

1 Make this section a part of the Standard Specifications:

2
3 **"SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS**

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6 **102.01 Prequalification of Bidders.** Prospective bidders shall be capable of
7 performing the work for which they are bidding.
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9 In accordance with HRS Chapter 103D-310, the Department may require
10 any prospective bidder to submit answers to questions contained in the 'Standard
11 Qualification Questionnaire For Prospective Bidders On Public Works Contracts'
12 furnished by the Department, properly executed and notarized, setting forth a
13 complete statement of the experience of such prospective bidder and its
14 organization in performing similar work and a statement of the equipment proposed
15 to be used, together with adequate proof of the availability of such equipment.
16 Whenever it appears to the Department, from answers to the questionnaire or
17 otherwise, that the prospective bidder is not fully qualified and able to perform the
18 intended work, the Department will, after affording the prospective bidder an
19 opportunity to be heard and if still of the opinion that the bidder is not fully qualified
20 to perform the work, refuse to receive or consider any bid offered by the
21 prospective bidder. All information contained in the answers to the questionnaire
22 shall be kept confidential. Questionnaire so submitted shall be returned to the
23 bidders after serving their purpose.
24

25 No person, firm or corporation may bid where (1) the person, firm, or
26 corporation, or (2) a corporation owned substantially by the person, firm, or
27 corporation, or (3) a substantial stockholder or an officer of the corporation, or (4)
28 a partner or substantial investor in the firm is in arrears in payments owed to the
29 State or its political subdivisions or is in default as a surety or failure to do faithfully
30 and diligently previous contracts with the State.
31

32 **102.02 Contents of Proposal Forms.** The Department will furnish prospective
33 bidders with proposal forms posted in HlePRO stating:
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- 35 (1) The location,
36
37 (2) Description of the proposed work,
38
39 (3) The approximate quantities,
40
41 (4) Items of work to be done or materials to be furnished,
42
43 (5) A schedule of items, and
44
45 (6) The time in which the work shall be completed.
46

Papers bound with or attached to the proposal form are part of the proposal. The bidder shall not detach or alter the papers bound with or attached to the proposal when the bidder submits its proposal through HlePRO.

Also, the bidder shall consider other documents including the plans and specifications a part of the proposal form whether attached or not.

102.03 Estimated Quantities. The quantities shown in the contract are approximate and are for the comparison of bids only. The actual quantity of work may not correspond with the quantities shown in the contract. The Department will make payment to the Contractor for unit price items in accordance with the contract for only the following:

(1) Actual quantities of work done and accepted, not the estimated quantities; or

(2) Actual quantities of materials furnished, not the estimated quantities.

The Department may increase, decrease, or omit each scheduled quantities of work to be done and materials to be furnished. When the Department increases or decreases the estimated quantity of a contract item by more than 15% the Department will make payment for such items in accordance with Subsection 104.06 - Methods of Price Adjustment.

102.04 Examination of Contract and Site of Work. The bidder shall examine carefully the site of the proposed work and contract before submitting a proposal.

By the act of submitting a bid for the proposed contract, the bidder warrants that:

(1) The bidder and its Subcontractors have reviewed the contract documents and found them free from ambiguities and sufficient for the purpose intended;

(2) The bidder and its workers, employees and subcontractors have the skills and experience in the type of work required by the contract documents bid upon;

(3) Neither the bidder nor its employees, agents, suppliers, or subcontractors have relied upon verbal representations from the Department, its employees, or agents, including architects, engineers, or consultants, in assembling the bid figure; and

(4) The basis for the bid figure are solely on the construction contract documents.

93 Also, the bidder warrants that the bidder has examined the site of the work.
94 From its investigations, the bidder acknowledges satisfaction on:

- 95
96 (1) The nature and location of the work;
97
98 (2) The character, quality, and quantity of materials;
99
100 (3) The difficulties to be encountered; and
101
102 (4) The kind and amount of equipment and other facilities
103 needed.
104

105 Subsurface information or hydrographic survey data furnished are for the
106 bidders' convenience only. The data and information furnished are the product of
107 the Department's interpretation gathered in investigations made at the specific
108 locations. These conditions may not be typical of conditions at other locations
109 within the project area or that such conditions remain unchanged. Also, conditions
110 found at the time of the subsurface explorations may not be the same conditions
111 when work starts. The bidder shall be solely responsible for assumptions,
112 deductions, or conclusions the bidder may derive from the subsurface information
113 or data furnished.
114

115 If the Engineer determines that the natural conditions differ from that
116 originally anticipated or contemplated by the Contractor in the items of excavation,
117 the State may treat the difference in natural conditions, as falling within the
118 meaning of Subsection 104.02 – Changes.
119

120 **102.05 Preparation of Proposal.** The submittal of its proposal shall be on
121 forms furnished by the Department. The bidder shall specify in words or figures:
122

- 123 (1) A unit price for each pay item with a quantity given;
124
125 (2) The products of the respective unit prices and quantities;
126
127 (3) The lump sum amount; and
128
129 (4) The total amount of the proposal obtained by adding the
130 amounts of the several items.
131

132 The words and figures shall be in ink or typed. If a discrepancy occurs
133 between the prices written in words and those written in figures, the prices written
134 in words shall govern.
135

136 When an item in the proposal contains an option to be made, the bidder
137 shall choose in accordance with the contract for that particular item. Determination
138 of an option will not permit the Contractor to choose again.

139 The bidder shall sign the proposal properly in ink. A duly authorized
140 representatives of the bidder or by an agent of the bidder legally qualified and
141 acceptable to the Department shall sign, including one or more partners of the
142 bidder and one or more representatives of each entity comprising a joint venture.
143

144 When an agent, other than the officer(s) of a corporation authorized to sign
145 contracts for the corporation or a partner of a partnership, signs the proposals, a
146 'Power of Attorney' shall be on file with the Department or submitted with the
147 proposal. Otherwise, the Department will reject the proposal as irregular and
148 unauthorized.
149

150 The bidder shall submit acceptable evidence of the authority of the partner,
151 member(s), or officer(s) to sign for the partnership, joint venture, or corporation
152 respectively with the proposal. Otherwise, the Department will reject the proposal
153 as irregular and unauthorized.
154

155 **102.06 Irregular Proposals.** The Department may consider proposals irregular
156 and may reject the proposals for the following reasons:
157

158 (1) The proposal is a form not furnished by the Department,
159 altered, or detached;
160

161 (2) The proposal contains unauthorized additions, conditions, or
162 alternates. Also, the proposal contains irregularities that may tend
163 to make the proposal incomplete, indefinite, or ambiguous to its
164 meaning;
165

166 (3) The bidder adds provisions reserving the right to accept or
167 reject an award. Also, the bidder adds provisions into a contract
168 before an award;
169

170 (4) The proposal does not contain a unit price for each pay item
171 listed except authorized optional pay items; and
172

173 (5) Prices for some items are out of proportion to the prices for
174 other items.
175

176 (6) If in the opinion of the Director, the bidder and its listed
177 subcontractors do not have the Contractor's licenses or combination
178 of Contractor's licenses necessary to complete the work.
179

180 Where the prospective bidder is bidding on multiple projects simultaneously
181 and the proposal limits the maximum gross amount of awards that the bidder can
182 accept at one bid letting, the proposal is not irregular if the limit on the gross
183 amount of awards is clear, and the Department selects the awards that can be
184 given.

185 **102.07 Proposal Guaranty.** In as much as the contract to be executed is a
186 price-term, open end, or requirements contract under which the contract price or
187 total amount to be paid the Contractor cannot be determined at the time the
188 contract is executed, the proposal guaranty required shall be in the amount of
189 \$150,000.00

190
191 The Department will not consider a proposal of \$25,000 or more unless
192 accompanied by:

193
194 (1) A deposit of legal tender; or

195
196 (2) A valid surety bid bond, underwritten by a company licensed
197 to issue bonds in the State of Hawaii, in the form and composed,
198 substantially, with the same language as provided herewith and
199 signed by both parties; or

200
201 (3) A certificate of deposit, share certificate, cashier's check,
202 treasurer's check, teller's check, or official check drawn by, or a
203 certified check accepted by and payable on demand to the State by
204 a bank, savings institution, or credit union insured by the Federal
205 Deposit Insurance Corporation (FDIC) or the National Credit Union
206 Administration (NCUA).

207
208 (a) The bidder may use these instruments only to a
209 maximum of \$100,000.

210
211 (b) If the required security or bond amount totals over
212 \$100,000 more than one instrument not exceeding \$100,000
213 each and issued by different financial institutions shall be
214 acceptable.

215
216 (c) The instrument shall be made payable at sight to the
217 Department.

218
219 (d) Proposal Guaranty listed in (1) and (3) shall be in its
220 original form, and shall be received at the Contracts Office,
221 Department of Transportation, 869 Punchbowl Street,
222 Honolulu, Hawaii 96813 before the bid deadline.

223
224 The above shall be in the amount of \$150,000.00.

225
226 **102.08 Delivery of Proposal.** The bidder shall submit the proposal in HlePRO.
227 Bids received after said due date and time shall not be considered. Original bid
228 documents do not have to be submitted. Award will be made based on proposals
229 submitted in HlePRO.
230

102.09 Withdrawal or Revision of Proposals. A bidder may withdraw or revise a proposal after the bidder submits the proposal in HlePRO. Withdrawal or revision of proposal must be completed before the time set for the receiving of bids.

102.10 Public Opening of Proposals. Not applicable.

102.11 Disqualification of Bidders. The Department may disqualify a bidder and reject its proposal for the following reasons:

(1) Submittal of more than one proposal whether under the same or different name.

(2) Evidence of collusion among bidders. The Department will not recognize participants in collusion as bidders for any future work of the Department until such participants are reinstated as qualified bidders.

(3) Lack of proposal guaranty.

(4) Submittal of an unsigned or improperly signed proposal.

(5) Submittal of a proposal without a listing of subcontractors or containing only a partial or incomplete listing of subcontractors.

(6) Submittal of an irregular proposal in accordance with Subsection 102.06 - Irregular Proposals.

(7) Evidence of assistance from a person who has been an employee of the agency within the preceding two years and who participated while in State office or employment in the matter with which the contract is directly concerned, pursuant to HRS Chapter 84-15.

(8) Suspended or debarred in accordance with HRS Chapter 104-25.

(9) Failure to complete the prequalification questionnaire, if applicable.

(10) Failure to attend the mandatory pre-bid meeting, if applicable.

102.12 Material Guaranty. The successful bidder may be required to furnish a statement of the composition, origin, manufacture of materials, and samples.

276 **102.13 Substitution of Materials and Equipment Before Bid Opening.** See
277 Subsection 106.13 for Substitution Of Materials and Equipment After Bid Opening.

278
279 **(A) General.** When brand names of materials or equipment are
280 specified in the contract documents, they are to indicate a quality, style,
281 appearance, or performance and not to limit competition. The bidder shall
282 base its bid on one of the specified brand names unless alternate brands
283 are qualified as equal or better in an addendum. Qualification of such
284 proposed alternate brands shall be submitted via email to the Contact
285 person listed in HlePRO for the solicitation and also post a question in
286 HlePRO under the question/answer tab referencing the email with the
287 request. The request must be posted in HlePRO no later than fourteen (14)
288 calendar days before the bid opening date, not including the bid opening
289 date

290
291 An addendum will be issued to inform all prospective bidders of any
292 accepted substitution in accordance with Subsection 102.16 – Addenda.

293
294 **(B) Statement of Variances.** The statement of variances must list all
295 features of the proposed substitution that differ from the contract documents
296 and must further certify that the substitution has no other variant features.
297 The brochure and information submitted shall be clearly marked showing
298 make, model, size, options, and any other features requested by the
299 Engineer and must include sufficient evidence to evaluate each feature
300 listed as a variance. A request will be denied if submitted without sufficient
301 evidence. If after installing the substituted product, an unlisted variance is
302 discovered, the Contractor shall immediately replace the product with a
303 specified product at no increase in contract price and contract time.

304
305 **(C) Substitution Denial.** Any substitution request not complying with
306 the above requirements will be denied.

307
308 **102.15 Preferences.** Preferences shall not apply to this project

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310 **102.16 Certification for Safety and Health Program for Bids in excess**
311 **of \$100,000.** In accordance with HRS Chapter 396-18, the bidder or offeror, by
312 signing and submitting this proposal, certifies that a written safety and health plan
313 for this project will be available and implemented by the notice to proceed date for
314 this project. Details of the requirements of this plan may be obtained from the
315 State Department of Labor and Industrial Relations, Occupational Safety and
316 Health Division (HIOSH).

323 **102.17 Addenda.** Addenda issued shall become part of the contract
324 documents. Addenda to the bid documents will be provided to all prospective
325 bidders via HlePRO. Each addendum shall be an addition to the contract
326 documents. The terms and requirements of the bid documents (i.e., drawings,
327 specifications and other bid and contract documents) cannot be changed prior to
328 the bid opening except by a duly issued addendum.”
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330
331
332

END OF SECTION 102