

REVISED-2

INSTRUCTIONS TO BIDDERS

1.0 GENERAL

- 1.1 Definitions.
 - 1.1.1 AG: State of Hawaii Attorney General.
 - 1.1.2 Bid Form: Form of Bid, which is used to submit pricing information.
 - 1.1.3 Bidder or Offeror: Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
 - 1.1.4 Bid Documents: IFB Instructions, Specifications, any special provisions and applicable attachments and exhibits.
 - 1.1.5 Contract: Form AG-003 Contract for Goods and Services based on Competitive Sealed Bids.
 - 1.1.6 Contract Documents: The Contract, amendments (which pertain to the Contract Documents), Contractor's bid documents (including appropriate accompanying bid documentation and post bid documentation) when attached as an exhibit to the contract, the Notice to Proceed, the Bonds, the bid documents, change orders, field orders, any written order for changes and interpretations and clarifications issued on or after the effective date of the contract.
 - 1.1.7 Contractor: The Offeror that enters into a Contract with HHFDC as a result of this IFB.
 - 1.1.8 GET: General Excise Tax.
 - 1.1.9 HCE: Hawaii Compliance Express.
 - 1.1.10 HHFDC: Hawaii Housing Finance & Development Corporation, 677 Queen Street, Suite 300, Honolulu, Hawaii 96813.
 - 1.1.11 HAR: Hawaii Administrative Rules.
 - 1.1.12 HRS: Hawaii Revised Statutes.
 - 1.1.13 IFB: Invitation for Bids No. 23-001-K85-S.
 - 1.1.14 State: State of Hawaii, HHFDC.
 - 1.1.15 HOPA: Head of the Purchasing Agency (typically, the HHFDC Executive Director).

1.1.16 Procurement Officer: The HHFDC Executive Director or designee.

1.2 General Requirements

Bidder shall review all Bid Documents, including but not limited to any General Requirements or Technical Specifications, General Conditions, or Special Conditions included in the bid packet to ensure Bidder is familiar with all requirements of the project.

1.3 Solicitation Schedule; Availability of Bid Documents; Solicitation Contact

1.3.1 Solicitation Schedule

The schedule provided below is tentative and subject to change at the discretion of HHFDC.

IFB Advertised	June 6, 2023
Pre-Bid Meeting	June 28, 2023 at 10:00 am
Deadline for Questions or Clarification Requests	June 30, 2023 at 2:00 pm
HHFDC Response Date for Questions or Clarifications	July 7, 2023
Bids Due	July 19, 2023 2:00 pm
Notice of Intent to Award	TBD
Estimated Contract Start Date	August 10, 2023

1.3.2 Availability of Bid Documents

1.3.2.1 This solicitation is being conducted on the State of Hawaii eProcurement system (HlePRO).

1.3.2.1.1 Bidders must access the Bid Documents on the HlePRO website, located at <https://hiepro.ehawaii.gov/>, and all responses to the IFB must be submitted on HlePRO.

1.3.2.1.2 To view the details of the solicitation and enter a response, bidders must be registered in HlePRO.

1.3.2.1.3 Once bidder is registered, bidder must login to respond to solicitation.

1.3.2.1.4 Only responses made through HlePRO will be accepted for this solicitation.

1.3.2.2 Awards made for this solicitation, if any, shall be done through the HlePRO system and shall therefore be subject to a mandatory .75% (.0075) transaction fee, not to exceed \$5,000 for the total contract term. This transaction fee shall be based on the total sales made against this contract, payable to Hawaii Information Consortium, LLC (HIC), the vendor administering HlePRO.

1.3.2.2.1 HIC shall invoice the vendor directly for payment of transaction fees. Payment must be made to HIC within thirty (30) days from receipt of invoice. HIC is an intended third-party beneficiary of transaction fees, which are used to fund the operation, maintenance and future enhancements of the HlePRO system.

1.3.3 Solicitation Contact

The Contact person(s) for this solicitation is:

Lauren Young, Project Manager
Email: Lauren.M.Young@hawaii.gov
Phone: 808-587-3173

1.4 Pre-bid Meeting and Site Visit(s).

When specified in the NOTICE TO BIDDERS, all prospective bidders and other interested parties are invited to attend a pre-bid meeting and any accompanying site visit(s).

1.4.1 Attendance at pre-bid meetings and site visits is strongly encouraged.

1.4.1.1 Failure to attend the pre-bid meeting(s) and site visit(s) for a project DOES NOT absolve the bidder from its responsibilities. Verbal responses and discussions may occur during the course of the pre-bid meeting or site visit and shall not be considered to alter any information in the solicitation documents.

1.5 Bidder Qualifications.

1.5.1 Bidders must possess a current and valid State of Hawai'i C-27 Specialty Contractor License to be eligible to bid. **Failure to meet this requirement will result in rejection of the bid.**

1.5.2 Bidders (Contractors) shall be incorporated or organized under the laws of the State or be registered to do business in the State as a separate branch or division that is capable of fully performing under the contract. The following definitions apply to this solicitation:

1.5.2.1 Hawaii Business §3-122-112 HAR: A bidder who is registered and incorporated or organized under the laws of the State is a "Hawaii Business" and eligible for an award.

1.5.2.2 Compliant non-Hawaii Business §3-122-112 HAR: A bidder not incorporated or organized under the laws of the State, but is registered to do business in the State and complies with or is exempt from the requirements of §3-122-112 HAR, is a "Compliant Non-Hawaii Business" and eligible for an award.

1.5.2.3 Non-compliant Bidder: If a bidder is a non-Hawaii business and is not registered with the DCCA Business Registration Division (BREG) or cannot comply with §3-122-112 HAR, then the bidder is non-compliant and is ineligible for an award.

1.5.3 Disqualification.

Any persons, firm or corporation where (1) the person, firm, or corporation, or (2) a corporation owned substantially by the person, firm, or corporation, or (3) a substantial stockholder or an officer of the corporation, or (4) a partner or substantial investor in the firm is in arrears in any payment owed to the State of Hawaii or any of its political subdivisions or is in default of any obligation to the State of Hawaii or to all or to any of its political subdivisions, including default as a surety or failure to perform faithfully and diligently on any previous contract with the HHFDC, may be disqualified.

1.5.4 Permanent Office Location.

Bidder shall have a permanent office location from where he/she conducts business and where he/she will be accessible to telephone calls regarding this contract. An answering service is acceptable provided a response is made within four (4) hours of the initial call from the Contract Administrator.

1.5.5 Bidder shall have adequate equipment and capacity to perform and complete the work specified herein within the period specified.

1.5.6 Responsibility of Bidder.

1.5.6.1 Pursuant to Section 103D-310(b), the Procurement Officer may require the prospective Bidder to submit answers to questions contained in a standard form of questionnaire, such as the Statement of Bidder's Contractor Experience, or other form(s) provided by the Department, properly executed and notarized, setting forth a complete statement of experience of such prospective Bidder and its organization in performing similar work and a statement of equipment proposed to be used, together with adequate proof of the availability of such equipment, at the time advertised for the opening of bids. If the information in the Statement of Bidder's Contractor Experience proves unsatisfactory, the Procurement Officer may require the prospective Bidder to submit answers to questions contained in the Standard Qualification Questionnaire for Prospective Bidders on Public Works Contracts, with detailed financials and other information, after the opening of bids. The questionnaire will be returned to the Bidder after it has served its purpose.

Whenever it appears from answers to the questionnaire(s) or otherwise, that the prospective offeror is not fully qualified and able to perform the intended work, a written determination of non-responsibility of an offeror shall be made by the Procurement Officer. The unreasonable failure of an offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such offeror.

1.5.6.2 Pursuant to Section 103D-310(c), HRS, all offerors, upon award of contract, shall comply with all laws governing entities doing business in the State, including, but not limited to:

Chapter 237, tax clearance;
Chapter 383, unemployment insurance;
Chapter 386, workers' compensation;
Chapter 392, temporary disability insurance; and
Chapter 393, prepaid health care.

Bidders shall produce documents to the procuring officer to demonstrate compliance with this subsection. Any Offeror making a false affirmation or certification under this subsection shall be suspended from further offerings or awards pursuant to section 103D-702. The Procurement Officer shall verify compliance with this subsection for all contracts awarded pursuant to section 103D-302.

Hawaii Compliance Express. Hawaii Compliance Express (HCE) is an electronic system that allows business entities to quickly and easily demonstrate compliance with applicable laws. It is an online system that replaces the necessity of obtaining paper compliance certificates from the State Department of Taxation, Federal Internal Revenue Service, Department of Labor and Industrial Relations, and Department of Commerce and Consumer Affairs.

Offerors are strongly encouraged to register with HCE at <https://vendors.ehawaii.gov> prior to submitting an offer. The annual registration fee is around \$12.00 and the 'Certificate of Vendor Compliance' issued by HCE is accepted as proof of compliance for award, execution of the contract, and final payment.

Timely Registration on HCE. Offerors are advised to register on HCE soon as possible to ensure proof of compliance is available at the time of award.

- 1.5.6.3 The Procurement Officer shall make a determination of responsibility or non-responsibility of bidder or prospective bidder based on available information.
- 1.5.6.4 If the Procurement Officer requires additional information, the bidder or prospective bidder may be required to provide follow-up information requested by HHFDC.
 - 1.5.6.4.1 The requested information shall be furnished upon request within two (2) working days or as otherwise determined by the Procurement Officer.
 - 1.5.6.4.2 Failure to furnish the requested information within the time allowed may be grounds for determination of non-responsibility.
- 1.6 Addenda and Clarifications.
 - 1.6.1 HHFDC may periodically issue addenda and bid clarifications which provide additional information or alter the plans and specifications.
 - 1.6.2 HHFDC will make addenda and bid clarifications available to Bidders via the means indicated in the NOTICE TO BIDDERS for pickup of the solicitation documents. Bidders are responsible for the information contained in the addenda and bid clarifications whether or not the bidder receives the addenda or clarifications.

- 1.6.3 Bidders discovering an ambiguity, inconsistency, or error when examining the solicitation documents or the site and bidders with questions or clarification requests shall transmit said discoveries, questions, and/or requests via the questions and answers feature in HlePRO by the date specified in the NOTICE TO BIDDERS, as amended by any addenda.
- 1.6.4 Requests that are not transmitted on HlePRO or otherwise communicated in writing directly to the Solicitation Contact will not be considered to be transmitted to HHFDC and may not be addressed.
- 1.6.5 Questions received after the time specified in the NOTICE TO BIDDERS, as amended by any addenda, will not be answered. Only responses to questions addressed by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 1.6.6 Requests for Substitution will only be considered prior to bid opening. If allowed, requests of this nature must be submitted before the deadline specified for this purpose in the NOTICE TO BIDDERS.

2 BID REQUIREMENTS

- 2.1 Bidder shall complete, sign, and submit to HHFDC the required forms and items specified in these Instructions and the Mandatory Submittals before the bid receipt date and time indicated in the NOTICE TO BIDDERS, as amended. Refer to the MANDATORY SUBMITTALS on Page A-1 for a complete list of forms required to be submitted. **Any bidder failing to meet this requirement will be deemed non-responsive and will not be considered for award.**

Bidders must also comply with any supplemental instructions contained within the solicitation documents.

A checklist is provided below for Bidder's convenience, but it does not excuse Bidder from submitting any required documents and items that may be specified elsewhere in the solicitation documents. The documents listed below are **required**.

- Form of Bid
- Bid Security (Surety Bid Bond – Bond A)
- Form of Non-Default Affidavit
- Form of Non-Collusive Affidavit
- Form of Non-Gratuity Affidavit
- Certification of Compliance with HRS 396-18, Safety and Health Program
- Certification of Compliance with HRS 103B, Employment of State Residents on Construction Procurement Contracts
- Statement of Bidder's Contract Experience

A Notice of Intention to Bid is not required for this solicitation.

- 2.2 Form of Bid.

Bidder shall complete, sign and submit the Form of Bid ("Bid Form") using Bidder's exact legal name as registered with the Hawaii State Department of Commerce and Consumer Affairs (DCCA), if applicable.

2.2.1 The bidder who submits the lowest responsive bid must submit the complete original offer, with the original bid bond, within five (5) working days from the notification of intent to award. Failure to timely submit the original signed bid documents may result in rejection of the bid.

2.2.2 Tax Liability. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and vendors are advised that they are liable for the Hawaii General Excise Tax (GET). If a bidder is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, bidder shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

For evaluation purposes, pursuant to Chapter 103D-1008, HRS, the bidder's tax-exempt price shall be increased by the applicable retail rate of general excise tax and the applicable use tax. For competitive sealed bids, the lowest responsive, responsible bidder, taking into consideration the above increase, shall be awarded the contract, but the contract amount of any contract awarded shall be the amount of the price offered and shall not include the amount of the increase.

2.2.3 Failure to complete and provide all information requested on the Form of Bid may result in automatic bid rejection.

2.2.4 Bid Schedule(s).

Bidder shall completely fill out this section on the Bid Form and enter the cost for the Base Bid, Extension-Term Bid, Variable Quantities Unit Prices and Alternates when provided. Bidder shall sum the Base Bid, Extension-Term Bid, Variable Quantities Unit Prices and Allowances when provided, and then Bidders shall enter the total amount ("Grand Total Bid") on the Form of Bid. BE SURE TO ENTER THE GRAND TOTAL BID PRICE IN WORDS AND NUMERALS on page P-1 of the Form of Bid.

2.2.4.1 If provided, bidder shall fill in total costs for each alternate.

2.2.4.2 All bid amounts shall include the State GET of 4.712%.

2.2.5 Acknowledgment of Liquidated Damages.

Bidder shall acknowledge that it understands and agrees to the provisions for liquidated damages specified in the bid and contract documents by signing and submitting the acknowledgment form included in the Form of Bid.

2.2.6 Wage Certificate.

Contractors and subcontractors shall pay all mechanics and laborers employed on the job the minimum prevailing wages for the corresponding work classifications as determined by the Director of the Department of Labor and Industrial Relations (DLIR) pursuant to Chapter 104, HRS. Bidder shall indicate that bidder has included the applicable wage rates into the bid to compensate employees for work performed under the awarded contract by certifying to such on the Wage Certificate included in the Bid Form.

During the contract period, a certified copy of each weekly payroll shall be submitted to HHFDC within seven (7) calendar days after the end of each weekly payroll period. The contractor shall be responsible for the timely submission of certified copies of payrolls of all subcontractors. The certification shall affirm that payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates, and that the classifications set forth for each laborer and mechanic conform with the work they performed. If certified payrolls are not submitted on a timely basis, or if HHFDC finds that any laborer or mechanic employed on the job has been or is being paid less than the applicable prevailing wages, HHFDC may terminate the contract.

2.2.7 Listing of Joint Contractors and Subcontractors.

2.2.7.1 Bidder shall complete the "Joint Contractors or Subcontractors List". It is the sole responsibility of the bidder to review the requirements of this project and determine the appropriate specialty Contractor's licenses that are required to complete the project. Failure of the bidder to provide the correct names and specialty Contractor's nature of work to be performed, may cause the bid to be rejected.

2.2.7.2 Bidder agrees the completed listing of joint Contractors or Subcontractors is required for the project and that the bidder, together with the listed joint Contractors and Subcontractors, have all the specialty Contractor's licenses to complete the work. The bidder shall be solely responsible for verifying that its joint contractor or subcontractor has a proper, valid, active, and non-suspended license at the time the bid is submitted and ensuring that all work is performed by a properly licensed contractor.

2.2.7.3 Based on the Hawaii Supreme Court's January 28, 2002 decision in Okada Trucking Co., Ltd. v. Board of Water Supply, et al., 97 Hawaii 450 (2002), the bidder as a general Contractor ('A' or 'B' license) is prohibited from undertaking any work solely or as part of a larger project, which would require the bidder ('A' or 'B' general Contractor) to act as a specialty ('C' license) Contractor in any area in which the bidder ('A' or 'B' general Contractor) has no specialty Contractor's license. Although the 'A' and 'B' Contractor may still bid on and act as the "Prime Contractor" on an 'A' or 'B' project (See, HRS §444-7 for the definitions of an "A" and "B" project), respectively, the 'A' and 'B' Contractor may only perform work in the areas in which they have the appropriate Contractor's license. The bidder ('A' or 'B' general Contractor) must have the appropriate 'C' specialty Contractor's licenses either obtained on its own, or obtained automatically under HAR §16-77-32.

2.2.7.4 General Engineering 'A' Contractors automatically have these 'C' specialty Contractor's licenses: C-3, C-9, C-10, C-17, C-24, C-31a, C-32, C-35, C-37a, C-37b, C-38, C-43, C-49, C-56, C-57a, C-57b, and C-61.

2.2.7.5 General Building 'B' Contractors automatically have these 'C' specialty Contractor's licenses: C-5, C-6, C-10, C-12, C-24, C-25, C-31a, C-32a, C-42a, and C-42b.

2.2.7.6 Instructions to complete the Joint Contractors or Subcontractors List:

2.2.7.6.1 Provide the complete firm name of the joint Contractor or subcontractor in the respective column. Describe the specialty Contractor's nature and scope of work to be performed for this project. List the license number and specialty classification number of the joint Contractor or subcontractor.

2.2.7.6.2 List only one joint Contractor or Subcontractor per required specialty Contractor's classification, unless the nature of work to be performed by each such joint contractor is both distinct and separate. (i.e. two C-13 contractors are listed but one has the responsibility for AC control and the other for AC power.

2.2.7.6.3 For projects with alternate(s), use the same form to list any alternate joint Contractors and/or subcontractors but indicate their status by marking "Alternate" in parentheses next to the name of the joint Contractor or subcontractor (i.e., Name (Alternate)).

2.2.8 Bidder Information Form.

Bidder shall completely fill out and submit the Bidder Information Form included in the Form of Bid. Bidder shall indicate if it is a "Hawaii Business" or a "Compliant Non-Hawaii Business" in section 2 of the Bidder Information Form.

2.3 Bid Security (Surety Bid Bond – Bond A).

Bid security is required under the provisions of Subchapter 24, HAR 3-122, for bids amounting to \$25,000 or more.

2.3.1 Bid security, when required, shall be in an amount equal to at least five (5) percent of the base bid and additive alternates or as required by terms of federal funding.

2.3.1.1 If bidder fails to accompany its offer with conforming bid security, when required, the offer shall then be deemed nonresponsive in accordance with the definition of "responsive bidder or offeror" in section 3-120-2.

2.3.1.2 If an offer does not comply with the bid security requirements, as specified in the HAR, the offer shall be rejected as nonresponsive, unless the failure to comply is determined by the chief procurement officer, the head of the purchasing agency, or a designee of either officer, to be non-substantial in accordance with HAR 3-122-223(d).

- 2.3.2 All bid securities, except those of the four (4) lowest bidders, will be returned following the close of the solicitation and review of the bids. The retained bid securities of the four lowest bidders will be returned within five (5) working days following the complete execution of the contract.
- 2.3.3 Acceptable bid security and accompanying documentation shall contain signatures of authorized representatives and be limited to the following:
 - 2.3.3.1 Surety bonds underwritten by a company licensed to issue bonds in this State; or
 - 2.3.3.2 Legal tender of the United States; or
 - 2.3.3.3 A certificate of deposit; credit union share certificate; or cashier's, treasurer's, teller's, or official check drawn by, or a certified check accepted by a bank, a savings institution, or credit union insured by the FDIC or the NCUA, and payable at sign or unconditionally assigned to the Procurement Officer advertising for offers. These instruments may be utilized only to a maximum of \$200,000. If the requirement amount totals over \$100,000, more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be accepted.
- 2.3.4 **Since electronic responses are required**, scanned copies of the signed bid bond documents will be accepted; provided that the lowest responsive bidder must submit the complete original bid bond, with the original bid documents, within five (5) working days from the notification of intent to award. Failure to timely submit the original signed bid security documents may result in rejection of the bid.

Original bid documents should be submitted to the Solicitation Contact and Project Manager at the following address:

Lauren Young
Development Branch
Hawai'i Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, HI 96813

- 2.3.5 Prior to award. If a low bidder withdraws its bid after bid opening but before contract award for a reason other than those permitted by the HHFDC General Conditions, 3.3, then HHFDC shall be entitled to retain as damages the amount established as bid security, and may take all appropriate actions to recover the damages sum from the property or third-party obligations deposited as bid security.

2.4 Form of Non-Default Affidavit.

Bidder shall sign and submit with its bid the Form of Non-Default Affidavit, attesting that Bidder is not in arrears in any payment owed to the State of Hawaii or is not in default of any obligations to the State of Hawaii, including default as a surety or failure to perform faithfully and diligently any previous contract with the State.

2.5 Form of Non-Collusive Affidavit.

Bidder shall sign and submit with its bid the Form of Non-Collusive Affidavit, in accordance with §3-122-192, HAR, declaring that the price submitted for this bid is independently arrived at without collusion.

2.6 Form of Non-Gratuity Affidavit.

Bidder shall sign and submit with its bid the Form of Non-Gratuity Affidavit, attesting that Bidder has not given or made any agreement to give any HHFDC employee, the employee's relatives or agents any gifts of money or otherwise, or anything of value; has not been influenced by any HHFDC employee, the employee's relatives or agents in the renting or purchasing of any equipment or supplies of any nature whatsoever.

2.7 Certification of Compliance for Employment of State Residents

Bidder shall certify that Bidder and any applicable subcontractor shall comply with HRS 103B by employing a workforce of which not less than eighty percent are Hawaii residents. Prior to an award of a contract, the Bidder may withdraw its bid without penalty if the Bidder finds that it is unable to comply with this subsection.

The eighty per cent requirement shall be determined by dividing the total number of hours worked on a contract by residents, by the total number of hours worked by all employees of the contractor in the performance of the contract. Hours worked for any subcontractor of the contractor shall count towards the calculation for purposes of this subsection. The hours worked by employees within shortage trades, as determined by DLIR, shall not be included in the calculations for purposes of this requirement.

At contract completion, in accordance with HRS 103B(c), certification of compliance with this chapter shall be made under oath by an officer of the general contractor and applicable subcontractor to the procurement officer with the notice of completion of the contract.

2.8 Certification of Compliance with HRS 396-18, Safety and Health Programs.

Bidders submitting a bid in excess of \$100,000 shall certify, in accordance with HRS 396-18, that Bidder's organization will have a written safety and health plan for this project that will be available and implemented by the date when onsite construction starts. Bidder may obtain the requirements for the safety plan from the Department of Labor and Industrial Relations, Occupational, Safety and Health Division (HIOSH).

2.9 Statement of Bidder's Contractor Experience.

Bidder shall complete and submit with its bid the Statement of Bidder's

Contractor Experience to assist HHFDC in determining if bidder is responsible and has adequate qualifications and capacity to perform the work.

2.10 Allowances.

If applicable to this project, bidder shall include in its total lump sum (base) bid price all cash allowances that are itemized in the Bid Schedule on the Form of Bid. Unless otherwise provided in the contract documents, the bidder shall include costs for unloading and handling materials and equipment at the site, labor, installation costs, overhead, profit, coordination, insurance and other incidental expenses in the lump sum bid price and not in the allowance.

2.10.1 For testing and inspection allowances, the allowance costs shall include the cost of engaging testing agencies, actual tests and inspections and reporting results. Allowance does not include incidental labor required to assist the testing agency or costs for retesting if previous tests and inspection result in failure.

2.11 Variable Quantities Unit Prices.

If applicable to this project, bidder shall include in its total lump sum (base) bid price a total cost for Variable Quantities Unit Prices (VQUP) that are described in the bid package. Bidder shall complete the VQUP schedule by extending costs for unit prices, subtotals and totals. The unit costs provided shall include all materials, labor, tools and equipment required to install the work complete, in addition to all charges for overhead, coordination, profit, insurance, and other incidental expenses. Bidder shall make sure to enter the variable quantities unit prices total amount in the Form of Bid.

2.12 Alternates.

If applicable to this project, bidder shall include its total cost(s) in the Form of Bid for the alternates that are described on the drawings. Bidder must completely fill in the cost for each listed alternate. Where the respective alternate's work will be performed at no cost to the State, bidder shall fill in '\$0.00' as the cost. **If the cost for any alternate is left blank, the Form of Bid will be rejected as an irregular bid.**

2.12.1 For the purposes of evaluating the bid, the alternates are listed in the Form of Bid in the order of precedence from highest (listed first) to lowest for additive alternates and from lowest (listed first) to highest for deductive alternates.

2.13 Preference.

If applicable to this project, preferences are considered when evaluating bids to determine the ranking of the respective bidders. The award of the contract will be in the amount of the bid exclusive of any preference adjustments.

2.14 Hawaii Product Preference

In accordance with section 103D-1002, HRS, the Hawaii products preference may be applicable to this solicitation.

2.14.1 **If applicable to this project**, a Hawaii Product Schedule will be included in the Form of Bid listing any Hawaii Products offered.

2.14.2 The Hawaii products list is available on the SPO website at <http://spo.hawaii.gov> /, click on 'Procurement of Goods, Services, and Construction-Chapter 103D, HRS'; under 'Procurement' click on 'Preferences', 'Hawaii Products' and select 'Hawaii Products List' to view.

2.14.3 Offeror offering a Hawaii Product (HP) shall identify the HP on the solicitation offer page(s). Any person desiring a Hawaii product preference shall have the product(s) certified and qualified if not currently on the Hawaii products list, prior to the deadline for receipt of offer(s) specified in the procurement notice and solicitation. The responsibility for certification and qualification shall rest upon the person requesting the preference.

2.14.4 Persons desiring to qualify their product(s) not currently on the Hawaii product list shall complete form SPO-38, Certification for Hawaii Product Preference and submit to the Procurement Officer, and provide all additional information required by the Procurement Officer. For each product, one form shall be completed and submitted (i.e. 3 products should have 3 separate forms completed). Form SPO-38 is available on the SPO website at <http://spo.hawaii.gov>/ under the 'Quicklinks' menu; click on 'Forms for Vendors, Contractors, and Service Providers'.

2.14.5 When a solicitation contains both HP and non-HP, then for the purpose of selecting the lowest bid or purchase price only, the price offered for a HP item shall be decreased by subtracting 10% for the class I or 15% for the class II HP items offered, respectively. The lowest total offer, taking the preference into consideration, shall be awarded the contract unless the offer provides for additional award criteria. The contract amount of any contract awarded, however, shall be the amount of the price offered, exclusive of the preferences.

2.14.6 Change in availability of Hawaii product. In the event of any change that materially alters the offeror's ability to supply Hawaii products, the offeror shall immediately notify the Procurement Officer in writing and the parties shall enter into discussions for the purposes of revising the contract or terminating the contract for convenience.

2.15 Recycled Product Preference.

A recycled product preference of at least 5 percent of the price of the item may be available.

If applicable to this project, the "Recycled Product Schedule" will be included in the Form of Bid. All bidders, either proposing or not proposing to use the recycled product preference, shall complete and submit the Recycled Product

Schedule. If choosing to use a recycled product, enter the respective costs for the recycled product; otherwise, enter the cost for the non-recycled product. Make sure a cost is entered for each listed product. Each product cost shall be complete, including jobsite delivery and applicable taxes.

2.15.1 For each recycled product the bidder chooses to use, the bidder shall include in its bid package the complete “Certification of Recycled Content Form” (SPO-Form 8) along with all supporting information. If the preference applies, a sample of the certification form will be included in the Form of Bid.

2.15.2 The “Recycled Product Schedule” shows the percent preference used for each listed recycled product.

2.16 Apprenticeship Agreement Preference.

2.16.1 **If applicable to this project**, any bidder seeking the preference must be a party to an apprenticeship agreement registered with the DLIR at the time the bid is submitted for each apprenticeable trade the bidder will employ to construct the project. “Employ” means the employment of a person in an employer-employee relationship.

2.16.1.1 The apprenticeship agreement shall be registered with the DLIR and conform to the requirements of Hawaii Revised Statutes Chapter 372.

2.16.1.2 Subcontractors do not have to be a party to an apprenticeship agreement for the bidder to obtain the preference.

2.16.1.3 The bidder is not required to have apprentices in its employ at the time the bid is submitted to qualify for the preference.

2.16.2 Self Certification.

A bidder seeking the preference must identify each apprenticeable trade the bidder will employ to perform the work by completing the *Certification of Bidder’s Participation - Form 1* included in the bid packet. “Apprenticeable trade” shall have the same meaning as “apprenticeable occupation” pursuant to Hawaii Administrative Rules (HAR) §12-30-5.

2.16.3 The *Certification of Bidder’s Participation – Form 1*.

2.16.3.1 The *Certification of Bidder’s Participation - Form 1* shall be authorized by an apprenticeship sponsor listed on the DLIR list of registered apprenticeship programs. “Sponsor” means an operator of an apprenticeship program and in whose name the program is approved and registered with the DLIR pursuant to HAR §12-30-1.

2.16.3.2 The authorization shall be signed by an authorized official of the apprenticeship sponsor. The completed *Certification of Bidder’s Participation - Form 1* for each trade must be submitted with the bid. **Since electronic**

responses are required, a scanned copy is acceptable to be submitted with the bid, however, the signed original must be submitted within five (5) working days of the notification of intent to award. If the signed original is not received within this timeframe, the preference may be denied. Previous certifications shall not apply.

- 2.16.3.3 When filling out the *Certification of Bidder's Participation - Form 1*, the name of Apprenticeable Trade and Apprenticeship Sponsor must be the same as recorded in the List of Construction Trades in Registered Apprenticeship Programs that is posted on the State DLIR website. "Registered apprenticeship program" means a construction trade program approved by and registered with the DLIR pursuant to HAR §12-30-1 and §12-30-4.
- 2.16.3.4 The Certification of Bidder's Participation - Form 1 and the List of Construction Trades in Registered Apprenticeship Programs is available on the DLIR website at: <http://labor.hawaii.gov/wdd/files/2012/12/Form-1-Certification-of-Bidders-Participation.pdf>
- 2.16.4 Upon receiving the Self Certification and Certification of Bidder's Participation - Form 1, the Procurement Officer will verify that the apprenticeship program is on the List of Construction Trades in Registered Apprenticeship Programs and that the form is signed by an authorized official of the Apprenticeship Program Sponsor. If the programs and signature are not confirmed by the DLIR, the bidder will not qualify for the preference.
- 2.16.5 If the bidder is certified to participate in an apprenticeship program for each trade which will be employed by the bidder for the project, a preference will be applied to decrease the bidder's bid amount by five (5) percent for evaluation purposes.
- 2.16.6 Should the bidder qualify for other preferences (for example, Hawaii Products), all applicable preferences shall be applied to the bid price.

3 SUBMISSION OF BID

- 3.1 Electronic Procurement. Bids shall be submitted and received electronically through HlePRO by the date and time listed in Section 1.3.1 Solicitation Schedule. The electronically submitted offer shall be considered the original. Any offers received outside of HlePRO, including faxed or e-mailed bids, shall not be accepted, or considered for award.
- 3.2 Bid Due Date. Any offer received after the due date and time shall be rejected.
- 3.3 Bid Security. Bids exceeding \$25,000 must be accompanied by bid security, signed and furnished in accordance with section 2.3 of these Instructions.

Bids that do not include bid security shall be deemed non-responsive and will not be considered for award.

- 3.4 Bid Samples. Bid samples or descriptive literature should not be submitted unless expressly requested and, regardless of any attempt by bidder to condition the bid, unsolicited bid samples or descriptive literature which are submitted at the bidder's risk will not be examined or tested, and will not be deemed to vary any of the provisions of the Information for Bid.

4 MODIFICATION AND WITHDRAWAL OF BIDS

- 4.1 Pre-opening modification or withdrawal of offer. Bids may be modified or withdrawn on HlePRO prior to bid opening pursuant to 3-122-9, HAR.
- 4.2 Late withdrawal or modification. A late withdrawal or modification will not be accepted unless such withdrawal or modification is made in accordance with section 3-122-31, HAR.

5 RECEIPT AND OPENING OF BIDS

- 5.1 All bids shall be received and opened at the location and no later than the date and time indicated in the NOTICE TO BIDDERS, as amended by any addenda to this IFB. **Late bids will not be considered.**

6 EVALUATION CRITERIA

- 6.1 Evaluating Bids.

- 6.1.1 Chapter 103D, HRS, which provides for preferences, shall apply.

6.1.1.1 The total lump sum bid price is adjusted to reflect the applicable preferences.

6.1.1.2 The total lump sum base bid price and alternates will be adjusted to reflect the applicable preferences.

- 6.1.2 Evaluating Bids with Alternates:

6.1.2.1 Project control budget is established prior to the submission of bids.

6.1.2.2 If there is more than one alternate for a project, the State will determine the precedence of the alternates for each project prior to the submission of bids.

6.1.2.3 Prior to opening bids, the State will announce the project control budget. All bids will be evaluated on the basis of the same alternate item.

6.1.2.4 After adjusting for applicable preferences, the alternates, in their precedence order, are added to the total lump sum base bid price. This (these) sum(s) is (are) compared to the project control budget, and must be within the project control budget.

- 6.1.2.5 If adding another alternate would make the aggregate amount exceed the project control budget for all bidders, that alternate will be skipped and the next alternate will be added, provided an award might be made within the project control budget. This procedure will continue, until adding any remaining alternates will result in the aggregate total amount for all the bidders to exceed the project control budget, or until no additional alternates remain.
- 6.1.3 The project will be evaluated based on the adjusted bid price. The bidder with the lowest aggregate amount, within the project control budget (after application of the various preferences), for the total lump sum base bid plus the alternates in their precedence order, is the “Low Bidder” for that project and is designated for award.

7 AWARD OF CONTRACT

- 7.1 Award, if made, shall be on a Grand Total Bid basis to the lowest responsive and responsible Bidder whose bid (including any alternates which may be selected) meets the requirements and criteria set forth in the solicitation documents, subject to availability of funds.
- 7.2 In the event the Grand Total Bid exceeds the project control budget, the HHFDC reserves the right to make an award to the apparent Low Bidder if additional funds are available or by reducing the scope of work through negotiation.
- 7.3 Additional Requirements for Bids with Alternates.

After determining the designated Low Bidder for the project, an award may be made on the amount of the Low Bidder’s total lump sum base bid alone or on any combination of alternates exclusive of any preferences. The combination of alternates may include substituting any of the alternates that were included in the designated Low Bidder’s aggregate price with an alternate that was not included, provided:

- 7.3.1 It is in the best interest of the State,
- 7.3.2 Funds are available at the time of award, and
- 7.3.3 The combination of the total Grand Total Bid plus alternate(s) does not change the established Low Bidder for the project.
- 7.4 In evaluating bids, HHFDC shall consider the qualifications of bidders, whether or not the bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested on the offer form(s) or otherwise by the IFB.
- 7.5 HHFDC may conduct such investigations as HHFDC deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications and financial ability of bidders to perform the work in accordance with the Contract to HHFDC’s satisfaction within the prescribed time.

7.6 Other Conditions for Award

- 7.6.1 HHFDC reserves the right to reject any or all bids, including, without limitation, bids that are non-responsive or that were submitted by non-responsible or unqualified bidders, and waive any defects if the Procurement Officer believes the rejection or waiver is in the best interest of the State.
 - 7.6.2 HHFDC may hold all bids up to 60 calendar days from the date bids were opened. Unless otherwise required by law, bids may not be withdrawn without penalty.
 - 7.6.3 The award of the contract is conditioned upon funds made available for the project (or projects if applicable).
 - 7.6.4 Any agreement or contract is subject to approval by the Department of the Attorney General, and the approval of the Governor, as required by statute, regulation, rule, order, or other directive.
- 7.7 Refer to the FORM OF CONTRACT for contract and compliance requirements.

8 EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 8.1 It is the responsibility of each Bidder before submitting a Bid:
- 8.1.1 To examine thoroughly the Contract Documents and other related data identified in the solicitation documents.
 - 8.1.2 To attend any scheduled pre-bid meeting and visit the site to become familiar with and satisfy Bidder as to the work requirements and general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.
 - 8.1.3 To consider federal, state and local laws, and regulations that may affect cost, progress, performance or furnishing of the Work.
 - 8.1.4 To study and carefully correlate Bidder's knowledge and observations with the Contract Documents and such other related data.
 - 8.1.5 To promptly notify HHFDC of all conflicts, errors, ambiguities or discrepancies which Bidder has discovered in or between the Contract Documents and other such related documents.

9 SUBSTITUTE MATERIALS

- 9.1 Within 15 days after the date of intent to award, if material and color samples are required, the contractor shall notify HHFDC of any potential change in material and color samples used for the job. Delays resulting from failure to notify HHFDC of intended changes to material and color samples in a timely manner, as required, will

not be considered justifiable reasons for extension of contract time.

10 CONFIDENTIAL INFORMATION

- 10.1 If a person believes that any portion of a bid, proposal, offer, specification, protest, or correspondence contains information that should be withheld as confidential, then the Procurement Officer named on the cover of this IFB should be so advised in writing and provided with justification to support the confidentiality claim. Price is not considered confidential and will not be withheld.
- 10.2 An Offeror shall request in writing nondisclosure of designated trade secrets or other proprietary data considered confidential. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- 10.3 Pursuant to HAR Section 3-122-58, the head of the purchasing agency or designee shall consult with the Attorney General and make a written determination in accordance with HRS Chapter 92F. If the request for confidentiality is denied, such information shall be disclosed as public information, unless the person appeals the denial to the Office of Information Practices in accordance with HRS Section 92F-42(12).

11 CANCELLATION OF BID PROCESS

The solicitation may be cancelled or the bids may be rejected, in whole or in part, at HHFDC's sole discretion when in the best interest of HHFDC, as provided in §3-122-95 through §3-122-97, HAR.

12 CONTRACT TERM

Refer to the Form of Bid for information about the contract term and any extensions.

13 CONTRACT SECURITY (PERFORMANCE AND PAYMENT BONDS)

- 13.1 Performance and payment bonds are required for contracts that equal or exceed \$25,000. Bonds shall be furnished on forms provided by HHFDC.
- 13.2 Refer to the HHFDC General Conditions, 3.7, for specific bond requirements.

14 GUARANTY OF WORK

Bidder agrees to guaranty all work under the Contract for the period(s) stipulated in the Contract Documents from the project acceptance date.

If any unsatisfactory condition or damage develops within the time of this guaranty due to materials or workmanship that are deficient, inferior, or not in accordance with the contract, the Contractor shall, when notified by the State, immediately place such guaranteed work in a condition satisfactory to the State and make repairs of all damage to the buildings, equipment and grounds made necessary in fulfillment of the guaranty. Everything necessary for the fulfillment of any guaranty shall be done without any expense to the State. It is understood that the performance and payment bond furnished by the Contractor under the Contract may be used to secure performance of Contractor's guaranty.

15 CONTRACT DOCUMENTS

It is understood and agreed that the following documents, and any amendments or addenda thereto, comprise the Contract and are fully a part of the Contract as though attached hereto or set forth at length herein: (1) Contractor's accepted bid; (2) HHFDC General Conditions; (3) Drawings; (4) Specifications, including the Notice to Bidders, Instructions to Bidders, and Special Conditions, Addenda, Bid Clarifications, if any; (5) Combination Performance and Labor and Material Payment Bond; and (6) the Contract for Goods and Services Based on Competitive Sealed Bids.

16 ENTIRE AGREEMENT

The Contract is the entire agreement between parties, and no alterations, changes, or additions thereto shall be made, except in writing approved by the parties.

17 SPECIAL LEGAL REQUIREMENTS

Nondiscrimination - No person performing work under this Contract, including any subcontractor, employee, or agent of the Contractor, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

18 OTHER CONDITIONS

By submitting a bid, Bidder acknowledges and agrees to comply with all requirements, terms, conditions, provisions, and certifications specified in the solicitation and Contract Documents.

END OF INSTRUCTIONS