

1 **SECTION 103 - AWARD AND EXECUTION OF CONTRACT**

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3 Make the following amendments to said Section:

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5 **(I) Amend 103.01 Consideration of Proposal** to read as follows:

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7 **"103.01 Consideration of Proposals.** The Department will compare the
8 proposals in terms of the summation of the products of the approximate quantities
9 and the unit bid prices after the Contracts Officer opens and reads the proposals.
10 The Department will make the results immediately available to the public. If a
11 discrepancy occurs between the unit bid price and the bid price, the unit bid price
12 shall govern.

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

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18 **(II) Amend 103.03 Award of Contract** to read as follows.

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20 **"103.03 Award of Contract.** The award of contract, if it be awarded, will be
21 made within 60 calendar days after the opening of bids, to the lowest responsible
22 bidder whose proposal complies with all the requirements. The successful bidder
23 will be notified by letter mailed to the address shown on his/her proposal, that
24 his/her proposal has been accepted, and that he/she has been awarded the
25 contract.

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27 **(1) Requirement for Award.** To be eligible for award, the
28 apparent low Bidder will be contacted to submit copies of the
29 documents listed below to demonstrate compliance with Section
30 103D-310(c), HRS. The documents should be submitted to the
31 Department as soon as possible. If a valid certificate/clearance is not
32 submitted on a timely basis for award of a contract, a Bidder
33 otherwise responsive and responsible may not receive the award.

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

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44 DOTAX Website (Forms & Information):
45 <http://www.state.hi.us/tax/alphalist.html#a>

46
47 To receive DOTAX Forms by Fax or mail, phone
48 (808) 587-7572 or 1-800-222-7572.

The application for the clearance is the responsibility of the bidder, and must be submitted directly to the DOTAX or IRS and not to the Department.

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

The 'APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR', Form LIR#27 is available at the following website: www.dlir.state.hi.us

The form is also available at the DLIR Administrative Services Office, phone no. (808)586-8888 and fax no. (808)586-8899, or any of its District Offices. The DLIR will return the form to the bidder who in turn shall submit a copy to the Department.

The application for the certificate is the responsibility of the bidder, and must be submitted directly to the DLIR and not to the Department.

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

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

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

The DCCA certificate is valid for 6 months from the approval date on the certificate. The DCCA certificate must be valid on the bid's first legal advertisement date or any date thereafter up to the bid opening date. A Hawaii business that is a sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

Bidders are advised that there are costs associated with registering and obtaining a "Certificate of Good Standing" from the DCCA.

To obtain this certificate, go online to: www.BusinessRegistrations.com and follow the prompt instructions. To register or to obtain a certificate by phone, call (808)586-2727 (M-F 7:45 am to 4:30 pm Hawaii Standard Time).

The application for the DCCA certificate is the responsibility of the bidder, and must be submitted directly to the DCCA and not to the Department."

(III) Amend 103.06 Requirement of Contract Bond to read as follows:

"103.06 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 (see attached) conditioned for the full and faithful performance of the contract according to 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, each of which shall be of an amount equal to 100% of the amount of the contract price and including 5% 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 Section 103D-324, HRS."

(IV) Amend 103.07 Execution of the Contract by revising the first paragraph to read as follows:

"103.07 Execution of Contract. The contract bond and Chapter 104, HRS 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."

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(V) Delete **103.09 Submission of Insurance Certification** in its entirety.
See Subsection 107.29 – Insurance Requirements.

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END OF SECTION 103

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