

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

3 **“SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS**
4
5

6 **102.01 Prequalification of Bidders.** Prospective bidders shall be capable of
7 performing the work for which they are bidding.
8

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
15 proposed to be used, together with adequate proof of the availability of such
16 equipment. Whenever it appears to the Department, from answers to the
17 questionnaire or otherwise, that the prospective bidder is not fully qualified and
18 able to perform the intended work, the Department will, after affording the
19 prospective bidder an opportunity to be heard and if still of the opinion that the
20 bidder is not fully qualified to perform the work, refuse to receive or consider any
21 bid offered by the prospective bidder. All information contained in the answers to
22 the questionnaire shall be kept confidential. Questionnaire so submitted shall be
23 returned to the 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
30 faithfully and diligently previous contracts with the State.
31

32 **102.02 Contents of Proposal Forms.** The Department will furnish
33 prospective bidders with proposal forms posted in HlePRO stating:
34

- 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

47 Papers bound with or attached to the proposal form are part of the
48 proposal. The bidder shall not detach or alter the papers bound with or attached
49 to the proposal when the bidder submits its proposal through HlePRO.
50

51 Also, the bidder shall consider other documents including the plans and
52 specifications a part of the proposal form whether attached or not.
53

54 **102.03 (Unassigned).**
55

56 **102.04 Estimated Quantities.** The quantities shown in the contract are
57 approximate and are for the comparison of bids only. The actual quantity of work
58 may not correspond with the quantities shown in the contract. The Department
59 will make payment to the Contractor for unit price items in accordance with the
60 contract for only the following:
61

62 (1) Actual quantities of work done and accepted, not the estimated
63 quantities; or
64

65 (2) Actual quantities of materials furnished, not the estimated
66 quantities.
67

68 The Department may increase, decrease, or omit each scheduled
69 quantities of work to be done and materials to be furnished. When the
70 Department increases or decreases the estimated quantity of a contract item by
71 more than 15% the Department will make payment for such items in accordance
72 with Subsection 104.06 - Methods of Price Adjustment.
73

74 **102.05 Examination of Contract and Site of Work.** The bidder shall
75 examine carefully the site of the proposed work and contract before submitting a
76 proposal.
77

78 By the act of submitting a bid for the proposed contract, the bidder
79 warrants that:
80

81 (1) The bidder and its Subcontractors have reviewed the contract
82 documents and found them free from ambiguities and sufficient for the
83 purpose intended;
84

85 (2) The bidder and its workers, employees and subcontractors have
86 the skills and experience in the type of work required by the contract
87 documents bid upon;
88

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

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

95
96 Also, the bidder warrants that the bidder has examined the site of the
97 work. From its investigations, the bidder acknowledges satisfaction on:
98

- 99 (1) The nature and location of the work;
100
101 (2) The character, quality, and quantity of materials;
102
103 (3) The difficulties to be encountered; and
104
105 (4) The kind and amount of equipment and other facilities needed;
106

107 Subsurface information or hydrographic survey data furnished are for the
108 bidders' convenience only. The data and information furnished are the product of
109 the Department's interpretation gathered in investigations made at the specific
110 locations. These conditions may not be typical of conditions at other locations
111 within the project area or that such conditions remain unchanged. Also,
112 conditions found at the time of the subsurface explorations may not be the same
113 conditions when work starts. The bidder shall be solely responsible for
114 assumptions, deductions, or conclusions the bidder may derive from the
115 subsurface information or data furnished.
116

117 If the Engineer determines that the natural conditions differ from that
118 originally anticipated or contemplated by the Contractor in the items of
119 excavation, the State may treat the difference in natural conditions, as falling
120 within the meaning of Subsection 104.02 – Changes.
121

122 **102.06 Preparation of Proposal.** The submittal of its proposal shall be on
123 forms furnished by the Department. The bidder shall specify in words or figures:
124

- 125 (1) A unit price for each pay item with a quantity given;
126
127 (2) The products of the respective unit prices and quantities
128
129 (3) The lump sum amount; and
130
131 (4) The total amount of the proposal obtained by adding the amounts
132 of the several items.
133

134 The words and figures shall be in ink or typed. If a discrepancy occurs
135 between the prices written in words and those written in figures, the prices written
136 in words shall govern.
137

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

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

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

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

157
158 **102.07 Irregular Proposals.** The Department may consider proposals
159 irregular and may reject the proposals for the following reasons:

- 160
161 (1) The proposal is a form not furnished by the Department, altered, or
162 detached;
- 163
164 (2) The proposal contains unauthorized additions, conditions, or
165 alternates. Also, the proposal contains irregularities that may tend to
166 make the proposal incomplete, indefinite, or ambiguous to its meaning;
- 167
168 (3) The bidder adds provisions reserving the right to accept or reject an
169 award. Also, the bidder adds provisions into a contract before an award;
- 170
171 (4) The proposal does not contain a unit price for each pay item listed
172 except authorized optional pay items; and
- 173
174 (5) Prices for some items are out of proportion to the prices for other
175 items.
- 176
177 (6) If in the opinion of the Director, the bidder and its listed
178 subcontractors do not have the Contactor's licenses or combination of
179 Contractor's licenses necessary to complete the work.
- 180

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

186
187 **102.08 Proposal Guaranty.** The Department will not consider a proposal of
188 \$25,000 or more unless accompanied by:

189
190 (1) A deposit of legal tender; or

191
192 (2) A valid surety bid bond, underwritten by a company licensed to
193 issue bonds in the State of Hawaii, in the form and composed,
194 substantially, with the same language as provided herewith and signed by
195 both parties; or

196
197 (3) A certificate of deposit, share certificate, cashier's check,
198 treasurer's check, teller's check, or official check drawn by, or a certified
199 check accepted by and payable on demand to the State by a bank,
200 savings institution, or credit union insured by the Federal Deposit
201 Insurance Corporation (FDIC) or the National Credit Union Administration
202 (NCUA).

203
204 (a) The bidder may use these instruments only to a maximum of
205 \$100,000.

206
207 (b) If the required security or bond amount totals over \$100,000
208 more than one instrument not exceeding \$100,000 each and issued
209 by different financial institutions shall be acceptable.

210
211 (c) The instrument shall be made payable at sight to the
212 Department.

213
214 (d) Proposal Guaranty listed in (1) and (3) shall be in its original
215 form, and shall be received at the Contracts Office, Department of
216 Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813
217 before the bid deadline.

218
219 In accordance with HRS Chapter 103D-323, the above shall be in a sum
220 not less than 5% of the amount bid.

221
222 **102.09 Delivery of Proposal.** The bidder shall submit the proposal in
223 HlePRO. Bids received after said due date and time shall not be considered.
224 Original bid documents do not have to be submitted. Award will be made based
225 on proposals submitted in HlePRO.

227 **102.10 Withdrawal or Revision of Proposals.** A bidder may withdraw or
228 revise a proposal after the bidder submits the proposal in HlePRO. Withdrawal
229 or revision of proposal must be completed before the time set for the receiving of
230 bids.

231
232 **102.11 Public Opening of Proposals.** Not applicable.

233
234 **102.12 Disqualification of Bidders.** The Department may disqualify a bidder
235 and reject its proposal for the following reasons:

236
237 (1) Submittal of more than one proposal whether under the same or
238 different name.

239
240 (2) Evidence of collusion among bidders. The Department will not
241 recognize participants in collusion as bidders for any future work of the
242 Department until such participants are reinstated as qualified bidders.

243
244 (3) Lack of proposal guaranty.

245
246 (4) Submittal of an unsigned or improperly signed proposal.

247
248 (5) Submittal of a proposal without a listing of subcontractors or
249 containing only a partial or incomplete listing of subcontractors.

250
251 (6) Submittal of an irregular proposal in accordance with Subsection
252 102.07 - Irregular Proposals.

253
254 (7) Evidence of assistance from a person who has been an employee
255 of the agency within the preceding two (2) years and who participated
256 while in State office or employment in the matter with which the contract is
257 directly concerned, pursuant to HRS Chapter 84-15.

258
259 (8) Suspended or debarred in accordance with HRS Chapter 104-25.

260
261 (9) Failure to complete the prequalification questionnaire, if applicable.

262
263 (10) Failure to attend the mandatory pre-bid meeting, if applicable.

264
265 **102.13 Material Guaranty.** The successful bidder may be required to furnish
266 a statement of the composition, origin, manufacture of materials, and samples.

267
268 **102.14 Substitution of Materials and Equipment Before Bid Opening.** See
269 Subsection 106.13 for Substitution Of Materials and Equipment After Bid
270 Opening.

271

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

284 An addendum will be issued to inform all prospective bidders of any
285 accepted substitution in accordance with Subsection 102.17 – Addenda.
286

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

299 **(C) Substitution Denial.** Any substitution request not complying with
300 the above requirements will be denied.
301

302 **102.15 Preferences.** Preferences shall not apply to this project.
303

304 **102.16 Certification for Safety and Health Program for Bids in excess of**
305 **\$100,000.** In accordance with HRS Chapter 396-18, the bidder or offeror, by
306 signing and submitting this proposal, certifies that a written safety and health plan
307 for this project will be available and implemented by the notice to proceed date
308 for this project. Details of the requirements of this plan may be obtained from the
309 State Department of Labor and Industrial Relations, Occupational Safety and
310 Health Division (HIOSH).
311

312 **102.17 Addenda.** Addenda issued shall become part of the contract
313 documents. Addenda to the bid documents will be provided to all prospective
314 bidders via HlePRO. Each addendum shall be an addition to the contract
315 documents. The terms and requirements of the bid documents (i.e., drawings,
316 specifications and other bid and contract documents) cannot be changed prior to
317 the bid opening except by a duly issued addendum.”

318
319
320

END OF SECTION 102