

TITLE 15
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

SUBTITLE 9
CONVENTION CENTER AUTHORITY

CHAPTER 107
CONVENTION CENTER AUTHORITY
CONVENTION CENTER DEVELOPMENT PLAN RULES

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§15-107-1 Purpose. This chapter governs the review, selection, and approval by the authority of the convention center development plan of a developer for the convention center district under chapter 206X, HRS and shall be construed to effectuate the purposes of that chapter and to ensure the just, proper, and efficient selection of a convention center development plan which best serves the purposes, policies, and provisions of that chapter. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-2 Repealed. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §§206X-4) (Imp: HRS §§ 206X-4, 206X-5)

§15-107-3 Authority to select plan. The authority by itself, or in combination with qualified persons or public agencies, by any form of request for proposals, as determined by the authority, any law to the contrary notwithstanding, shall solicit, accept, review, reject, modify, or approve proposals, and thereafter enter into agreements, for a convention center development plan, and for the initiation, undertaking, supervision and regulation of the design, development, and financing of a convention center facility and any related developments, and to take such actions necessary and proper to effectuate the purposes of chapter 206X, HRS. In its review of any proposed convention center development plan, the authority shall apply the criteria set forth herein, the criteria of the

convention center district rules and any criteria for development within the convention center district established by the legislature and such additional criteria that the authority deems reasonable and appropriate. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-4 Cooperative agreements. The authority may enter into cooperative agreements with qualified persons or public agencies, where the powers, services, and capabilities of such persons or public agencies are deemed necessary and appropriate to assist the authority in its review, selection, and approval of a convention center development plan. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-5 Selection process. The authority's review, selection, and approval of the convention center development plan of a developer shall be pursuant to the request for proposals process established under this chapter. The decisions of the authority made pursuant to the request for proposals process as set forth in this chapter, including, but not limited to, the qualification and selection of a developer and the approval of a convention center development plan shall be governed solely by this chapter, and chapter 206X, HRS, and shall not be subject to a contested case hearing. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-6 Eligible developers. (a) Any developer may submit a proposal to the authority for review pursuant to the request for proposals process established under this chapter.

(b) The authority may review and approve the convention center development plan of a developer, pursuant to the request for proposals process established under this chapter, regardless of the number of timely proposals submitted in response to the request for proposals. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-7 Conflict of interest. No member, officer, employee, or agent of the authority shall participate in the request for proposals process established under this chapter if such participation would violate chapter 84, HRS. [Eff 11/20/89; comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-8 Ex parte communications. Except as otherwise provided in chapters 15-106 to 15-109 and other applicable law, members, officers, employees, and agents of the authority shall refrain from communicating with any person submitting a proposal in response to the request for proposals, or with any member, owner, partner, stockholder, officer, director, employee, or agent thereof, on any matter of substance contained in or pertaining to any proposal submitted in response to the request for proposals. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-9 Suspension, termination, or extension of time. (a) The authority shall complete the request for proposals process as expeditiously as possible and in a manner consistent with the purposes, policies, and provisions of chapter 206X, HRS.

(b) The authority, upon publication of appropriate notice as provided for in section 15-107-11(d), may suspend or terminate the request for proposals process if the authority deems the suspension or termination necessary or appropriate under any of the following circumstances:

- (1) Exercise of the authority's condemnation power under section 206X-4(b) (11), HRS;
- (2) New or pending legislation affecting matters of substance in or pertaining to chapter 206X, HRS;
- (3) Lack of adequate response to the request for proposals; and
- (4) Where the suspension or termination would best serve the purposes, policies, and provisions of chapter 206X, HRS.

Prior to continuing or recommencing the request for proposals process after the suspension or termination, the authority shall publish appropriate notice of the continuation or recommencement of the request for proposals process, and of any revised schedule therefor, as provided for in section 15-107-11(d).

(c) The authority, upon publication of appropriate notice as provided for in section 15-107-11(d), may extend any period within which action is required to be taken, prescribed or allowed by the request for proposals, if the authority deems the extension necessary or appropriate to best serve the purposes, policies, and provisions of chapter 206X, HRS. The notice shall prescribe the length of the extended period and any resulting revised schedule for the request for proposals process. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-10 Request for proposals process, generally. The authority's review, selection, and approval of the convention center development plan of a developer shall be pursuant to a request for proposals process which shall encompass a publicly advertised request for proposals, an evaluation of timely submitted proposals, selection of a proposal from among the timely submitted proposals, negotiation of a convention center development plan and a convention center development agreement, and final authority approval of a convention center development plan. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-11 Request for proposals process, specific steps. (a) Subject to this chapter and other applicable law, the request for proposals process shall be as provided in this section.

(b) The request for proposals may be developed and prepared by the executive director in conjunction with any consultants approved by the authority, and shall:

- (1) Delineate the convention center district subject to the convention center development plan;
- (2) Describe the purposes, policies, and provisions of chapter 206X, HRS, which must be fulfilled by the convention center development plan;
- (3) Invite any developer to submit a timely proposal for a convention

center development plan;

- (4) Describe and prescribe a request for proposals schedule;
- (5) Prescribe criteria for evaluating and selecting a proposal and for approving a convention center development plan;
- (6) Describe and prescribe a qualification procedure to qualify developers; and
- (7) Describe the information and materials which must be submitted in response to the request for proposals.

(c) The authority shall approve the request for proposals prior to its issuance.

(d) Appropriate notice of the request for proposals shall be published not less than three times in a major Honolulu newspaper. No more than one of the three publications shall be made on any one day or on two consecutive days. Notice of the request for proposals shall also be published once in a trade journal of national circulation. Additional publication may be accomplished in the authority's reasonable discretion.

(e) The request for proposals may require all persons intending to submit a proposal to give the authority a written notice of intention to submit a proposal and such other information which would permit the authority to determine the qualifications of the developer.

(f) The authority shall hold a pre-qualification briefing for all interested developers as soon as practicable following the last publication of the notice of request for proposals to discuss the objectives to be fulfilled by the convention center development plan, the request for proposals process, and the evaluation and selection criteria.

(g) The request for proposals may require that any developer interested in developing the convention center shall submit a detailed proposal inclusive of, but not limited to, a description of the developer, its experience and its basic development team, architecturally prepared schematic drawings, proposed footprints of the buildings, preliminary traffic studies and solutions prepared by certified engineers and designers, design and construction budgets, and a timetable for construction, as further provided for in section 15-107-12. All proposals shall comply with the requirements of this chapter, the request for proposals, and section 15-106-24. The contents of any proposal received shall be kept confidential and shall not be disclosed to the public or to other developers who are participating in the request for proposals process until after a development agreement is executed, except that the authority reserves the right to publicly display any models or renderings submitted with any proposal.

(h) The request for proposals shall provide that all proposals, along with any security the authority may reasonably require, shall be received by the authority within a definite and prescribed period of time. The authority, in its reasonable discretion, may refuse to accept or consider any proposal which is untimely, unsecured, or not in compliance with the request for proposals or the submission requirements and qualifications as set forth in section 15-107-12. The authority may reject any or all proposals when in the authority's opinion such rejection will be in the best interest of the State.

(i) As soon as practicable following the submission deadline, the authority shall begin the review and evaluation of all responses to the request for proposals that comply with the submission requirements. The authority may require each developer who has

submitted a response to make a presentation of its proposal to the authority. These presentations shall be timed, scheduled, and otherwise organized at the sole discretion of the authority. Developers responding to the request for proposals may be required to disseminate proprietary or other confidential information during such presentations. Therefore, the authority shall limit presentations to members of the authority, officers and staff of the authority, consultants retained by the authority, counsel to the authority and such other persons or public agencies the authority deems appropriate to assist in the review and evaluation process; provided however, that the presentations may be open to the public if the presentations do not affect the integrity of the request for proposals process. Unless the presentations are opened to the public, the authority shall keep the substance of the presentations private and confidential until after a development agreement for the convention center has been finalized and executed. The presentations shall be exclusively for purposes of fact- finding and investigation, and in no case shall the authority make any decisions or deliberate toward any decision regarding selection of a developer or development proposal at the presentation sessions.

(j) As soon as practicable following the completion of the review and evaluation process, the authority shall select a proposal and shall publicly announce the selection of the developer. Thereafter, the authority shall enter into negotiations with the selected developer for a convention center development plan and a development agreement for the plan, and shall conclude their negotiations and execute a development agreement as set forth in subsection (1).

(k) The authority shall not enter into a development agreement with a developer unless the developer has fully complied with all provisions of chapter 343, HRS, applicable to the convention center development plan or the developer has given reasonable assurances that they will be in compliance. The development agreement shall require the deposit of such security as the authority deems proper, and shall contain provisions which the authority deems necessary or appropriate to carry out the purposes, policies, and provisions of chapter 206X, HRS, to protect the legitimate interests of the authority and the State, and to conform the development agreement to applicable law.

(l) If the authority and the selected developer fail to enter into a development agreement within sixty-days after the selection of the developer or such additional time as the authority may agree to or if the authority determines that satisfactory progress is not being made toward a convention center development plan, or a development agreement for the plan, the authority, in its discretion, may take any of the following actions which the authority deems necessary or appropriate to best serve the purposes, policies, and provisions of chapter 206X-HRS:

- (1) Disqualify the selected developer and select a new developer from the remaining qualified proposals;
- (2) Disqualify the selected developer and repeat the request for proposals process. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5)

§15-107-12 Required information and materials. (a) Any developer wishing to respond to a request for proposals shall submit the following information and material as part of its proposal.

- (b) Qualifications of the developer.
 - (1) Identification of the developer with whom the authority would enter into a development agreement.
 - (2) Identification of the developer and its project team, including design consultants, contractors, subcontractors, financial partners, joint venture partners or limited partners; a description of the roles and responsibilities of each team member, and their respective legal relationship with the developer or development team, including their respective percentage interest in the developer, if any.
 - (3) The previous relevant project experience of the developer and the respective members of its project team (including joint venture partners).
 - (4) Evidence satisfactory to the authority of the financial capability of the developer to develop the convention center. Such evidence shall include financial statements (audited, if available) for the developer and all of its component entities for the last completed fiscal year and for the most recent interim date in the current fiscal year. The financial statements shall be prepared in conformity with generally accepted accounting principles, and shall include a balance sheet, statement of income, statement of cash flows, and footnotes. The financial statements may be submitted confidentially under separate cover.
 - (5) Reliable references for the developer and all of its component entities, including credit references.
 - (6) Identification of the developer's project team for development of the convention center facility including all known consultants, contractors, subcontractors, and suppliers, adequate description of the roles and responsibilities to be assumed by each member of the team and of any contemplated contracts or agreements among the members of the team, and identification of and personal resumes for all key individual personnel on the team.
 - (7) Designation of an individual or individuals in the State to serve as primary developer contact and liaison with the authority during the request for proposals process, and during the design and construction phase.
 - (8) Complete and detailed descriptions of any pending or previous litigation, or both, involving the developer, its component entities, and its development project team, including a brief description of the projects and opposing parties, a summary of the claims and resolutions by adjudication, mediation, or settlement.
 - (9) Itemized budgets for design and construction costs, soft costs, and contingencies.
- (c) Environmental impact statement.
 - (1) A detailed environmental report that describes the potential environmental impacts of the developer's proposed design as well as possible ways to mitigate the impacts and a commitment of the developer to submit an environmental impact statement for the convention center development plan, which shall be in

full compliance with chapter 343, HRS.

- (2) Commitment of the developer to fully comply with the provisions and procedures of chapter 343, HRS, including any other federal and State environmental statutes or municipal ordinances now in force or which may hereafter be in force.
- (3) If any other federal, State or county laws relating to environmental issues applies to the developer's convention center development plan, a complete and detailed description of the developer's plan for achieving compliance with the law without duplication of effort or delay in the request for proposals process.
- (d) Convention center development plan. A complete description of the development plan including, but not limited to, the following:
 - (1) Narrative description of the development plan, design and engineering concepts, construction techniques, materials, landscaping, and building orientation;
 - (2) Complete and detailed description of the convention center facility and all other improvements, including preliminary building floor plans illustrating the overall development, individual buildings, parking systems, utilities systems, service facilities, vehicle and pedestrian traffic systems, and organizational and activities schemes;
 - (3) Plans showing overall development drawings, building elevations, longitudinal and cross sections, sketches of major and typical interior spaces, exterior perspective drawings, and a scale model;
 - (4) Complete and detailed statement of each and every variance, exception, exemption, or amendment relating to health, safety, building, planning, zoning, or land use required by the developer in order to lawfully develop and construct pursuant to its convention center development plan, along with precise identification of each and every affected statute, rule, regulation, code, plan, ordinance, or other law relating to the use, zoning, planning, and development of land and construction thereon, and precise and sufficient legal justification for each required variance, exception, exemption, or amendment;
 - (5) Complete, detailed, and definite schedule for all development within the convention center district pursuant to the convention center development plan, including supportive, technical, and logical rationale for the schedule, and a reasonable commitment to the schedule by the developer;
 - (6) Complete and detailed description of a mechanism for developer supervision, inspection, and approval of the convention center development including, provisions governing schedule changes, change orders, and value engineering, and an unconditional commitment of the developer to comply with the mechanism;
 - (7) Complete and detailed description of the developer's relocation plan, if required, in compliance with section 206X-7, HRS.
 - (8) Proposal for additional monetary contribution by the developer to defray costs relating to the relocation of persons, if any, displaced because of development pursuant to its convention center development plan, including definite amount, proposed form, and timing of such contribution; and

- (9) Complete and detailed description of the developer's mechanism for insuring completion by the developer of all development proposed in its convention center development plan, and for insuring payment for all services and materials utilized in the development proposed in its convention center development plan, including any bonds, contracts, or agreements made or contemplated for the mechanism, and an unconditional commitment by the developer to full completion and payment.

(e) The authority shall have the right to add, delete, or modify any of the submission requirements contained in section 15-107-12 where the authority deems it is necessary to best serve the purposes, policies, and provisions of chapter 206X, HRS. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5, 206X-6, 206X-7)

§15-107-13 Selection criteria. (a) In evaluating, selecting, and approving a convention center development plan and a proposal for the plan, The authority shall be guided by the criteria listed in this section, which is listed in no particular order of priority or importance.

(b) Developer organization.

- (1) Independent authority, ability, and responsibility of the developer with whom the authority would enter into a development agreement, relating to independent financial and management capability sufficient to direct and represent its component entities, if any, and to independently carry out its responsibilities under a development agreement.
- (2) Clear and effective lines of responsibility and authority within the developer's organization and its development team which will enable the developer to be responsive and effective in implementing its convention center development plan.
- (3) Availability and qualifications of a full-time representative of the developer in Honolulu to serve as contact and liaison with the authority during the request for proposals process, during the development phase, during any postconstruction and warranty period, and during any period of developer management, if any.
- (4) Degree of availability of the key personnel of the developer and its development team for contact and liaison with the authority.

(c) Developer status.

- (1) Good standing in the state of establishment, registration in the State, and tax compliance.
- (2) Absence of any limitations upon the ownership, management, assets, and operations of the developer which may be due to existing contracts, agreement, liens, encumbrances, or judgments, existing or potential litigation or insolvency, or required authorizations or consents.

(d) Developer qualifications.

- (1) Past financial performance of the developer.
- (2) Financial strength of the developer as reflected in its balance sheet and its credit references.

- (3) Qualifications and experience of the members of the developer's development team.
- (4) Qualifications and experience of the key personnel of the developer and its development team.
- (5) Previous comparable urban development experience of the developer and its development team involving convention facilities, exhibition facilities, meeting facilities, assembly facilities, and related support facilities.
- (6) Skill, experience, competence, judgment, integrity, and financial ability of the developer and its development team commensurate with the nature and magnitude of its convention center development plan.
- (e) Merits of proposal.
 - (1) Degree of fulfillment of the purposes, policies, and provisions of chapter 206X, HRS.
 - (2) Compliance of the proposal and the convention center development plan with the form and substance requirements contained in this chapter and the request for proposals.
 - (3) Responsiveness of the developer and compliance with the authority requirements during the request for proposals process.
 - (4) Degree of compliance with the convention center district rules of chapter 15-109.
 - (5) Strict compliance with the following criteria:
 - (A) The convention center facility shall be a stand-alone facility, without additional private development on-site;
 - (B) The convention center facility shall be owned and operated by the authority;
 - (C) The flexible meeting rooms, ballrooms, and support space shall consist of a minimum of 675,000 gross square feet, of which a minimum of 200,000 gross square feet shall be exhibit space; provided that the exhibit space and related support space shall be on a single level with direct vehicle access to the exhibit floor;
 - (D) The convention center facility shall be designed and developed to accommodate future expansion; and
 - (E) The convention center facility shall reflect a Hawaiian sense of place.
 - (6) Provision for access to adequate parking facilities within the convention center district to accommodate the activities of the convention center facility as proposed.
 - (7) Overall quality and feasibility of proposed development, design, engineering and construction concepts, techniques, and materials.
 - (8) Degree of success in achieving a coordinated development plan that avoids fragmentation.
 - (9) Efficient, rational, and easily understandable organization of people flows and activities within the convention center complex.
 - (10) Efficient, innovative, and appropriate use of available land and space within the convention center district.
 - (11) Degree of compatibility and synergy with surrounding and related uses and

activities.

- (12) Degree of success in solving potential transportation, traffic, ingress, egress, access, and parking problems.
- (13) Feasibility of the developer's schedule for all development proposed in its convention center development plan.
- (14) Potential for speedy commencement and completion of all development proposed in the convention center development plan.
- (15) Quality of the developer's commitment to its development schedule, relating to legal sufficiency and authority enforcement.
- (16) Potential for minimizing schedule changes, change orders, and value engineering during development.
- (17) Minimize the number and degree of the variances, exceptions, exemptions, or amendments relating to health, safety, building, planning, zoning, and land use required by the developer in order to lawfully develop and construct pursuant to its convention center development plan.
- (18) Quality of the developer's mechanism for insuring completion by the developer of all development proposed in its convention center development plan, and for insuring payment for all services and materials utilized.
- (19) Degree of sensitivity to and incorporation of the knowledge, viewpoints, and recommendations of the general public and all affected persons respecting an appropriate convention center development plan.
- (20) Quality of the developer's mechanism for authority supervision, inspection, and approval of all development proposed in the developer's convention center development plan, relating to authority control and enforcement, authority access for purposes of information, investigation, and inspection, developer cooperation and responsiveness, legal sufficiency, and the quality of the developer's commitment to the mechanism.
- (21) Potential for minimizing disruption of uses, activities, traffic, utilities, and other infrastructure services in and around the convention center district during the development and management phases.
- (22) Potential for preventing litigation related to the convention center development plan.
- (23) Potential for preventing conflict with the holders of any property interest within the environs during the development and management phases.
- (24) Potential for preventing conflict with existing uses within the convention center district and environs during the development and management phases.
- (25) Quality of the developer's assurance of speedy compliance with all statutory requirements related to environmental issues.
- (26) Potential for minimizing adverse environmental, economic, and social effects of development and management pursuant to the convention center development plan.
- (27) Potential benefits to the general public, the State, and its political subdivisions, such as economic diversification, stability, and improvement,

jobs creation, convention center facility revenues, tax revenues, and public improvements.

- (28) Sensitivity to the styles, history, beauty, and social and environmental values of Hawaii.
- (29) Augmentation of the State's role, visibility, and reputation as a Pacific basin business, cultural, social, and technological center.
- (30) Contribution to growth, profitability, vitality, and stability of Hawaii's tourism industry.
- (31) Contribution to an expanded, strong, profitable, and stable convention, exhibition, and meetings industry in Hawaii.
- (32) Contribution to revitalizing the convention center district and environs.
- (33) Degree of enhancement of the physical, public use, and visual characteristics of the surrounding area.
- (34) Potential for achieving a warm, human, and inviting environment which encourages Hawaii residents and tourists to visit and utilize the convention center district facilities.
- (35) Maintenance of appropriate and attractive view corridors.
- (36) Degree of enhancement of the skyline in the surrounding area.
- (37) Consistency with federal, State, and county plans, and degree of consideration given to the State goals and policies, adopted State plan or land use guidance policies, and county general plans, development plans, and ordinances.

(f) The authority shall have the right to delete or modify any of the criteria contained in section 15-17-13, or add any other criteria if the authority deems it is necessary to best serve the purposes, policies, and provision of chapter 206X, HRS. [Eff 11/20/89; am and comp FEB 25 1994] (Auth: HRS §206X-4) (Imp: HRS §§206X-4, 206X-5, 206X-6, 206X-7)