

**Preschool Development Grant Birth through Five Renewal Grant
Early Childhood Workforce Stabilization & Compensation Assistance Program
Request for Application
10/07/2024**

Responses to Questions

1. Are Preschools that are attached to K-12 private schools eligible for this program?

Because this is a federally-funded program, the preschools attached to K-12 private schools, as well as faith-based providers, are considered eligible for the program, if the preschools/providers did not participate in the DHS Supplemental Child Care Grant Program. Please refer to pages 2 to 3 of the RFA for more information on the eligibility criteria and the priority categories. Also, please check if your school can accept federal funds.

2. I noticed that the grant's eligibility criteria mentions a DHS-licensed, registered, or license-exempt child care provider in Hawaii. I see that the examples are of license-exempt centers (FCIL, faith-based group, etc.), but I was wondering if DHS license-exempt home child care providers (DHS identifies them as LE FCCs) are eligible.

Yes, the LE FCCs are considered eligible, provided that they did not participate in the DHS Supplemental Child Care Grant Program. Please refer to pages 2 to 3 of the RFA for more information on eligibility criteria.

3. Is the PDG Early Childhood Workforce Stabilization & Compensation Assistance Program application required if we are already registered with the Open Doors program?

The PDG EC Workforce Stabilization & Compensation Assistance Program (ECWSCA) is not connected to the Preschool Open Doors Program. ECWSCA is similar to the [DHS Supplemental Child Care Grant Program](#). If your program has not participated in any phases/rounds of the DHS Supplemental Program, then your program is considered eligible to apply. Please refer to pages 2 to 3 of the RFA for more information on eligibility criteria.

4. If we apply and receive funds, what specifically are we allowed to use it for? When completing the application, when listing the number of full-time staff positions, would this only pertain to those working in our early childhood division, such as our secretary?

Funds can only be used to pay bonuses to each eligible staff person employed at the child care facility and on the facility's payroll. Please refer to page 4 of the RFA for more information on the use of funds, including eligible staff positions that are eligible for the bonus (generally those who have direct contact with children in a child care facility: site directors, teachers, caregivers, assistant teachers, teacher aides, coaches, assessment specialists, floaters and substitutes). A secretary is not eligible for the bonus.

5. Are all staff eligible? We serve students ages 2-½ through Grade 5. If applying, are only staff who work directly with the preschool students eligible?

Please refer to page 4 of the RFA for more information on the use of funds, including eligible staff positions that are eligible for the bonus (generally those who have direct contact with children in a child care facility: site directors, teachers, caregivers, assistant teachers, teacher aides, coaches, assessment specialists, floaters and substitutes). The eligible staff must be working directly with children ages 2-½ to 5 (before Kindergarten).

6. Does our group child care center need to be located in Nānākuli, Wai'anae, the North Shore, or Waimānalo?

Pages 2 to 3 of the RFA list the priority criteria. Child care facilities/sites/centers that are in non-rural and remote areas (i.e., Nānākuli, Wai'anae, the North Shore, or Waimānalo) are considered Priorities 3 to 6. After the providers who meet the priority 1 and 2 categories have been served, we will support providers who meet the other priority categories until the federal funds have been exhausted.

7. May I have a copy of the RCUH Agreement for Services that will be required?

Please refer to the attached draft RCUH Agreement for Services, including the applicable Attachment 32a. Please note that this is a draft version only and is currently under review by RCUH; additional language or changes may be required.

8. Our school/center is faith-based (non-denominational Christian), would we still be eligible for this program?

Yes, if your child care program did not participate in any phases/rounds of the [DHS Supplemental Child Care Grant Program](#), then your school/center, as a faith-based program, is considered eligible to apply. Please refer to pages 2 to 3 of the RFA for more information on the eligibility criteria and the priority categories. Also, please check if your agency can accept federal funds.

9. To clarify, both infant/toddler AND preschool staff can receive the bonus. Is that correct?

Yes, both infant/toddler and preschool staff can receive the bonus. Pages 2 to 3 of the RFA list the priority criteria. Child care facilities/sites/centers with multiple age groups are considered Priority 2 or Priority 4, depending on the location of the sites. After the providers who meet the Priority 1 or Priority 3 categories have been served, we will support providers who meet the other priority categories until the federal funds have been exhausted.

10. Could you please clarify if this is state or federal monies AND will there be other (future) program or operational requirements for the schools receiving funds other than the requirements already listed in the PDGB-5 document?

The PDG EC Workforce Stabilization & Compensation Assistance Program (ECWSCA) is a federally-funded program. The participating child care providers will be asked to complete an evaluation questionnaire at the end of the bonus distribution. There will be no other (future) program and/or operational requirements except those listed in the ECWSCA Request for Application.

11. I'm interested in learning more about the PDG B-5 ECE Workforce Stabilization Program application process. I work for a Family Child Interaction Learning (FCIL) program. It has 12 teams island-wide, and each team services two site locations. Would an application need to be completed for each Tūtū and Me Traveling Preschool team? Could you please send me the application?

With respect to your specific program, please submit an application and cite 2 of the site locations for the team. For each of the 12 teams, there will be 2 site locations listed.

12. We have a Two-Year-Old Program, Preschool Programs & Early Elementary Program. I understand that the Two-Year-Old Program, Preschool Programs would be the only ones eligible for these funds. My question: besides the teachers, classroom assistants etc, are school administrators also eligible to receive these funds? I just want to be clear on this issue.

Please refer to page 4 of the RFA for more information on the use of funds, including eligible staff positions that are eligible for the bonus (generally those who have direct contact with children in a child care facility: site directors, teachers, caregivers, assistant teachers, teacher aides, coaches, assessment specialists, floaters and substitutes). The eligible staff must be working directly with children ages 2-½ to 5 (before Kindergarten). If the school administrator functions as a site director and has direct contact with the children, then the school administrator is also considered eligible.

13. Is all required Documentation to be filed at the same time the application is submitted?

Yes, the documents listed on page 3 of the RFA must be submitted at the same time. The Early Childhood Workforce Stabilization & Compensation Assistance Program Application is found on Hawaii P-20 website (<https://www.hawaiip20.org/wp-content/uploads/2024/09/Application-ff-1.pdf>)

14. I had a question regarding the P20 stabilization grant. Our preschool received funds for the grant listed below. Part of the P20 stipulation is: Have not participated in any phases of the DHS Child Care Stabilization Grant Program. Is the grant below (through DHS) the same as the one mentioned above? Thank you for your clarification.



STATE OF HAWAII
**SUPPLEMENTAL
CHILD CARE
GRANT PROGRAM**

*Supporting Child Care Providers,
Strengthening Our Community*

Yes, the DHS Child Care Stabilization Grant Program is the program that is referenced in this question. Based on your program's participation in the DHS program, your preschool, unfortunately, is not eligible for the Hawaii P-20 PDG EC Workforce Stabilization & Compensation Assistance Program.

15. My program qualified for and received DHS ARPA Stabilization funds for our licensed preschool teachers- but the program also runs FCIL programs and those kumu did not qualify for the award because it was only for DHS licensed programs. Would we be able to apply for our FCIL staff to receive the PDGG Award?

Yes, since your FCIL programs did not participate in any phases/rounds of the [DHS Supplemental Child Care Grant Program](#), the kumu of the FCIL programs are considered eligible for the ECSWCA program. Please refer to pages 2 to 3 of the RFA for more information on the eligibility criteria and the priority categories.

16. I've completed the application and just wanted to ensure it's okay for me to scan the document and attach it to an email along with the other attachments (license, DHS letter, W-9, and Tax Clearance)? The Employee Roster and Certification documents are not needed until we are approved, correct?

The scanned copies of the required documents are acceptable as an attachment and submitted to p20admin@hawaii.edu. The Employee Roster and Certification are not needed at this time. Once the application has been accepted, we will follow up with additional

information, including an agreement with Research Corporation of the University of Hawaii (RCUH).

17. Our tax clearance was denied. Do we still qualify to apply?

A tax clearance is required by Hawaii state law for any award in the amount of \$25,000 or more. An applicant may qualify if the total requested is under \$25,000. An applicant without a valid tax clearance will not be eligible for an award equal to or greater than \$25,000.

18. I am inquiring if we are able to apply for this program. We have previously been excluded from grant programs because although we are licensed independently, we are owned and operated by Chaminade University which is an institute of higher education.

Yes, this compensation program is applicable to all early childhood providers who were not eligible for [DHS Supplemental Child Care Grant Program](#),

DRAFT RCUH AGREEMENT FOR SERVICES FOLLOWS

**Note: Attachment 32a is in final form;
no changes will be made to this attachment.**

AGREEMENT FOR SERVICES

This Agreement, effective the _____ day of _____, 20____, is entered into between the Research Corporation of the University of Hawaii (hereinafter "RCUH"), a governmental agency of the State of Hawaii, whose address is 1601 East-West Road, Burns Hall 4th Floor, Honolulu, Hawaii 96848 (for the benefit of the University of Hawaii, Hawaii P-20 Partnerships for Education (hereinafter "Project")), and _____ (hereinafter "APPLICANT"), a _____, whose business address is as follows:

RECITALS

- A. RCUH is in need of the services described in this Agreement and its attachments (hereinafter collectively the "Agreement") for the benefit of the Project.
- B. RCUH desires to retain and engage CONTRACTOR to provide the services, and CONTRACTOR is agreeable to providing said services.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, RCUH and CONTRACTOR agree as follows:

1. Scope of Services. CONTRACTOR shall, in a proper and satisfactory manner as determined by RCUH, provide all the services set forth in Attachment 1, which is hereby made a part of this Agreement.
2. Time of Performance. The services required of CONTRACTOR under this Agreement shall be performed and completed in accordance with the "Time Schedule" set forth in Attachment 2, which is hereby made a part of this Agreement.
3. Compensation. CONTRACTOR shall be compensated for services rendered and allowable costs incurred under this Agreement in an amount not to exceed \$ _____, including taxes, according to the "Compensation and Payment Schedule" set forth in Attachment 3, which is hereby made a part of this Agreement.
4. Standards of Conduct Declaration. The Standards of Conduct Declaration by CONTRACTOR, set forth in Attachment 4, is hereby made a part of this Agreement.
5. Other Terms and Conditions. The General Conditions and Special Conditions, if any, set forth in Attachments 5 and 6, respectively, are hereby made a part of this Agreement. In the event of a conflict between the General Conditions and Special Conditions, the Special Conditions shall control.

IN WITNESS WHEREOF, RCUH and CONTRACTOR have executed this Agreement effective as of the date first above written.

CONTRACTOR

By

Its
(Title)

Date

RCUH

By

Its
(Title)

Date

Designated University Officials/Fiscal Administrators signing for RCUH pursuant to RCUH Policy 2.013, must also complete the following:
Name:
Title:
Department:

PROJECT AUTHORITY

By Stephen Schatz, Executive Director

Date

SCOPE OF SERVICES
Attachment 1

PROJECT accepted applications for the PDG B-5 Early Childhood Workforce Stabilization & Compensation Assistance (ECWSCA) Program. The purpose of the ECWSCA is to stabilize the early care and education (ECE) workforce, with a priority given to infant and toddler care teachers/educators, and improve compensation until more permanent solutions are in place, specifically for the ECE providers who are experiencing financial hardship and/or child care market instability, and are deemed ineligible for the State of Hawai'i Child Care Stabilization Program, administered by the Hawai'i Department of Human Services (DHS).

APPLICANT has submitted an application, attached hereto as Exhibit A, and has been deemed to meet all requirements of the ECWSCA Program. Applicant shall be awarded the following:

Number of Employees	Number	Rate	Amount
Full-Time	###	\$2,500.00	####
Part-Time	###	\$1,250.00	####
TOTAL	###		#####

REQUIREMENTS:

- The PDG B-5 funds must be used to pay bonuses to each eligible staff person employed at the childcare facility on the facility's payroll. This includes, but is not limited to, site directors, teachers, caregivers, assistant teachers, teacher aides, coaches, assessment specialists, floaters, and substitutes.
- The bonus shall be paid in addition to regular wages and fringe benefits. For each eligible staff person on the facility's payroll, the child care provider must continue to pay at least the same amount of weekly wages and maintain the same benefits (such as health insurance and retirement) for the duration of the program. The child care provider shall not furlough paid employees from the date of the submission of the program application through the duration of the award period.
- Each staff person that is on the facility's payroll that is paid a bonus shall have a complete record on file at the child care facility. Staff must be employed for thirty (30) days prior to the program application.
- If an employee works at multiple sites operated by the same child care provider, an employee is only eligible to receive one (1) bonus. For example, Jane Doe works at Aloha Private Preschool Site I for 10 hours per week and also works at Aloha Private Preschool Site II for 10 hours per week. Jane Doe is not eligible for a \$1,250 bonus from Site I and a \$1,250 bonus from Site II. Because Jane Doe works a total of 20 hours per week at both child care facilities operated by the same child care provider, Jane Doe is considered part-time (she works 25 hours or less per week at both facilities combined) and is eligible to receive a total of \$1,250 in bonus pay from the child care provider operating both facilities.
- Each approved facility will receive payment upon completion of an RCUH Agreement for Services. The Applicant will have 30 days to pay the funds to qualifying employees listed in its program application.
- The Applicant must provide payment certification and documentation within thirty (30) days of the payment being made to staff. PROJECT will provide required forms. PROJECT reserves the right to request additional information, for clarification purposes, upon submission of required forms.

TIME SCHEDULE
Attachment 2

APPLICANT shall comply with all requirements of the ECWSCA Program upon full execution of this Agreement for Services. Bonus payments to eligible staff shall be made no later than thirty (30) days from the date of full execution and must provide payment certification and documentation within thirty (30) days of the payment being made to eligible staff.

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COMPENSATION AND PAYMENT SCHEDULE
Attachment 3

I. Compensation and Payment

RCUH agrees to pay, and APPLICANT agrees to accept, the total and complete sum not to exceed:

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This fixed Agreement price shall be for the payment staff bonuses as defined under the ECWSCA Program only.

Payment shall be made upon execution of Agreement for Services and receipt of an original invoice (PROJECT to provide invoice template). CONTRACTOR shall email the original invoice to: p20admin@hawaii.edu.

II. Additional Requirements

1. The total payment to CONTRACTOR under this Agreement, including payments for taxes, compensation for services, and reimbursement of costs, shall not exceed the total amount stated above. In the event CONTRACTOR determines that CONTRACTOR's taxes, compensation and costs are likely to exceed the total amount, CONTRACTOR shall immediately notify RCUH in writing, and obtain RCUH's prior written authorization to perform services for compensation, or incur costs, in excess of the total amount stated above. Absent such authorization or modification to this Agreement, CONTRACTOR shall not be paid in excess of the total amount stated above.
2. Notwithstanding any other provision of this Agreement, RCUH shall have no duty to pay CONTRACTOR, nor any other person performing services on behalf of CONTRACTOR, unless CONTRACTOR's performance and all deliverables are to RCUH's satisfaction, and meet the objectives and requirements described in this Agreement, including without limitation the Scope of Services (Attachment 1).

STANDARDS OF CONDUCT DECLARATION
Attachment 4

For purposes of this declaration:

“Controlling interest” means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty percent (50%).

“Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the Constitutional Convention, but excluding legislators, delegates to the constitutional convention, justices and judges. References to “Employee”, below, includes all State of Hawai'i employees, including RCUH and UH employees. (HRS § 84-3).

On behalf of _____ (CONTRACTOR), the undersigned does declare, under penalty of perjury, as follows:

1. CONTRACTOR (is) (is not) a legislator, an Employee, or a business in which a legislator or employee has a “Controlling interest”. (HRS § 84-15(a)).
2. CONTRACTOR (is) (is not) a UH or RCUH employee. (2 C.F.R. § 200.459 Professional service costs).
3. CONTRACTOR has not been, and will not be, represented or assisted personally on matters related to this Agreement by an individual who has been an employee of RCUH or UH within the preceding two years, and who participated while so employed in the matter with which this Agreement is directly concerned. (HRS § 84-15(b)).
4. CONTRACTOR *has not* been assisted or represented by a legislator or Employee for a fee or other compensation to obtain this Agreement, and *will not* be assisted or represented by a legislator or Employee for a fee or other compensation in the performance of this Agreement, if the legislator or Employee was involved in the development or award of this Agreement. (HRS § 84-14(d)).
5. CONTRACTOR has not been, and will not be, assisted or represented by an employee of RCUH or UH for a fee or other compensation.
6. CONTRACTOR has not been, and will not be, represented on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, served as a legislator or Employee, and participated while a legislator or Employee on matters related to this Agreement. (HRS §§ 84-18(b) and (c)).
7. CONTRACTOR has not been, and will not be, represented by a former employee of RCUH or UH for a fee or other compensation, where that former employee served as an employee of RCUH or UH within the past twelve (12) months.

CONTRACTOR understands that the Agreement to which this document is attached is voidable on behalf of the RCUH if the Agreement was entered into in violation of any provision of Chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the above declarations. Additionally, any fee, compensation, gift, or profit received by any person as a result of violating the Code of Ethics may be recovered by RCUH.

CONTRACTOR

By _____

Its
(Title)

Date

* Reminder to the Project. If the "(is)" in No. 1 and/or 2 above is selected: (a) contact RCUH Procurement prior to executing this Agreement; and (b) if this Agreement involves goods or services of a value in excess of \$10,000, this Agreement must have been awarded by a competitive sealed bid or proposal. Otherwise, the Project may not enter into this Agreement unless it posts a notice of intent to award this Agreement and files a copy of the notice with the Hawaii State Ethics Commission at least 10 days before this Agreement is awarded. (HRS § 84-15(a)).

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GENERAL CONDITIONS
FOR SERVICES AGREEMENTS
Attachment 5

1. Coordination of Services by the State. RCUH, or RCUH's designee, shall coordinate the services to be provided by CONTRACTOR in order to complete the Project. CONTRACTOR shall maintain communications with RCUH or the RCUH designee, at all stages of CONTRACTOR's work, and submit to RCUH or the RCUH designee, for resolution, any questions which may arise regarding this Agreement, including but not limited to CONTRACTOR's performance of this Agreement.

2. Relationship of Parties; Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
 - a. In the performance of services required under this Agreement, CONTRACTOR shall be an "independent contractor", with the authority and responsibility to control and direct the performance and details of the work and services required under this Agreement; however, RCUH shall have a general right to inspect work-in-progress to determine whether in RCUH's opinion, the services are being performed by CONTRACTOR in accordance with the provisions of this Agreement. It is understood that RCUH does not agree to use CONTRACTOR exclusively, and that CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with RCUH.
 - b. CONTRACTOR, and CONTRACTOR's employees and agents, shall not be considered agents or employees of RCUH for any purpose, and CONTRACTOR's employees and agents shall not be entitled to claim or receive from RCUH any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to RCUH employees.
 - c. CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of its performance under this Agreement. Furthermore, CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability (if such liability is determined to exist) to CONTRACTOR's employees and agents, and to any individual not a party to this Agreement, for all loss, damage, or injury caused by CONTRACTOR, or CONTRACTOR's employees or agents in the course of their employment.
 - d. CONTRACTOR shall be responsible for payment of all applicable federal, state and county taxes and fees which may become due and owing by 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. CONTRACTOR is further responsible for obtaining all licenses, permits, and certificates that may be required by reason of this Agreement, including but not limited to a general excise tax license from the Department of Taxation, State of Hawaii.
 - e. CONTRACTOR shall be responsible for securing any and all insurance coverage for CONTRACTOR and CONTRACTOR's employees and agents which is, or may be, required by law. CONTRACTOR shall further be responsible for payment of all premiums, costs and other liabilities associated with securing said insurance coverage.

3. Personnel Requirements.
 - a. CONTRACTOR shall secure, at CONTRACTOR's own expense, all personnel required to perform the services required by this Agreement.
 - b. CONTRACTOR shall ensure that CONTRACTOR's employees and agents are experienced and fully qualified to engage in the activities and services required under this Agreement, and that all applicable licensing and operating requirements imposed or required under federal, state and county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents, are complied with and satisfied.
4. Nondiscrimination. No person performing work under this Agreement, including any subcontractor, employee or agent of CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state or county law.
5. Subcontracts and Assignments. CONTRACTOR shall not assign or subcontract any of CONTRACTOR's duties, obligations, or interests under this Agreement without the prior written consent of RCUH. Additionally, no assignment by CONTRACTOR of CONTRACTOR's right to compensation under this Agreement shall be effective unless and until the assignment is approved in writing by RCUH, and a tax clearance is submitted by the assignee. RCUH must also approve, in writing, all other assignment or subcontract agreements entered into by CONTRACTOR's assignees and subcontractors, prior to execution.
6. Conflict of Interest. CONTRACTOR represents that neither CONTRACTOR, nor any employee or agent of CONTRACTOR, presently has any interest (and promises that no such interest, direct or indirect, shall be acquired), which would or might conflict in any manner or degree with the performance of CONTRACTOR's services under this Agreement.
7. Modifications of Agreement. Any modification, alteration, amendment, change, or extension to any term, provision, or condition of this Agreement shall be made only by written amendment to this Agreement, signed by CONTRACTOR and RCUH. No modification, alteration, amendment, change or extension to any term, provision, or condition of this Agreement, signed by any persons, including the University of Hawaii, shall be binding on RCUH unless signed by an authorized official of RCUH.
8. Suspension of Agreement. RCUH reserves the right at any time and for any reason to suspend all or any part of the performance required by this Agreement for any reasonable period, upon written notice to CONTRACTOR. Upon receipt of said notice, CONTRACTOR shall immediately comply with said notice and suspend all such work under this Agreement at the time stated.
9. Termination of Agreement for Default.
 - a. If CONTRACTOR breaches this Agreement by failing to satisfactorily fulfill in a timely or proper manner CONTRACTOR's obligations under this Agreement, or failing to perform any of the promises, terms, or conditions of this Agreement, RCUH shall have the right to terminate this Agreement in whole or in part, by giving written notice to CONTRACTOR at least seven (7) calendar days (or any longer time as specified by RCUH in writing) before the effective date of termination. The notice shall provide CONTRACTOR with an opportunity to cure its default or

take satisfactory corrective action within the seven (7) days (or other longer time as specified by RCUH). In the case of a partial termination, CONTRACTOR shall continue performance of this Agreement to the extent it is not terminated.

- b. CONTRACTOR shall, within four (4) weeks of the effective date of such termination (or within four (4) weeks of the scheduled expiration of the time of performance specified in this Agreement, whichever is earlier), compile and submit in an orderly manner to RCUH an accounting of the work performed up to the effective date of termination or expiration. In such event, CONTRACTOR shall be paid for the actual cost of the services rendered, but in no event more than the total compensation payable to CONTRACTOR under this Agreement.
- c. As of the date of termination provided in the notice, CONTRACTOR shall incur no further obligations in connection with the terminated performance, and CONTRACTOR shall stop performance to the extent specified. CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance, subject to RCUH's approval. RCUH may choose to direct CONTRACTOR to assign CONTRACTOR's right, title, and interest under terminated orders or subcontracts to RCUH.
- d. CONTRACTOR shall not be relieved of liability to RCUH for damages sustained because of any breach by CONTRACTOR of this Agreement, including but not limited to RCUH's procurement of similar goods and services in a manner and upon terms deemed appropriate by RCUH. In such an event, RCUH may retain any amounts which may be due and owing to CONTRACTOR until such time as the exact amount of damages due to RCUH from CONTRACTOR has been determined. RCUH may also set off any damages so determined against the amounts retained.
- e. Upon termination of this Agreement (or upon the scheduled expiration of the time of performance specified in this Agreement, whichever is earlier), all finished and unfinished material prepared by CONTRACTOR shall, at RCUH's option, become RCUH's property and, together with all material, if any, provided to CONTRACTOR by RCUH, shall be delivered and surrendered to RCUH on or before the expiration date or date of termination. For purposes of this Agreement, "material" includes but is not limited to any information, data, reports, summaries, tables, maps, charts, photographs, films, graphs, studies, recommendations, program concepts, titles, scripts, working papers, files, models, audiotapes, videotapes, computer tapes, cassettes, diskettes, documents, and records developed, prepared, or conceived by CONTRACTOR in connection with this Agreement, or furnished to CONTRACTOR by RCUH. Additionally, CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property and materials in the possession of CONTRACTOR, in which RCUH has an interest.

10. Termination of Agreement for Convenience.

- a. RCUH may terminate this Agreement without statement of cause at any time, in whole or in part, by giving written notice to CONTRACTOR of such termination at least thirty (30) calendar days before the effective date of such termination. In the event of a partial termination, CONTRACTOR shall continue performance of this Agreement to the extent it is not terminated.

- b. Upon termination of this Agreement, CONTRACTOR shall, within four (4) weeks of the effective date of such termination, compile and submit in an orderly manner to RCUH an accounting of the work performed up to the effective date of termination. In such event, CONTRACTOR shall be paid for the actual cost of the services rendered, but in no event more than the total compensation payable to CONTRACTOR under this Agreement.
 - c. As of the date of termination provided in the notice, CONTRACTOR shall incur no further obligations in connection with the terminated performance, and CONTRACTOR shall stop performance to the extent specified. CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance, subject to RCUH's approval. RCUH may choose to direct CONTRACTOR to assign CONTRACTOR's right, title, and interest under terminated orders or subcontracts to RCUH.
 - d. All finished and unfinished material prepared by CONTRACTOR shall, at RCUH's option, become RCUH's property and, together with all material, if any, provided to CONTRACTOR by RCUH, shall be delivered and surrendered to RCUH on or before the date of termination. For purposes of this Agreement, "material" includes but is not limited to any information, data, reports, summaries, tables, maps, charts, photographs, films, graphs, studies, recommendations, program concepts, titles, scripts, working papers, files, models, audiotapes, videotapes, computer tapes, cassettes, diskettes, documents, and records developed, prepared, or conceived by CONTRACTOR in connection with this Agreement, or furnished to CONTRACTOR by RCUH. Additionally, CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property and materials in the possession of CONTRACTOR, in which RCUH has an interest.
11. Compliance with Laws. CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, which in any way affect CONTRACTOR's performance of this Agreement.
12. Indemnification and Defense. CONTRACTOR shall defend, indemnify, and hold harmless RCUH, the University of Hawaii, the State of Hawaii, and the Project, and their respective officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees and costs, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of CONTRACTOR or CONTRACTOR's employees, officers, agents, or subcontractors, occurring during or in connection with the performance of CONTRACTOR's services under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement.
13. Disputes. No dispute arising under this Agreement may be sued upon by CONTRACTOR until after CONTRACTOR's written request to RCUH to informally resolve the dispute is rejected, or until ninety (90) days after RCUH's receipt of CONTRACTOR's written request, whichever occurs first. While RCUH considers CONTRACTOR's written request, CONTRACTOR agrees to proceed diligently with the provision of services necessary to complete the scope of services described in Attachment 1.

14. Confidentiality of Material.
 - a. All material given to or made available to CONTRACTOR by virtue of this Agreement, whether oral or written, and which is identified as proprietary or confidential information, will be safeguarded by CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of RCUH.
 - b. All information, data, or other material provided by CONTRACTOR to RCUH, which is identified as proprietary or confidential, shall be kept confidential to the extent permitted by law.
 - a.
15. Publicity. CONTRACTOR shall not refer to RCUH, the University of Hawaii, the Project, or any office, agency, or officer thereof, or to the services provided pursuant to this Agreement, in any of CONTRACTOR's brochures, advertisements, or other publicity of CONTRACTOR. All media contacts with CONTRACTOR about this Agreement shall be referred to RCUH.
16. Payment Procedures; Final Payment. All payments under this Agreement shall be made only upon (a) submission by CONTRACTOR to RCUH of original invoices specifying the amount due and certifying that services requested under this Agreement have been performed by CONTRACTOR according to this Agreement, and (b) satisfactory performance as determined by RCUH and as specified in Attachments 1, 2, and 3.
17. Tax Clearance. Final payment under this Agreement shall be subject to Section 103-53 of the Hawaii Revised Statutes, which requires a tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service, stating that all delinquent taxes, if any, levied or accrued against CONTRACTOR have been paid. A tax clearance is required on final payment for agreements of \$25,000 or more. In addition to obtaining a tax clearance prior to final payment, CONTRACTOR is required to obtain a tax clearance from the Hawaii Department of Taxation and the U.S. Internal Revenue Service prior to the execution of this Agreement, if \$25,000 or more.
18. Governing Law, Jurisdiction and Venue. The validity of this Agreement and any of its terms and/or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Agreement shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
19. Notices. Any written notice required to be given by a party to this Agreement shall be (a) delivered personally, or (b) sent by United States first class mail, postage prepaid, to RCUH at its address, and to CONTRACTOR at its address, as indicated in this Agreement. A notice shall be deemed to have been received by the recipient three (3) days after mailing or at the time of actual receipt, whichever is earlier.
20. Severability. In the event that any provision of this Agreement is declared invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Agreement, provided that the remaining terms and conditions of this Agreement remain legal and enforceable.

21. Waiver. The failure of RCUH to insist upon strict compliance with any term, provision or condition of this Agreement shall not constitute or be deemed to constitute a waiver or relinquishment of RCUH's right to enforce the same in accordance with this Agreement.
22. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.
23. Federal Provisions.
 - a. Federal funds (under a federal grant) are expended under this Agreement, CONTRACTOR shall comply with the applicable provisions of RCUH Attachment 32a (Terms and Conditions Applicable to Contracts/Subcontracts/Purchase Orders (Under Federal Grants)).

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SPECIAL CONDITIONS
Attachment 6

None.

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TERMS AND CONDITIONS APPLICABLE TO CONTRACTS AND PURCHASE ORDERS (UNDER FEDERAL GRANTS)

The following requirements only apply if they are applicable to the purchase:

1. ANTI-KICKBACK ACT (40 U.S.C. 3145). For construction or repair projects in excess of \$2,000, the contractor/subcontractor/vendor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States).
2. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148). For construction projects in excess of \$2,000, the contractor/subcontractor/vendor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148), as supplemented by Department of labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").
3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708). For all projects in excess of \$100,000 that involve the employment of mechanics or laborers, the contractor/subcontractor/vendor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).
4. RIGHTS TO INVENTIONS. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a), and the contractor/subcontractor enters into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement", the contractor/subcontractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and implementing regulations issued by the awarding agency.
5. ANTI-LOBBYING (31 U.S.C. 1352). If this purchase is more than \$100,000, the contractor/subcontractor/vendor (each tier) must certify that it will not or has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee or any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by the Byrd Anti-Lobbying Amendment (31 U.S.C.1352). The contractor/subcontractor/vendor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
6. DEBARMENT AND SUSPENSION. In accordance with Executive Orders (EO) 12549 and 12689, "Debarment and Suspension," a purchase of more than \$25,000 must not be made from a contractor/subcontractor/vendor that is debarred, suspended, or proposed for debarment. For purchases of more than \$25,000, the contractor/subcontractor/vendor shall certify that it is or is not debarred, suspended, or proposed for debarment by the Federal Government or the project shall check the System for Award management (SAM) at <https://www.sam.gov/SAM/>. Recipients shall fully comply with the requirements stipulated in Subpart C of 45 CFR 620, entitled "Responsibilities of Participants Regarding Transactions". The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 45 CFR 620, entitled "Covered Transactions", includes a term or condition requiring compliance with Subpart C. The recipient is also responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transaction. The recipient acknowledges that failing to disclose the information required under 45 CFR 620.335 may result in the termination of the award, or pursuance of other available remedies, including suspension and debarment.
7. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
8. CLEAN AIR ACT (42 U.S.C. 7401-7671q) and the FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED. For contracts and subgrants of amounts in excess of \$150,000, the recipient shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
9. RIGHT TO AUDIT. For all negotiated purchases of more than \$150,000, the contractor/subcontractor/vendor agrees that RCUH, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to and the right to examine any pertinent books, documents, papers and records of such contractor/subcontractor/vendor involving transactions related to this purchase.
10. TRAFFICKING IN PERSONS. For subawards (pursuant to 22 U.S.C. 7104(g)), the subrecipient shall comply with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104), as implemented by 2 CFR 175.
11. TERMINATION FOR CAUSE (VIOLATION/BREACH) OR CONVENIENCE OF RCUH. For all purchases in excess of \$10,000, if a termination clause indicating RCUH's ability to terminate for cause and convenience is not included as part of the terms or contract associated with the purchase, [clause 18](#) of RCUH Attachment 31 (General Terms and Conditions Applicable to All Purchase Orders) shall apply to the purchase.
12. PROCUREMENT OF RECOVERED MATERIALS. All contractors/subcontractors/vendors must comply with 2 CFR § 200.323.
13. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. All contractors/subcontractors/vendors must comply with 2 CFR § 200.216.
14. DOMESTIC PREFERENCES FOR PROCUREMENTS. All contractors/subcontractors/vendors must comply with 2 CFR § 200.322.