

SPECIAL NOTICE TO BIDDERS – GOODS AND SERVICES

QUALIFICATIONS OF BIDDERS - Prospective bidders must be capable of performing the work for which bids are being called.

The Department of Defense no longer requires a submittal of "INTENTION TO BID" unless otherwise stated in the notice to bidders.

If a notice to bid is required, the written notice shall be received no later than TEN calendar days prior to the date designated for opening bids. If the 10th calendar day prior to the day designated for opening bids is a weekend or legal State holiday, then the written notice must be received no later than the last working day immediately prior to said weekend or State holiday. The written notice will be time stamped when received by said office. The time designated by the time stamping device in said office shall be official. If the written notice is hand carried, then the bearer is responsible to ensure that the notice is time stamped by said office.

It is the responsibility of the perspective bidder to ensure that the written notice of intention to bid is received in time and the State assumes no responsibility for failure of timely delivery caused by the prospective bidder or by any method of conveyance chosen by the prospective bidder.

If two (2) or more prospective bidders desire to bid jointly as a joint venture on a single project, they must file an affidavit of joint venture with their notice of intention to bid. Such affidavit of joint venture will be valid only for the specific project for which it is filed. No further license is required when all parties to the joint venture possess current and appropriate contractor's licenses. Joint venture are required to be licensed in accordance with Chapter 444 of the Hawaii Revised Statutes, as amended, and the rules and regulations of the Contractor's License Board when any party to the joint venture agreement does not hold a current or appropriate contractor's license.

The Adjutant General or his designated representative may, in accordance with Section 103D-310, Hawaii Revised Statutes, require the prospective bidder to submit answers to questions in the "Standard Questionnaire and Financial Statement for Bidders," on the form provided by the Department, properly executed and notarized, setting forth a complete statement of the experience of such prospective bidder and his organization in performing similar work and a statement of the equipment proposed to be used, together with adequate proof of the availability of such equipment, at least forty-eight (48) hours prior to the time advertised for the opening of bids. If the information in the questionnaire proves satisfactory, the bidder's proposal will be received. All information contained in the answers to the questionnaire shall be kept confidential. The questionnaire will be returned to the bidder after it has served its purpose.

If upon review of the Questionnaire, or otherwise, the bidder appears not fully qualified or able to perform the intended work, the Adjutant General or his designated representative shall,

after affording the bidder an opportunity to be heard and if still of the opinion that the bidder is not fully qualified to perform the work, refuse to receive or to consider any bid offered by the prospective bidder.

Failure to complete the prequalification questionnaire, (IF SENT TO YOU), will be sufficient cause for the Department to disqualify a prospective bidder.

INTERPRETATION OF QUANTITIES IN BID SCHEDULE - When quantities for individual items of work are listed in the bid form for which respective unit prices are asked, said quantities are to be considered as approximate and are to be used by the Department only for the purpose of comparing on a uniform basis bids offered for the work. The Department does not, expressly or by implication, agree that the actual quantity of work will correspond therewith. The undersigned agrees that his is satisfied with and will at no time dispute said estimated quantities as a means of comparing the bids.

After determining the low bidder by comparison of bids submitted in accordance with the proposal form, the Adjutant General or his designated representative reserves the right to increase or decrease the scope of the improvement.

On unit price bids, payment will be made only for the actual number of units incorporated into the finished project at the unit price bid.

It is understood and agreed that the contractor will make no claim for anticipated profit or loss of profit due to the Department's right to eliminate entirely portions of the work or to increase or decrease any or all of the quantities shown in the proposal form.

CONTENTS OF PROPOSAL FORMS - Prospective bidders will be furnished with proposal forms giving the location, description, and the contract time of the work contemplated for which a lump sum bid price is asked or containing a schedule of items, together with estimated quantities of work to be performed and materials to be furnished, for which unit bid prices and/or lump sum bid prices are asked.

Proposal forms will also include a listing of joint contractor and/or subcontractors asking the name of each person or firm to be engaged on the project as a joint contractor or subcontractor.

All papers bound with or attached to the proposal form shall be considered a part thereof and shall not be detached or altered when the proposal is submitted.

The plans, specifications and other documents designated in the proposal form, will also be considered a part thereof whether attached or not.

BIDDERS RESPONSIBILITY FOR EXAMINATION OF PLANS, SPECIFICATIONS, SITE OF WORK, ETC. - The bidder shall examine carefully the site work contemplated and the proposal, plans, specifications, supplemental specifications, special provisions and contract and bond forms therefore. The submission of a bid shall be considered as a warranty that the

bidder has made such examination and is satisfied with the conditions to be encountered in performing the work and with the requirements of the plans, specifications, supplemental specifications, special provisions, contract and bond.

No extra compensation will be given by reason of the Contractor's misunderstanding or lack of knowledge of the requirements of the work to be accomplished or the conditions to be encountered in performing the project.

ADDENDA AND INTERPRETATIONS - Discrepancies, omissions, or doubts as to the meaning of drawings and specifications should be communicated in writing to: Department of Defense, State of Hawaii, ATTN: HIENG, 3949 Diamond Head Road, Honolulu, HI, 96816, for the interpretation and must be received by the Engineering Office, Department of Defense, no later than fourteen (14) calendar days prior to the date fixed for bid opening. Any interpretation, if made, and any supplemental instructions will be in the form of written addenda to the specifications, which will be mailed to all prospective bidders at the respective addresses furnished for such purposes, eight (8) calendar days prior to the date fixed for the opening bids. Failure of any bidder to receive any such addendum or interpretations shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

PREPARATION OF PROPOSAL - The bidder's proposal must be submitted on the proposal form furnished by the Department. The proposal must be prepared in full accordance with the instructions therein. The bidder must state, both in words and numerals, the lump sum price at which the work contemplated is proposed to be done. These prices must be written in ink or typed. Prices written in pencil are not acceptable. In case of a discrepancy between the prices written in words and those written in figures, the words shall govern over the figures. The bidder shall sign the proposal in the spaces provided with ink.

If the proposal is made by an individual, his name and post office address must be shown in the space provided. If made by a partnership, the name and post office address of each member of the partnership must be shown and the proposal signed by all partners or evidence in the form of a partnership agreement must be submitted showing the authority of the partner to enter, on behalf of said partnership, into contract with the State. If made by a corporation, the proposal must show the name, title, and business address of the president, secretary and treasurer and also evidence in the form of a corporate resolution must be submitted showing the authority of the particular corporate representative to enter on behalf of said corporation into contract with the State. (See sample). If made by a joint venture the name and post office address of each member of the individual form, partnership or corporation comprising the joint venture must be shown with other pertinent information required of individuals, partnerships or corporations as the case may be. The proposal must be signed by all parties to the joint venture or evidence in the form of a Joint Venture Agreement must be submitted showing the authority of the Joint Venture's representative to enter on behalf of said Joint Venture into contract with the State.

Pursuant to the requirements of Section 103D-302, Hawaii Revised Statutes, each bidder shall include in his bid the name of each person or firm to be engaged by the bidder on the project

as joint contractor or subcontractor indicating also the nature and scope of work to be performed by such joint contractor and/or subcontractor.

DELIVERY OF PROPOSALS - The entire proposal shall be placed in a sealed envelope so marked as to indicate the identity of the project, the project number, the date of bid opening and the name and address of the bidder and then delivered as indicated in the Notice to Bidders. Bids which do not comply with this requirement may not be considered. Proposals will be received up to the time fixed in the public notice for opening of bids and must be in the hands of the officials by that time indicated. The words 'SEALED BID' must be clearly written or typed on the face of the sealed envelope containing the proposal package.

WITHDRAWAL OR REVISION OF PROPOSALS - Any bid may be withdrawn or revised at any time prior to, but not after, the time fixed in the public notice for the opening of bids, provided that a request in writing, executed by the bidder or his duly authorized representative, for the withdrawal or revision of such bid is filed with the Adjutant General before the time set for the opening of bids. The withdrawal of a bid shall not prejudice the right of a bidder to file a new bid. Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid will not be received after that time, nor may any bid be withdrawn after the time fixed in the public notice for the opening of bids.

PUBLIC OPENING OF PROPOSALS - Proposals will be opened and read publicly at the time and place indicated in the Notice to Bidders. Bidders, their authorized agents and other interested parties are invited to be present.

DISQUALIFICATION OF BIDDERS - Any one or more of the following cause will be considered as sufficient for the disqualification of a bidder and the rejection of his proposal or proposals:

- A. Evidence of collusion among bidders.
- B. Lack of responsibility and cooperation as shown by past work.
- C. Being in arrears on existing contracts with the State of Hawaii, or having defaulted on a previous contract.
- D. Lack of proper equipment and/or sufficient experience to perform the work contemplated.
- E. More than one proposal for the same work from an individual, firm, partnership, corporation or joint venture under the same or different name.
- F. Delivery of bids after the deadline specified in the advertisement calling for bids.
- G. Failure to pay, or satisfactorily settle, all bids overdue for labor and material on former contracts in force at the time of issuance of proposal forms.

CONSIDERATION OF PROPOSALS - After the proposals are opened and read, the figures will be extended and/or totaled in accordance with the bid prices of the acceptable proposals and the totals will be compared and the results of such comparison shall immediately be made public. In the comparison of bids, words written in the proposals will govern over figures and unit prices will govern over totals. Until the award of the contract, however, the right will be reserved to reject any and all proposals and to waive any defects or technicalities as may be deemed best for the interest of the State.

IRREGULAR PROPOSALS - Proposals will be considered irregular and may be rejected for the following reasons:

- A. If the proposal is unsigned.
- B. If proposal is on a form other than that furnished by the Department or if the form is altered or any part thereof detached.
- C. If the proposal shows any non-compliance with applicable law, alteration of form, additions not called, conditional bids, incomplete bids, uninitiated erasures, other defects, or if the prices are obviously unbalanced, or if sufficient funds are not available to prosecute the work.
- D. If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

This does not exclude a proposal limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting, provided that any selection of awards will be made by the Department.

- E. When a proposal is signed by an officer or officers of a corporation and a currently certified corporate resolution authorizing such signer(s) to submit such proposal is not submitted with the proposal or when the proposal is signed by an agent other than the officer or officers of a corporation or a member of a partnership and a Power of Attorney is not submitted with the proposal.

AWARD OF CONTRACT - The award of contract, if it be awarded, will be made within ninety (90) consecutive calendar days after the opening of the proposals to the lowest responsible and responsive bidder (including the alternate or alternates which may be selected by the Adjutant General in the case of alternate bids) whose proposal complies with all the requirements prescribed, but in no case will an award be made until all necessary investigations are made. The successful bidder will be notified, by letter mailed to the address shown on the proposal that his bid has been accepted and that he has been awarded the contract.

No contract will be awarded to any person or firm suspended under the provisions of Chapter 104 and Chapter 444, Hawaii Revised Statutes, as amended.

CANCELLATION OF AWARD - The Adjutant General or his designated representative reserves the right to cancel the award of any contract at any time before the execution of said contract by all parties without any liability to the awardee and to any other bidder.

EXECUTION OF THE CONTRACT - The contract shall be signed by the successful bidder and returned, within ten (10) consecutive calendar days, after the bidder has received his contract for execution or within such further time as the Adjutant General or his designated representative may allow. No proposal or contract shall be considered binding upon the State until the contract has been fully and properly executed by all parties thereto and the Adjutant General or his designated representative has endorsed therein his certificate, as required by Section 103D-309, Hawaii Revised Statutes, that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the State's amount required by such contract.

On any individual award totaling less than \$50,000, the State reserves the right to execute the contract by the issuance of a State Purchase Order. Acceptance shall result in a binding contract between the parties without further action by the State. Executing the contract by Purchase Order shall not be deemed a waiver of these specification requirements.

PROTECTION OF PROPERTY – The Contractor shall confine all of his operations to the immediate vicinity of the work and take all necessary precautions during the progress of the work to protect the adjoining property from damage and injury. The Contractor shall repair and make good to the entire satisfaction of the Engineer any damages to existing utilities, streets, sidewalks and other properties.

The Contractor shall repair the damaged or disturbed utilities to existing condition at no cost to the State. Any damage claims due to the disruption of services caused by the utilities being damaged or disturbed shall be paid by the Contractor who shall save harmless the State from all suits, actions or claims of any character.

PERMITS AND LICENSES – The Contractor shall procure all permits and licenses, pay all charges and fees and give all notices necessary and incident to the due and lawful prosecution of the work.

LAWS TO BE OBSERVED – The Contractor at all times shall observe and comply with all Federal, State and local laws or ordinances, rules and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, and the conduct of the work. The Contractor shall also comply with all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. Any reference to such laws, ordinances, rules and regulations shall include any amendments thereto.

LIABILITY INSURANCE – The Contractor shall not commence any work until it obtains, at its own expense, all required liability insurance. Such insurance must have the approval of the State as to limit form and amount and must be maintained with a company acceptable to the State. Such insurance must be maintained for the full period of the contract and shall provide protection from claims arising out of or resulting from the Contractor's operations under the

Contract itself or by any Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

The Contractor shall take out and maintain during the life of this contract broad form public liability (Bodily Injury) and broad form property damage liability insurance in a combined single limit not less than \$1,000,000 and not less than \$2,000,000 in the aggregate to protect such contractor and all his subcontractors from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them.

The insurance described herein will be maintained by the Contractor for the full period of the Contract and in no event will be terminated or otherwise allowed to lapse prior to final acceptance of the work by the State.

A certificate of insurance acceptable to the State shall be filed with the State prior to commencement of the work. Such certificate shall contain a provision that coverage afforded under the policy will not be canceled or changed until at least thirty days written notice has been given to the State by registered mail at the address denominated for the State in the Contract for official communications to it should any policy be canceled before final acceptance by the State, and the Contractor fails to immediately procure replacement insurance as specified, the State reserves the right to procure such insurance and to deduct the cost thereof from any sum due the Contractor.

CHARACTER OF WORKERS OR EQUIPMENT – The Contractor shall at all times provide adequate supervision and sufficient labor and equipment for prosecuting the several classes of work to full completion and within the time required by the contract.

- A. Character and Proficiency of Workers – All workers must have sufficient skill and experience to perform the work assigned to them and in the operation of the equipment.

Any worker employed on the project by the Contractor or subcontractor who, in the opinion of the Engineer or his authorized representative, is not careful and competent, does not perform his work in a proper and skillful manner or is disrespectful, intemperate, disorderly or neglects or refuses to comply with directions given, or is otherwise objectionable shall, at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing such worker and shall not be employed again in any portion of the work without the written consent of the Engineer. Should the Contractor or subcontractor continue to employ, or again employ such person(s) on the project, the Engineer will withhold all estimates which are or may become due, or the Engineer will suspend the work until such orders are complied with.

- B. Insufficient Workers – In the event that the Engineer, in his judgment, finds the condition whereby insufficient workers are present to accomplish the work and no

corrective action is taken by the Contractor after being informed, the Engineer reserves the right to terminate the contract.

- C. Equipment Requirements – All equipment furnished by the Contractor and used shall be of such size and of such mechanical condition that the work can be prosecuted in an acceptable manner.

NOTICE TO PROCEED - After the contract is fully executed, the Contractor will be sent a formal "Notice to Proceed" advising the Contractor of the date on which he may proceed with the work. The Contractor shall be allowed ten (10) consecutive working days from said date to begin his work. In the event that the Contractor refuses or neglects to start the work, the Adjutant General or his designated representative may terminate the contract.