipt of said notice, and may be offset against any money owed by HHSC to CONTRACTOR.

## **17. CONTRACTOR'S TAX RESPONSIBILITIES.**

a. The CONTRACTOR shall be responsible for payment of all applicable federal, STATE, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Agreement, including, but not limited to, (i) income taxes, (ii) employment-related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Agreement.

b. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

## **18. PAYMENT PROCEDURES.**

a. Original Invoices Required. All payments under this Agreement shall be made only upon submission by the CONTRACTOR of original invoices specifying in reasonable detail the services performed and the amount due, and certifying that services requested under the Agreement have been performed by the CONTRACTOR according to the Agreement.

b. Prompt Payment.

(1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract, provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and

(2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money, provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.

**19. COST AND EXPENSE REIMBURSEMENT.** Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Agreement shall be subject to the following guidelines:

a. Reimbursement for air transportation shall be for actual cost or coach class airfare, whichever is less.

b. Reimbursement for ground transportation shall not exceed the actual cost of renting an intermediate-sized vehicle.

c. Unless prior written approval of the head of the purchasing agency is obtained, reimbursement for subsistence allowable (i.e., hotel and meals) shall be \$145 per day, which consists of \$85 for hotel and \$60 for food, computed on quarter days. No other travel or living expense (e.g., tips, entertainment, alcohol, etc.) shall be reimbursed by HHSC, other than those items listed in subparagraphs a and b, above. Invoices shall document the days of travel by including the name of the traveler, itinerary, airfare receipt, hotel receipt, and ground transportation receipts. All travel must be pre-approved by the HHSC technical representative.

d. CONTRACTORS located on the island where the work will be performed do not qualify for travel or subsistence reimbursement

**20. CORPORATE COMPLIANCE PROGRAM.** A description of the Corporate Compliance Program of HHSC, including orientation materials, is posted on the HHSC internet site ([www.hhsc.org](http://www.hhsc.org)). The CONTRACTOR, by signing this contract, acknowledges that it has read said description, and that the CONTRACTOR knows of the fact and substance of the Corporate Compliance Program, which governs operations at all facilities of the HHSC. The CONTRACTOR understands and agrees that employees, agents, and contractors performing any services at any of the HHSC facilities shall be fully subject to such Corporate Compliance Program, as may be amended from time to time, as well as all federal program requirements and applicable policies and procedures of HHSC and its facilities. The Corporate Compliance Program requires periodic training, including an orientation program, of all people who provide financial, business office, personnel, coding, medical records information systems and clinical services in the facility. The CONTRACTOR agrees to cause its employees, agents and contractors who provide financial, business office, personnel, coding, medical records information systems and/or clinical services at any of the HHSC facilities to review the posted orientation materials and participate in any compliance training programs HHSC may require.

**21. BUSINESS ASSOCIATE ADDENDUM.** By signing this Agreement, CONTRACTOR acknowledges that CONTRACTOR is a Business Associate of HHSC within the meaning of the federal privacy and security laws as stated in 45 C.F.R. Parts 160 and 164, Subparts A, C, and E. CONTRACTOR further acknowledges that CONTRACTOR has read the Business Associate Addendum, which is posted on the HHSC internet site ([www.hhsc.org/BAA](http://www.hhsc.org/BAA)) and is applicable to all Business Associates. Said Business Associate Addendum is hereby incorporated by reference and made a part of this Agreement as if fully repeated herein. By signing this Agreement, CONTRACTOR agrees to fully comply with, and be bound by, all terms set forth in the Business Associate Addendum, as it may be amended from time to time.

**22. FINANCIAL OBLIGATION.** No CONTRACTOR or Provider shall incur any financial obligation on behalf of HHSC without the prior written approval of HHSC.

**23. REFERRALS.** The parties acknowledge that none of the benefits granted CONTRACTOR hereunder are conditioned on any requirement that the CONTRACTOR or Provider make referrals to, be in a position to make or influence referrals to, or otherwise generate business for HHSC. The parties further acknowledge that Providers are not restricted from establishing staff privileges at, referring any patient to, or otherwise generating any business for, any other hospital or facility of their choosing.

**24. CAMPAIGN CONTRIBUTIONS.** CONTRACTOR acknowledges that it is unlawful under HRS Section 11-355 (unless specifically permitted under that law) for CONTRACTOR at any time between the execution of this Agreement through the completion of this Agreement, to: (a) directly or indirectly make any contribution or to promise expressly or impliedly to make any contribution to any political party, committee, or candidate or to any person for any political purpose or use; or (b) knowingly solicit any contribution from any person for any purpose during any period.

25. **MEDICARE ADVANTAGE PROGRAM ADDENDUM.** The HHSC Medicare Advantage Program Addendum, as amended from time to time and available on-line at the HHSC internet site, [www.hhsc.org/MAPA](http://www.hhsc.org/MAPA) is incorporated herein as if set out fully in this Agreement

26. **GOVERNING LAW.** This Agreement shall be construed, interpreted, and governed by the laws of the State of Hawaii. The provisions of this paragraph shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

27. **CHANGES IN LAW.**

a. **Legal Event; Consequences.** Notwithstanding any other provision of this Agreement, if the governmental agencies that administer the Medicare, Medicaid, or other federal programs (or their representatives or agents) or any other federal, state or local governmental or nongovernmental agency, or any court, administrative tribunal passes, issues, or promulgates any law, rule, regulation, standard, interpretation, order, decision or judgment, including but not limited to those relating to any regulations pursuant to state or federal anti-kickback or self-referral statutes (collectively or individually, "Legal Event"), which, in the good faith judgment of one party (the "Noticing Party"), materially and adversely affects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to bill, to claim, to present a bill or claim, or to receive payment or reimbursement from any federal, state or local governmental or nongovernmental payor, or which subjects the Noticing Party to a risk of prosecution or civil monetary penalty, or which, in the good faith judgment of the Noticing Party, indicates a rule or regulation with which the Noticing Party desires further compliance, then the Noticing party may give the other party notice of intent to amend or terminate this Agreement in accordance with the next subparagraph.

b. **Notice Requirements.** The Noticing Party shall give notice to the other party together with an opinion of counsel setting forth the following information:

- (1) The Legal Event(s) giving rise to the notice;
- (2) The consequences of the Legal Event(s) as to the Noticing party;
- (3) The Noticing Party's intention to either:
  - (i) Terminate this Agreement due to unacceptable risk of prosecution or civil monetary penalty; or
  - (ii) Amend this Agreement, together with a statement that the purpose thereof is one or more of the following:
    - (a) to further comply with any anti-kickback or Stark II statutory provisions or rules or regulations created or affected by the Legal Event(s); or
    - (b) to satisfy any licensure, accreditation, or certification requirements created or affected by the Legal Event(s); and/or
    - (c) to eliminate or minimize the risk of prosecution or civil monetary penalty;
- (4) The Noticing Party's proposed amendment(s); and
- (5) The Noticing Party's request for commencement of the Renegotiation Period (as defined below).

c. **Renegotiation Period; Termination.** In the event of notice under either subparagraph b.(3)(i) or b.(3)(ii) above, the parties shall have ten (10) days from the giving of such notice ("Renegotiation Period") within which to attempt to amend this Agreement in accordance with the Noticing Party's proposal (if any) or otherwise as the parties may agree. If this Agreement is not so amended within the Renegotiation Period, this Agreement shall terminate as of midnight on the 10th day after said notice was given. Except as otherwise required by applicable law, any amounts owing to either party hereunder shall be paid, on a pro rata basis, up to the date of such termination, and any obligation hereunder that is to continue beyond expiration or termination shall so continue pursuant to its terms. All opinions of counsel presented by the Noticing Party hereunder, and any corresponding opinions given by the other party in response, shall be deemed confidential and given solely for purposes of renegotiation and settlement of a potential dispute, and shall not be deemed disclosed so as to waive any privileges otherwise applicable to said opinions.

28. **ACCESS TO BOOKS AND RECORDS.** If the value or cost of services rendered to HHSC pursuant to this Agreement is Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, CONTRACTOR agrees as follows:

a. Until the expiration of four (4) years after the furnishing of such services, CONTRACTOR shall, upon written request, make available to the Secretary of the Department of Health and Human Services (the "Secretary"), the Secretary's duly-authorized representative, the Comptroller General, or the Comptroller General's duly-authorized representative, such books, documents, and records as may be necessary to certify the nature and extent of the cost of such services; and

b. If any such services are performed by way of subcontract with another organization and the value or cost of such subcontracted services is Ten Thousand Dollars (\$10,000.00) or more over a twelve-month period, such subcontract shall contain and CONTRACTOR shall enforce a clause to the same effect as the sub-paragraph immediately above. The availability of CONTRACTOR's books, documents and records shall be subject at all times to all applicable legal requirements, including without limitation, such criteria and procedures for seeking and obtaining access that may be promulgated by the Secretary by regulation. The provisions of this paragraph shall survive the expiration or other termination of this Agreement, regardless of the cause of such termination.

**29. DRAFTING.** No provision of this Agreement shall be interpreted for or against any party on the basis that such party was the draftsman of such provision, and no presumption of burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

**30. WAIVER.** A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

**31. CAPTIONS.** The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

**32. COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the parties by facsimile or electronically and such facsimile or electronic execution and transmission shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile/electronic executions or a combination thereof shall be construed together and shall constitute one and the same Agreement.

**33. CROSS-REFERENCE TO MASTER LIST OF PHYSICIAN CONTRACTS.** The parties acknowledge that any and all agreements as between the parties to this Agreement, including this Agreement, shall be included in the master list of all contracts between HHSC and all physicians providing services at HHSC facilities, maintained and updated regionally and available for review upon request by any governmental authority to the extent such review is required by law.

**34. OPEN PRACTITIONER-PATIENT COMMUNICATIONS (ANTI-GAG PROVISION); REFERRALS NOT REQUIRED.** HHSC and CONTRACTOR agree that any Provider providing services hereunder may discuss with patients, or their authorized representative(s), all treatment options that Provider deems appropriate based on relevant professional standards, regardless of benefit coverage limitations and within the prevailing practices and standards of the profession and community, subject, however, to all applicable laws and regulations pertaining to confidentiality ("Open Communication"). HHSC shall not assess Provider(s) any penalties, financial or otherwise, as a result of such Open Communication. It is expressly understood and agreed that HHSC has contracted for services set forth herein solely to ensure the availability of medically appropriate services for HHSC's patients; nothing herein is intended, nor shall it be construed, to require or encourage any Provider providing services hereunder to refer any patient, procedure or ancillary service to any HHSC facility.

**35. MODIFICATIONS OF AGREEMENT.**

a. In writing. Any modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be made only upon mutual agreement and by written amendment to this Agreement signed by both CONTRACTOR and HHSC.

b. No oral modification. No oral modification, alteration, amendment, change or extension of any term, provision or condition of this Agreement shall be permitted or acknowledged; and any such oral modification, alteration, amendment, change or extension shall be null and void.

c. Notwithstanding any other provisions in this contract to the contrary, any modification, alteration, amendment, change or extension of any term, provision or condition shall be null and void if such modification, alteration, amendment, change or extension is reasonably determined by either party to result in the violation of any federal or state statutes or regulations, including, but not limited to, Section 1877 of the Social Security Act, by either or both of the parties.

**36. ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter.



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