

1 Make this section a part of the Standard Specifications:  
2

3 **“SECTION 103 - AWARD AND EXECUTION OF CONTRACT**  
4  
5

6 **103.01 Consideration of Proposals.** The Department will compare the  
7 proposals in terms of the summation of the products of the approximate quantities  
8 and the unit bid prices after the submittal date and time established in HlePRO. If  
9 a discrepancy occurs between the unit bid price and the bid price, the unit bid price  
10 shall govern.  
11

12 The Department reserves the right to reject proposals, waive technicalities  
13 or advertise for new proposals, if the rejection, waiver, or new advertisement favors  
14 the Department.  
15

16 **103.02 Award of Contract.** The award of contract, if it be awarded, will be  
17 made within 60 calendar days after the opening of bids, to the lowest responsible  
18 bidder whose proposal complies with all the requirements. (Through HlePRO).  
19 The successful bidder will be notified by letter mailed to the address shown in its  
20 proposal, that its proposal has been accepted, and that it has been awarded the  
21 contract.  
22

23 **(1) Requirement for Award.** To be eligible for award, the apparent  
24 low bidder will be contacted to submit copies of the documents listed  
25 below to demonstrate compliance with HRS Section 103D-310(c). The  
26 documents should be submitted to the Department as soon as possible  
27 (within 14 days after bid opening unless otherwise specified in the  
28 invitation for bids or an extension is granted in writing by the  
29 Department). If a valid certificate/clearance is not submitted on a timely  
30 basis for award of a contract, a bidder otherwise responsive and  
31 responsible may not receive the award. See also Subsection 108.03 –  
32 Preconstruction Data Submittal.  
33

34 The Department may request the bidders to allow the Department  
35 to consider the bids for the issuance of an award beyond the 60 calendar  
36 day period. Agreement to such an extension must be made by a bidder  
37 in writing. Only bidders who have agreed to such an extension will be  
38 eligible for the award.  
39

40 **(A) Tax Clearance.** Pursuant to HRS Sections 103D-310(c), 103-53  
41 and 103D-328, the successful bidder shall be required to submit a certified  
42 copy of its tax clearance issued by the Hawaii State Department of Taxation  
43 (DOTAX) and the Internal Revenue Service (IRS) to demonstrate its  
44 compliance with HRS Chapter 237. A tax clearance is valid for six (6)  
45 months from the most recent approval stamp date on the tax clearance and  
46 must be valid on the bid's first legal advertisement date or any date  
47 thereafter up to the bid opening date.

48  
49 FORM A6, TAX CLEARANCE CERTIFICATE, is available at  
50 the following website:

51  
52 <https://tax.hawaii.gov/>  
53

54 To receive DOTAX Forms by fax or mail, phone  
55 (808) 587-7572 or 1-800-222-7572.  
56

57 The application for the Tax Clearance Certificate is the responsibility  
58 of the bidder and must be submitted directly to the DOTAX or IRS. The  
59 approved certificate may then be submitted to the Department.  
60

61 **(B) DLIR Certificate of Compliance.** Pursuant to HRS Section 103D-  
62 310(c), the successful bidder shall be required to submit a copy (faxed  
63 copies are acceptable) of its approved certificate of compliance issued by  
64 the Hawaii State Department of Labor and Industrial Relations (DLIR) to  
65 demonstrate its compliance with unemployment insurance (HRS Chapter  
66 383), workers' compensation (HRS Chapter 386), temporary disability  
67 insurance (HRS Chapter 392), and prepaid health care (HRS Chapter 393).  
68 The certificate is valid for six (6) months from the most recent approval  
69 stamp date on the certificate and must be valid on the bid's first legal  
70 advertisement date or any date thereafter up to the bid opening date. For  
71 certificates which receive a "pending" approval stamp, a DLIR approval  
72 stamp is required prior to the issuance of the Notice to Proceed.  
73

74 FORM LIR#27, APPLICATION FOR CERTIFICATE OF  
75 COMPLIANCE WITH SECTION 3-122-112, HAR, is available at the  
76 following website:

77  
78 <http://labor.hawaii.gov/>  
79

80 More information is available by calling the DLIR Unemployment Insurance  
81 Division at (808) 586-8926.  
82

83 Inquiries regarding the status of a LIR#27 Form may be made by  
84 calling the DLIR Disability Compensation Division at (808) 586-9200.  
85

86 The application for the Certificate of Compliance is the responsibility  
87 of the bidder and must be submitted directly to the DLIR. The approved  
88 certificate may then be submitted to the Department.  
89

90 **(C) DCCA Certificate of Good Standing.** Pursuant to HRS Section  
91 103D-310(c), the successful bidder shall be required to submit a copy  
92 (faxed copies are acceptable) of its approved Certificate of Good Standing  
93 issued by the Hawaii State Department of Commerce and Consumer Affairs  
94 (DCCA), Business Registration Division (BREG) to demonstrate that it is  
95 either:  
96

97 **(1)** Incorporated or organized under the laws of the State; or  
98

99 **(2)** Registered to do business in the State as a separate branch  
100 or division that is capable of fully performing under the contract.  
101

102 The Certificate of Good Standing is valid for six (6) months from the  
103 approval date on the certificate and must be valid on the bid's first legal  
104 advertisement date or any date thereafter up to the bid opening date. A  
105 Hawaii business that is a sole proprietorship, however, is not required to  
106 register with the BREG, and therefore not required to submit a Certificate of  
107 Good Standing. Bidders are advised that there are costs associated with  
108 registering and obtaining a Certificate of Good Standing from the DCCA.  
109

110 To purchase a CERTIFICATE OF GOOD STANDING, go to On-Line  
111 Services at the following website:  
112

113 <http://cca.hawaii.gov/>  
114

115 The application for the Certificate of Good Standing is the  
116 responsibility of the bidder and must be submitted directly to the DCCA.  
117 The approved certificate may then be submitted to the Department.  
118

119 **(D) Hawaii Compliance Express (HCE).** In lieu of the certificates  
120 referenced above, the bidder may make available proof of compliance  
121 through the Hawaii Compliance Express or any other designated  
122 certification process. Bidders may apply and register at the "Hawaii  
123 Compliance Express" website:  
124

125 <https://vendors.ehawaii.gov/hce/>  
126

127 **103.03 Cancellation of Award.** The Department reserves the right to cancel  
128 the award of contracts before the execution of said contract by the parties. There  
129 will be no liability to the awardee and to other bidders.  
130

131 **103.04 Return of Proposal Guaranty.** The Department will return the proposal  
132 guaranties, except those of the three lowest bidders, after the Department checks  
133 the proposals. The Department will return the proposal guaranties of the remaining  
134 two lowest bidders, not awarded the contract, within five working days following  
135 the execution of the contract. The Department will return the successful bidder's  
136 proposal guaranty after the successful bidder furnishes a bond and executes the  
137 contract.

138  
139 **103.05 Requirement of Contract Bond.** At the time of execution of the  
140 contract, the successful bidder shall file a good and sufficient performance bond  
141 and a payment bond on the forms furnished by the Department conditioned for  
142 the full and faithful performance of the contract in accordance with the terms and  
143 intent thereof and for the prompt payment to all others for all labor and material  
144 furnished by them to the bidder and used in the prosecution of the work provided  
145 for in the contract. The bonds shall be of an amount equal to 100 percent of the  
146 amount of the contract price and include 5 percent of the contract amount  
147 estimated to be required for extra work. The bidder shall limit the acceptable  
148 performance and payment bonds to the following:

149  
150 (a) Legal tender;

151  
152 (b) Surety bond underwritten by a company licensed to issue bonds in  
153 the State of Hawaii; or

154  
155 (c) A certificate of deposit; share certificate; cashier's check; treasurer's  
156 check, teller's check drawn by or a certified check accepted by and payable  
157 on demand to the State by a bank savings institution or credit union insured  
158 by the Federal Deposit Insurance Corporation (FDIC) or the National Credit  
159 Union Administration (NCUA).

160  
161 1. The bidder may use these instruments only to a maximum of  
162 \$100,000.

163  
164 2. If the required security or bond amount totals over \$100,000  
165 more than one instrument not exceeding \$100,000 each and issued  
166 by different financial institutions shall be acceptable.

167  
168 Such bonds shall also by the terms inure to the benefit of any and all  
169 persons entitled to file claims for labor done or material furnished in the work so as  
170 to give them a right of action as contemplated by HRS Section 103D-324.

171  
172 **103.06 Execution of the Contract.** The contract bond and HRS Chapter 104  
173 - Compliance Certificate, similar to a copy of the same annexed hereto, shall be  
174 executed by the successful bidder and returned within ten days after the award of  
175 the contract or within such further time as the Director may allow after the bidder  
176 has received the contract for execution.

The contract shall not bind the Department unless said parties execute the contract and the Director of Finance endorses the bidder's certificate in accordance with HRS Section 103-39.

**103.07 Failure to Execute Contract.** Failure to execute the contract and file acceptable bonds shall be cause for the cancellation of the award in accordance with Subsection 103.06 - Execution of the Contract. Also, the Contractor forfeits the proposal guaranty which becomes the property of the Department. This is not a penalty, but liquidated damages sustained by the State. The Department may then make award to the next lowest responsible bidder or the Department may readvertise and construct the work under contract.”

**END OF SECTION 103**