STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
HONOLULU, HAWAII

June 13, 1984

MEMORANDUM NO. 1984-24

TO: Heads of Departments and Agencies

FROM: Hideo Murakami, Comptroller

SUBJECT: Contracts Payable from Federal Funds

During the month of May, significant changes were implemented in the procedural control over the cash funding of contracts. After receiving legal clearance, the procedures were changes to reflect the allowance of contract certifications based on available appropriations and allotments, rather than on actual cash available.

As a result of these changes, contract certifications are being issued that are backed by the appropriation or allotment, as the case may be. For those contracts for which the State is the source of funding, we have felt confident in proceeding on the legal clearance that was obtained. However, for those contracts payable in whole or in part from Federal Funds, the State does not have the same capability for ultimately backing up a contract certification. We are therefore concerned that contractors be given adequate disclosure, in their contracts and in the related contract certifications, that contract payments are ultimately payable only from Federal funds as actually received by the State.

For the purpose of such disclosure, beginning July 1, 1984, all expending agencies are required to include in any contract executed from that date on, which is payable in whole or in part from Federal funds, the following provision:

> It is covenanted and agreed by and between the parties hereto that, as to the portion of the obligation under this contract to be payable out of federal funds, this contract shall be construed to be an agreement to pay such portion to the contractor only out of federal funds to be received from the federal government when the federal funds are so received and shall not be construed as a general agreement to pay such portion at all events out of any funds other than those which are received from the federal government.

The provision must be included even in those cases where the expending agency has already received and deposited the Federal funds for the contract, since there is no longer any system control against those Federal funds being used for other expenditures chargeable to the same appropriation. By following this requirement, the State will be assured of having provided its contracts fairly with full disclosure regarding the legal provisions that apply in any event under the final paragraph of Sec. 103-39 of the Hawaii Revised Statutes.

HIDEO MURAKAMI
Comptroller