

1 Make this section a part of the Standard Specifications:  
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3 **"SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS**  
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6 **102.01 Prequalification of Bidders.** Prospective bidders shall be capable of  
7 performing the work for which they are bidding.  
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9 In accordance with HRS Chapter 103D-310, the Department may require any  
10 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 proposed  
15 to be used, together with adequate proof of the availability of such equipment.  
16 Whenever it appears to the Department, from answers to the questionnaire or  
17 otherwise, that the prospective bidder is not fully qualified and able to perform the  
18 intended work, the Department will, after affording the prospective bidder an  
19 opportunity to be heard and if still of the opinion that the bidder is not fully qualified  
20 to perform the work, refuse to receive or consider any bid offered by the prospective  
21 bidder. All information contained in the answers to the questionnaire shall be kept  
22 confidential. Questionnaire so submitted shall be returned to the bidders after  
23 serving their purpose.  
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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) a  
28 partner or substantial investor in the firm is in arrears in payments owed to the State  
29 or its political subdivisions or is in default as a surety or failure to do faithfully and  
30 diligently previous contracts with the State.  
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32 **102.02 Contents of Proposal Forms.** The Department will furnish prospective  
33 bidders with proposal forms posted in HlePRO stating:  
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- 35 (1) The location,  
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37 (2) Description of the proposed work,  
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39 (3) The approximate quantities,  
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41 (4) Items of work to be done or materials to be furnished,  
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43 (5) A schedule of items, and  
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45 (6) The time in which the work shall be completed.  
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Papers bound with or attached to the proposal form are part of the proposal. The bidder shall not detach or alter the papers bound with or attached to the proposal when the bidder submits its proposal through HlePRO.

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

**102.03 Issuance of Proposal Forms.** The Department reserves the right to refuse to issue proposal forms to prospective bidders, which refusal may be based on the following:

- (1) Lack of competency or adequate machinery, plant, and other equipment (which determination may be based on the financial statement and experience questionnaires required under Subsection 102.01 - Prequalification of Bidders);
- (2) Uncompleted work that might hinder or prevent the prompt completion of additional work if awarded;
- (3) Failure to pay or settle bills due for labor and material on former contracts in force at the time of issuance of the solicitation;
- (4) Failure to comply with qualification regulations of the Department;
- (5) Default under previous contracts; or
- (6) Lack of responsibility and cooperation from past work.

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

- (1) Actual quantities of work done and accepted, not the estimated quantities; or
- (2) Actual quantities of materials furnished, not the estimated quantities.

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

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

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

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

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

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

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

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

(1) The nature and location of the work;

(2) The character, quality, and quantity of materials;

(3) The difficulties to be encountered; and

(4) The kind and amount of equipment and other facilities needed;

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

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

Whereas variances for Community Noise Control have been granted for work at the intersections of Farrington Highway with Nanaikeola Street (Docket No. 19-NR-VN-09) and Kalanianaʻole Highway with Kalaniiki Street/Waieli Street (Docket No. 19-NR-VN-08); the bidder also warrants that:

(1) The bidder shall conduct work to construct improvements at the intersection of Farrington Highway with Nanaikeola Street during the following days/times:

Monday to Friday:	8:00 p.m. to Midnight
Tuesday to Saturday:	Midnight to 5:00 a.m.

(2) The bidder shall conduct work to construct improvements at the intersection of Kalanianaʻole Highway with Kalaniiki Street/Waieli Street during the following days/times:

Sunday:	9:00 a.m. to 6:00 p.m.
Monday to Friday:	8:00 p.m. to Midnight
Tuesday to Saturday:	Midnight to 5:00 a.m.

(3) The bidder shall not use of auger drill-rig, jackhammers, drills, and concrete-saws after midnight.

(4) The bidder shall notify the Indoor and Radiological Health Branch as to the date and time of variance hour activity as soon as the dates are confirmed, and when the project is completed.

(5) The bidder shall make every effort to minimize noise from heavy vehicles travelling to and from the project site(s)

(6) The bidder shall use of reverse signal alarms shall be prohibited from 8:00 p.m. to 7:00 a.m. Alternative methods such as utilizing a ground guide shall be employed.

(7) The bidder shall minimize noise from heavy vehicles travelling to and from the project site(s) near residences.

(8) The bidder shall have a job-site person to whom immediate complaints can be forwarded for prompt response, and who shall have the general responsibility of monitoring quiet work procedures.

(9) The bidder shall give sufficient notification to residences and businesses that may be impacted by the activity. The notification for the planned nighttime activity shall contain the name and telephone number of the bidder's job-site person. In addition, a copy of any notifications, as well

as progress reports shall be sent to the Indoor and Radiological Health Branch.

**(10)** The bidder warrants that all equipment operating within 1,000 feet of a residence during the noise variance period will comply with the following noise level parameters. Unless authorized by the Contracting Officer, noise levels produced by the Contractor's operations:

**(a)** Will not exceed 85dBA for more than 10 percent of the time at a 100-foot distance from 6:00 pm to midnight each day; and

**(b)** Will not exceed 75 dBA at a 100-foot distance for more than 10 percent of the time between midnight and 6:00 am each night.

**(11)** The bidder shall comply with the following requirements during the noise variance period:

**(a)** Construction equipment with exposed engine compartments will not be used on the job site.

**(b)** Applicable State Department of Health daytime and nighttime noise limits will not be exceeded at the property plane of any residence, unless authorized by the Engineer, or unless it can be demonstrated by sound level measurements that the normal background ambient noise levels are equal to or greater than the construction noise levels.

Also, the bidder warrants that the bidder will not conduct night work between September 15 through December 15 to avoid impacts to seabirds.

Also, the bidder warrants that the bidder will not disturb, remove or trim woody plants greater than 15 feet tall from June 1 through September 15 to avoid impacts to the Hawaiian hoary bat.

Also, the bidder warrants that the bidder will coordinate his work with the archaeologist who will be monitoring the construction work.

**102.06 Preparation of Proposal.** The submittal of its proposal shall be on forms furnished by the Department. The bidder shall specify in words or figures: (1) A unit price for each pay item with a quantity given;

(2) The products of the respective unit prices and quantities

(3) The lump sum amount; and

(4) The total amount of the proposal obtained by adding the amounts of the several items.

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

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

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

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

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

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

(1) The proposal is a form not furnished by the Department, altered, or detached;

(2) The proposal contains unauthorized additions, conditions, or alternates. Also, the proposal contains irregularities that may tend to make the proposal incomplete, indefinite, or ambiguous to its meaning;

(3) The bidder adds provisions reserving the right to accept or reject an award. Also, the bidder adds provisions into a contract before an award;

(4) The proposal does not contain a unit price for each pay item listed except authorized optional pay items; and

(5) Prices for some items are out of proportion to the prices for other items.

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

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

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

(1) A deposit of legal tender; or

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

(3) A certificate of deposit, share certificate, cashier's check, treasurer's check, teller's check, or official 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).

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

(b) 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.

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

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

**102.09 Delivery of Proposal.** The bidder shall submit the proposal in HlePRO. Bids received after said due date and time shall not be considered.

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

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

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

(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 in accordance with 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 HRS Chapter 84-15.

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

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

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

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

**102.14 Substitution of Materials and Equipment Before Bid Opening.** See Subsection 106.13 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 HlePRO. The request must be posted in HlePRO no later than 14 calendar days before the bid opening date, not including the bid opening date

An addendum will be issued to inform all prospective bidders of any accepted substitution in accordance with Subsection 102.17 – 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 increase in contract price and contract time.

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

**102.15 Preferences.** Hawaii Products and Recycled Products shall not apply to this project.

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

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

## **END OF SECTION 102**