

1 **SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS**

2
3 Make the following amendments to said Section:

4
5 **(I) Amend 102.01 Prequalification of Bidders** to read as follows:

6
7 **"102.01 Prequalification of Bidders.** Prospective bidders shall be capable
8 of performing the work for which they are bidding.
9

10 According to said Section 103D-310, the Department may require any
11 prospective bidder to submit answers to questions contained in the 'Standard
12 Qualification Questionnaire For Prospective Bidders On Public Works Contracts'
13 on the form furnished by the Department, properly executed and notarized,
14 setting forth a complete statement of the experience of such prospective bidder
15 and its organization in performing similar work and a statement of the equipment
16 proposed to be used, together with adequate proof of the availability of such
17 equipment. Whenever it appears to the Department, from answers to the
18 questionnaire or otherwise, that the prospective bidder is not fully qualified and
19 able to perform the intended work, the Department will, after affording the
20 prospective bidder an opportunity to be heard and if still of the opinion that the
21 bidder is not fully qualified to perform the work, refuse to receive or consider any
22 bid offered by the prospective bidder. All information contained in the answers
23 to the questionnaire shall be kept confidential. Questionnaire so submitted shall
24 be returned to the bidders after serving their purpose.
25

26 Failure to complete the prequalification questionnaire will be sufficient
27 cause for the Department to disqualify a prospective bidder.
28

29 No person, firm or corporation may bid where (1) the person, firm, or
30 corporation, or (2) a corporation owned substantially by the person, firm, or
31 corporation, or (3) a substantial stockholder or an officer of the corporation, or (4)
32 a partner or substantial investor in the firm is in arrears in payments owed to the
33 State of Hawaii or its political subdivisions or is in default as a surety or failure to
34 do faithfully and diligently previous contracts with the State."
35

36 **(II) Amend 102.04 Estimated Quantities** by revising the last sentence of
37 the last paragraph to read as follows:

38
39 "The Department may increase, decrease, or omit each scheduled
40 quantities of work to be done and materials to be furnished. When the
41 Department increases or decreases the estimated quantity of a contract item by
42 more than 15% the Department will make payment for such items according to
43 Subsection 104.11 – Variations in Estimated Quantities.
44
45
46

47 (III) Amend 102.07 Irregular Proposals by adding the following after item
48 (5):
49

50 "(6) If in the opinion of the Director, the bidder and its listed
51 subcontractors do not have the Contractor's licenses or combination of
52 Contractor's licenses necessary to complete the work."
53

54 (IV) Amend 102.08 Proposal Guaranty to read as follows:
55

56 "102.08 Proposal Guaranty. The Department will not consider a proposal of
57 \$25,000 or more unless accompanied by:
58

59 (1) A deposit of legal tender; or
60

61 (2) A valid surety bid bond, underwritten by a company licensed to
62 issue bonds in the State of Hawaii, in the form and composed,
63 substantially, with the same language as provided herewith and signed by
64 both parties; or
65

66 (3) A certificate of deposit, share certificate, cashier's check,
67 treasurer's check, teller's check, or official check drawn by, or a certified
68 check accepted by and payable on demand to the State by a bank,
69 savings institution, or credit union insured by the Federal Deposit
70 Insurance Corporation (FDIC) or the National Credit Union Administration
71 (NCUA).
72

73 (a) The bidder may use these instruments only to a maximum of
74 \$100,000
75

76 (b) If the required security or bond amount totals over \$100,000
77 more than one instrument not exceeding \$100,000 each and
78 issued by different financial institutions shall be acceptable.
79

80 (c) The instrument shall be made payable at sight to the
81 Department of Transportation, State of Hawaii.
82

83 According to Section 103D-323, HRS, the above shall be in a sum not
84 less than 5% of the amount bid."
85

86 (V) Amend 102.12 Disqualification of Bidders to read as follows:
87

88 "102.12 Disqualification of Bidders. The Department may disqualify a
89 bidder and reject its proposal for the following reasons:
90
91
92

(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 according to Subsection 102.07 - 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 Section 84-15, HRS.

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

(9) Failure to complete the prequalification questionnaire.

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

(VI) Delete **Section 102.14 - American Products Preference** in its entirety.

(VII) Amend **102.15 Declaration of Non-Collusion** to read as follows:

"102.15 (Unassigned)."

(VIII) Amend **102.16 Substitution Of Materials and Equipment** to read as follows:

"102.16 Substitution Of Materials and Equipment Before Bid Opening.
(See Subsection 106.16 for Substitution Of Materials and Equipment After Bid Opening).

(A) **General.** When brand names of materials or equipment are specified in the contract documents, they are to indicate a quality, style, appearance, or performance and not to limit competition. The bidder shall base its bid on one of the specified brand names unless alternate brands are qualified as equal or better in an addendum. Qualification of such proposed alternate brands shall be submitted in writing and addressed to

the Contracts Officer. The face of the envelope containing the request must be clearly marked 'SUBSTITUTION REQUEST'. The request may be hand-carried or mailed to the DOT Contracts Office, Room 105, 869 Punchbowl Street, Honolulu, Hawaii 96813. In either case, the written request must be received by the DOT Contracts Office no later than 14 calendar days before the bid opening date, not including the bid opening date. The written request will be time stamped by the DOT Contracts Office. For the purpose of this section, the time designated by the time stamping device in the DOT Contracts Office shall be official. If the written request is hand-carried, the bearer is responsible to ensure that the request is time stamped by the DOT Contracts Office.

Submit 5 sets of the written request, technical brochures, and a statement of variances.

An addendum will be issued to inform all prospective bidders of any accepted substitution in accordance with Subsection 102.21 – Addenda.

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

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

(IX) Add the following:

"102.18 Preferences.

(A) Preference for Hawaii Products. The bidder's attention is directed to Sections 103D-1001 and 103D-1002, HRS and Subchapter 1, Chapter 124, Subtitle 11 of Title 3, HAR which provide preferences for Hawaii Products. According to Section 103D-1002, HRS, the bidder may examine the Hawaii Products List at the State Procurement Office, State Office Building, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

186 If a product listed in the Hawaii Products List is available and meets
187 project specifications, such product will be designated in the contract
188 documents as a qualified product which may be used in the performance
189 of the project.

190
191 If the bidder intends to claim preference for products on the Hawaii
192 Product List and such is not listed, the bidder shall immediately notify the
193 Contracts Office, Department of Transportation, so the Engineer may
194 take corrective or other appropriate actions.

195
196 It is further understood by the bidder that if the bidder elects to
197 furnish qualified Hawaii Products, and is awarded the contract, then fails
198 to use such products or meet the requirements of such preference, the
199 bidder shall be subject to the statutory penalties, provided in Section
200 103D-1002, HRS, and such other remedies as may be available to the
201 State.

202
203 For the purpose of determining the lowest bid price only, the
204 provisions of Section 103D-1002, HRS., shall apply. Any contract
205 awarded or executed in violation of Section 103D-1002, HRS, shall be
206 void and no payment shall be made on account of such contract.

207
208 **(B) Preference for Recycled Products.** Recycled Products shall not
209 apply to this project.

210
211 **(C) Evaluation Procedures and Contract Award.** For bid evaluation,
212 the Engineer will evaluate the bids by applying the applicable preferences
213 selected by the bidders according to the contract. The Engineer will base
214 the calculations for adjustments upon the original bid prices offered. If
215 more than one preference applies, the evaluated bid price shall be the
216 sum of the original bid price plus applicable preference adjustments.

217
218 If a bidder has designated use of a Hawaii Product and fails to
219 provide the product, the contract will become void and no payments will
220 be made.

221
222 The Engineer will award the contract to the responsible bidder
223 submitting the responsive bid with the lowest evaluated bid price. The
224 contract amount of the contract awarded shall be the original bid price
225 offered exclusive of any preference.

226
227 **102.19 Certification for Safety and Health Program for Bids in excess of**
228 **\$100,000.** According to Section 396-18 of the Hawaii Revised Statutes, the
229 bidder or offeror, by signing and submitting this proposal, certifies that a written
230 safety and health plan for this project will be available and implemented by the
231 notice to proceed date for this project. Details of the requirements of this plan
232 may be obtained from the State Department of Labor and Industrial Relations,
233 Occupational Safety and Health Division (HIOSH).

235 **102.20. (Unassigned). (Tax clearance moved to 103.03 – Award of Contract)**
236

237 **102.21 Addendum.** Addenda issued shall become part of the contract
238 documents. Addenda to the bid documents will be provided to all prospective
239 bidders at the respective offices furnished for such purposes. Each addendum
240 shall be an addition to the contract documents. The terms and requirements of
241 the bid documents (i.e. drawings, specifications and other bid and contract
242 documents) cannot be changed prior to the bid opening except by a duly issued
243 addendum.”
244

245
246
247 **END OF SECTION 102**
248
249
250