

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 and responsive bidder whose bid meets all the requirements and criteria set forth
19 in the invitation for bids. (Through HlePRO). The successful bidder will be notified
20 by letter mailed to the address shown in its proposal, that its proposal has been
21 accepted, and that it has been awarded the contract.
22

23
24 **(1) Requirement for Award.** To be eligible for award, the
25 apparent low bidder will be contacted to submit copies of the
26 documents listed below to demonstrate compliance with HRS
27 Section 103D-310(c). The documents shall be submitted to the
28 Department within 14 days after bid opening unless otherwise
29 specified in the invitation for bids or an extension is granted in writing
30 by the Department. If a valid certificate/clearance is not submitted
31 on a timely basis for award of a contract, a bidder otherwise
32 responsive and responsible may not receive the award. See also
33 Subsection 108.03 – Preconstruction Data Submittal.
34

35 The Department may request the bidders to allow the Department
36 to consider the bids for the issuance of an award beyond the 60 calendar
37 day period. Agreement to such an extension must be made by a bidder
38 in writing. Only bidders who have agreed to such an extension will be
39 eligible for the award.
40

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

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

52
53 <https://tax.hawaii.gov/>
54

55 To receive DOTAX Forms by fax or mail, phone
56 (808) 587-7572 or 1-800-222-7572.
57

58 The application for the Tax Clearance Certificate is the responsibility
59 of the bidder and must be submitted directly to the DOTAX or IRS. The
60 approved certificate may then be submitted to the Department.
61

62 **(B) DLIR Certificate of Compliance.** Pursuant to HRS Section 103D-
63 310(c), the successful bidder shall be required to submit a copy (faxed
64 copies are acceptable) of its approved certificate of compliance issued by
65 the Hawaii State Department of Labor and Industrial Relations (DLIR) to
66 demonstrate its compliance with unemployment insurance (HRS Chapter
67 383), workers' compensation (HRS Chapter 386), temporary disability
68 insurance (HRS Chapter 392), and prepaid health care (HRS Chapter 393).
69 The certificate is valid for six (6) months from the most recent approval
70 stamp date on the certificate and must be valid on the bid's first legal
71 advertisement date or any date thereafter up to the bid opening date. For
72 certificates which receive a "pending" approval stamp, a DLIR approval
73 stamp is required prior to the issuance of the Notice to Proceed.
74

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

78
79 <http://labor.hawaii.gov/>
80

81 More information is available by calling the DLIR Unemployment Insurance
82 Division at (808) 586-8926.
83

84 Inquiries regarding the status of a LIR#27 Form may be made by
85 calling the DLIR Disability Compensation Division at (808) 586-9200.
86

87 The application for the Certificate of Compliance is the responsibility
88 of the bidder and must be submitted directly to the DLIR. The approved
89 certificate may then be submitted to the Department.
90

91 **(C) DCCA Certificate of Good Standing.** Pursuant to HRS Section
92 103D-310(c), the successful bidder shall be required to submit a copy
93 (faxed copies are acceptable) of its approved Certificate of Good Standing
94 issued by the Hawaii State Department of Commerce and Consumer Affairs
95 (DCCA), Business Registration Division (BREG) to demonstrate that it is
96 either:
97

98 **(1)** Incorporated or organized under the laws of the State; or
99

100 **(2)** Registered to do business in the State as a separate branch
101 or division that is capable of fully performing under the contract.
102

103 The Certificate of Good Standing is valid for six (6) months from the
104 approval date on the certificate and must be valid on the bid's first legal
105 advertisement date or any date thereafter up to the bid opening date. A
106 Hawaii business that is a sole proprietorship, however, is not required to
107 register with the BREG, and therefore not required to submit a Certificate of
108 Good Standing. Bidders are advised that there are costs associated with
109 registering and obtaining a Certificate of Good Standing from the DCCA.
110

111 To purchase a CERTIFICATE OF GOOD STANDING, go to On-Line
112 Services at the following website:
113

114 <http://cca.hawaii.gov/>
115

116 The application for the Certificate of Good Standing is the
117 responsibility of the bidder and must be submitted directly to the DCCA.
118 The approved certificate may then be submitted to the Department.
119

120 **(D) Hawaii Compliance Express (HCE).** In lieu of the certificates
121 referenced above, the bidder may make available proof of compliance
122 through the Hawaii Compliance Express or any other designated
123 certification process. Bidders may apply and register at the "Hawaii
124 Compliance Express" website:
125

126 <https://vendors.ehawaii.gov/hce/>
127

128 **103.03 Cancellation of Award.** The Department reserves the right to cancel
129 the award of contracts before the execution of said contract by the parties. There
130 will be no liability to the awardee and to other bidders.
131

132 **103.04 (Unassigned)**

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.

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

179 the proposal guaranty which becomes the property of the Department. This is not
180 a penalty, but liquidated damages sustained by the State. The Department may
181 then make award to the next lowest responsible and responsive bidder or the
182 Department may readvertise and construct the work under contract.”

183
184
185
186
187 **END OF SECTION 103**