

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 **(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 shall be submitted to the Department within 14 days after bid  
27 opening unless otherwise specified in the invitation for bids or an  
28 extension is granted in writing by the Department. If a valid  
29 certificate/clearance is not submitted on a timely basis for award of a  
30 contract, a bidder otherwise responsive and responsible may not receive  
31 the award. See also Subsection 108.03 – Preconstruction Data  
32 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.  
85

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

131 **103.04 (Unassigned)**

132  
133 **103.05 Requirement of Contract Bond.** At the time of execution of the  
134 contract, the successful bidder shall file a good and sufficient performance bond  
135 and a payment bond on the forms furnished by the Department conditioned for  
136 the full and faithful performance of the contract in accordance with the terms and  
137 intent thereof and for the prompt payment to all others for all labor and material  
138 furnished by them to the bidder and used in the prosecution of the work provided  
139 for in the contract. The bonds shall be of an amount equal to 100 percent of the  
140 amount of the contract price and include 5 percent of the contract amount  
141 estimated to be required for extra work. The bidder shall limit the acceptable  
142 performance and payment bonds to the following:

143  
144 (a) Legal tender;

145  
146 (b) Surety bond underwritten by a company licensed to issue bonds in  
147 the State of Hawaii; or

148  
149 (c) A certificate of deposit; share certificate; cashier's check; treasurer's  
150 check, teller's check drawn by or a certified check accepted by and payable  
151 on demand to the State by a bank savings institution or credit union insured  
152 by the Federal Deposit Insurance Corporation (FDIC) or the National Credit  
153 Union Administration (NCUA).

154  
155 1. The bidder may use these instruments only to a maximum of  
156 \$100,000.

157  
158 2. If the required security or bond amount totals over \$100,000  
159 more than one instrument not exceeding \$100,000 each and issued  
160 by different financial institutions shall be acceptable.

161  
162 Such bonds shall also by the terms inure to the benefit of any and all  
163 persons entitled to file claims for labor done or material furnished in the work so as  
164 to give them a right of action as contemplated by HRS Section 103D-324.

165  
166 **103.06 Execution of the Contract.** The contract bond and HRS Chapter 104  
167 - Compliance Certificate, similar to a copy of the same annexed hereto, shall be  
168 executed by the successful bidder and returned within ten days after the award of  
169 the contract or within such further time as the Director may allow after the bidder  
170 has received the contract for execution.

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

174  
175 **103.07 Failure to Execute Contract.** Failure to execute the contract and file  
176 acceptable bonds shall be cause for the cancellation of the award in accordance  
177 with Subsection 103.06 - Execution of the Contract. Also, the Contractor forfeits

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

182  
183  
184  
185  
186 **END OF SECTION 103**