

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.

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

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

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

(a) Legal tender;

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

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

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

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

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

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

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

180
181 **103.07 Failure to Execute Contract.** Failure to execute the contract and file
182 acceptable bonds shall be cause for the cancellation of the award in accordance
183 with Subsection 103.06 - Execution of the Contract. Also, the Contractor forfeits
184 the proposal guaranty which becomes the property of the Department. This is not
185 a penalty, but liquidated damages sustained by the State. The Department may
186 then make award to the next lowest responsible bidder or the Department may
187 readvertise and construct the work under contract.”

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END OF SECTION 103