

GENERAL INSTRUCTIONS TO BIDDERS

1. **BIDDER'S QUESTIONS.** A bidder having questions regarding the bid specifications herein shall submit those questions in writing or fax those questions to:

Purchasing Administrator
Purchasing Division, Department of Budget and Fiscal Services
City and County of Honolulu
530 South King Street, Room 115
Honolulu, Hawaii 96813

Facsimile telephone numbers are (808) 768-3299 (front) and
(808) 768-3177 (back).

Questions as to bid specifications must be submitted in writing or by facsimile machine and must be received by the Purchasing Administrator no later than five (5) working days prior to the bid due date. The City will respond to the questions in a timely manner. The City shall not be obligated to respond to questions not received on a timely basis.

Bidders having questions on other than bid specifications may direct those questions to the person named, if any, on the "Notice to Bidders" page (front cover page of this solicitation).

2. **SUPPLEMENTAL INSTRUCTIONS OR CHANGES.** Any supplemental instructions or changes will be in the form of written addenda to this solicitation. Any addenda will be mailed, faxed, or made available for pick up by all prospective bidders, prior to the date fixed for the opening of bids. It shall be presumed that any addenda so issued have been received by a bidder and such addenda shall become a part of the bid submittal.

Bidders who have not obtained this bid solicitation document directly from the City Purchasing Division shall be responsible for immediately notifying the City Purchasing Division to receive all written addenda on a timely basis. Bidders who do not so notify the Purchasing Division and submit bids without receipt of all addenda issued may be deemed to have submitted bids not responsive to the bid solicitation.

3. **PREPARATION OF BIDS.** Bids shall be prepared and submitted on forms furnished by the Purchasing Division or on an exact copy thereof in full accordance with the instructions given. Unless otherwise noted in the Special Provisions or other section of this solicitation, bidders may bid on any of the items listed on the bid form, leaving the others blank. Any bid which contains omissions (except as noted above), alterations, additions not called for, conditional bids or irregularities of any kind, may be rejected. Bids not responsive to this solicitation shall be rejected.

Bids must be signed in ink by the person or persons duly authorized to sign bids in the space provided for signature on the bid forms. Unsigned

bids may be rejected.

If a contract is awarded, the successful bidder shall execute the contract as follows: In the case of a domestic corporation, the title or titles of the person or persons signing must be stated and the corporate seal affixed thereto. In the case of a foreign corporation, if the corporate seal is not readily available, a copy of a resolution of the Board of Directors of such corporation, or other written evidence of authority signed by an officer of the corporation, authorizing the person or persons signing to execute bids, contracts and all other necessary documents in connection therewith shall be attached. Where the bidder is an association or group, the title or titles of the person or persons signing must be stated and an affidavit of the association or group must be attached which acknowledges the authority of the signer or signers to sign bids, contracts and all other necessary documents in connection therewith for the association or group.

Bids shall be typewritten or printed in ink. Errors may be erased or crossed out, and corrections typewritten or printed in ink but must be initialed in ink by the person or persons signing the bids.

Any illegible or otherwise unrecognizable price bid shall be cause for automatic rejection of the bid.

A facsimile of the signature of the person or persons authorized to sign bids may be submitted in the space provided for signature on the bid form only. However, the bidder must provide the original signature(s) on the bid form within two (2) City working days from the date of bid opening, unless otherwise authorized by the Director of Budget and Fiscal Services (Director).

Unsigned bids may be rejected.

Bid price(s) offered shall remain valid for a minimum of sixty (60) calendar days, unless otherwise specified in the Special Provisions or other section of this solicitation.

All costs to prepare and submit a bid shall be at the bidder's expense.

4. **TAXES.** Unless otherwise specified in this solicitation document, the bidder shall include and be responsible for paying all taxes, which shall be applicable to the goods or services or the furnishing or sale thereof.

A prospective bidder may call the Department of Taxation of the State of Hawaii at (800) 222-3229 for assistance as to whether the State of Hawaii general excise tax, the applicable use tax, or other taxes will apply to the bidder or Contractor.

5. **RESPONSIBILITY OF OFFERORS.** In accordance with §3-122-112, as amended, Hawaii Administrative Rules, the successful Offeror shall produce documents, as specified below, to the City Purchasing Division at the time of award of the contract, unless otherwise specified below or in the Special Provisions of the bid document, to demonstrate compliance with this section.

a. **HRS Chapter 237 tax clearance requirement for award and final payment.** Instructions are as follows:

Pursuant to §103D-328, Hawaii Revised Statutes (HRS) as amended, the successful Offeror shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate is valid for six (6) months from the most recent approval stamp date on the certificate and must be valid on the date it is received by the City Purchasing Division.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX TAX CLEARANCE APPLICATION Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information):
http://www.state.hi.us/tax/al_lalphalist.htm
DOTAX Forms by Fax/Mail: (808) 587-7572
1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX: (808) 587-1488
IRS: (808) 539-1573

The application for the tax clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to the City Purchasing Division.

The successful Offeror must obtain and provide the tax clearance within twenty-one (21) calendar days of the City's request, unless otherwise specified in the Special Provisions of this bid document, or otherwise authorized by the City Purchasing Administrator. Failure to obtain the tax clearance within the specified time shall result in rejection of the bid and the City may award the contract to another vendor.

DOTAX and the IRS will provide extra certified copies of the clearances upon you request. Hence, you may want to request extra certified copies if you anticipate entering into several other potential contracts.

Contractor is also required to submit a tax clearance certificate for final payment on any contract over \$25,000. The tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

- b. **HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.** Instructions are as follows:

Pursuant to §103D-310(c), HRS, successful Offeror shall be required to submit an approved certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The Certificate is valid for six (6) months from the date of issue and must be valid on the date it is received by the City Purchasing Division. A photocopy of the certificate is acceptable.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR*, Form LIR#27 which is available at <http://hawaii.gov/labor/formsall.shtml> or at the neighbor island DLIR District Offices. The DLIR will return the form to the Offeror who in turn shall submit it to the City Purchasing Division.

The application for the certificate is the responsibility of the Offeror, and must be submitted directly to the DLIR and not to the City Purchasing Division.

- c. **Requirement for award.** To be eligible for award, the Offeror must comply as follows:

Hawaii Business. A business entity referred to as a "Hawaii business", is registered and incorporated or organized under the laws of the State of Hawaii. As evidence of compliance, Offeror shall submit a *CERTIFICATE OF GOOD STANDING* issued by the Department of Commerce and Consumer Affairs Business Registration Division (BREG). A Hawaii business that is a sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate. An Offeror's status as sole proprietor or other business entity and its business street address will be used to confirm that the Offeror is a Hawaii business.

Compliant non-Hawaii business. A business entity referred to as a "compliant non-Hawaii business," is not incorporated or organized under the laws of the State of Hawaii but is registered to do business in the State. As evidence of compliance, Offeror shall submit a *CERTIFICATE OF GOOD STANDING*.

To obtain a *CERTIFICATE OF GOOD STANDING* go online to www.BusinessRegistrations.com and follow the prompt instructions. To register or to obtain a "Certificate of Good Standing" by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST).

The "Certificate of Good Standing" is valid for six months from date of issue and must be valid on the date it is received by the City Purchasing Division. Offerors are advised that there are costs associated with registering and obtaining a "Certificate of Good Standing" from the DCCA. A photocopy of the certificate is acceptable.

Timely Submission of all Certificates. The above certificates should be applied for and submitted to the City Purchasing Division as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

Final Payment Requirements. In addition to a tax clearance certificate an original "Certification of Compliance for Final Payment (SPO Form-22), attached, will be required for final payment. A copy of the Form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Chapter 103D, HRS, pop-up menu. These requirements do not apply to contracts less than \$25,000, or any small purchase contract; nor do they apply to price or vendor list purchases.

6. **OUT-OF-STATE BIDDERS.** Section 103.53.5, Hawaii Revised Statutes related to out-of-state bidders has been repealed.

7. **SUBMISSION OF BIDS.** Before submitting bids, bidders must read and examine the Special Provisions, Specifications, or Proposal and Specifications, General Terms and Conditions, and all other bid documents attached hereto and by reference made a part hereof. Submission of bids shall be deemed verification of such reading and examination.

The general terms and conditions, specifications, special provisions and other documents referenced in or attached to the solicitation shall be considered a part of the submittal of the bidder whether attached to the bid or not at the time of its submission. Such documents shall not be altered in any way when the bid is submitted and any alterations so made by the bidder may be sufficient cause for rejection of the bid.

Bids shall be sealed in envelopes. The bid number, bidder's name and address, and closing date of the bid must be printed on the outside of the envelope. The bidder is responsible for the accuracy of printing the bid number and the closing date of the bid on the outside of the envelope. The bid envelope must be time stamped and deposited at the designated location in the Office of the Purchasing Division, Room 115, City Hall, 530 S. King Street, Honolulu, Hawaii 96813. All bid envelopes must bear the Purchasing Division's time stamp mark. Envelopes which are not time stamped or which are time stamped after the specified bid opening time and date shall be rejected.

Bidders are responsible for the submission of their bids on a timely basis. However, a late bid shall not be considered late if received before contract

award and would have been timely but for the action or inaction of personnel within the offices of the Director of Budget and Fiscal Services or the Division of Purchasing.

Unless multiple or alternate bids are specifically provided for or allowed in the Special Provisions or another section of this bid solicitation, multiple or alternate bids shall not be accepted and shall be rejected. However, if a bidder clearly indicates a primary bid, it shall be considered for award as though it is the only bid submitted by the bidder.

Copies of bids transmitted directly to the City Purchasing Division via facsimile machine shall not be acceptable, unless otherwise specified in the Special Provisions or other section of this solicitation.

If there is any evidence indicating that two or more bidders are in collusion to restrict competitive bidding, the bids of all such bidders shall be rejected and such evidence may be cause for the disqualification of the participants on any future proposal for any contract with the City.

8. BID OPENINGS. The opening of tenders under this solicitation for bids shall be by a representative of the Director of Budget and Fiscal Services, at the hour and place stated in the call for tenders, in the presence of all bidders who attend.

The opened bids shall be available for public inspection at the time of bid opening except to the extent that the bidder designates trade secrets or other proprietary data to be confidential. Bidders shall ensure that material so designated as confidential shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid. Prices and makes and model or catalogue numbers of items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary.

9. MODIFICATIONS. Bids may be modified or withdrawn prior to the deadline for submittal of bids when the modification or withdrawal is addressed to the Director or the Purchasing Administrator and received in the City Purchasing Division, Room 115, 530 S. King Street, Honolulu, Hawaii 96813, by the following documents:

Withdrawal of bids: a written notice; a faxed notice; or a telegraphic message received by telephone by the Purchasing Division from the receiving telegraph company office, provided the telegraph company confirms the telephone message by sending a written copy of the telegram showing that the message was received at the telegraph company office prior to the due date and time for bids.

Modification of bid: a written notice that a modification to the bid is submitted and is accompanied by the actual modification(s) securely sealed in a separate envelope or container. No oral, facsimile, telephonic, or telegraphic modification of bid will be considered.

Any notice of withdrawal, notice of modification of a bid with the actual modification, or any bid received at the place designated for receipt

and opening of a bid after the time and date set for receipt and opening of bids is late and shall be rejected. However, a late withdrawal or late modification shall not be considered late if received before contract award and would have been timely but for the action or inaction of personnel within the offices of the Director of Budget and Fiscal Services or the Division of Purchasing.

10. BROCHURES, SPECIFICATIONS, AND QUESTIONNAIRES. Whenever a questionnaire is attached to the bid form, bidders shall complete and submit such questionnaire with their bids, together with all specifications and brochures.

The Director reserves the right to require bidders to provide, at their own expense, within ten (10) calendar days, unless otherwise specified in the Special Provisions or other section of this solicitation, from the date of the City's request, all specifications and brochures on the item or items offered. Failure to comply with the City's request within the time specified may be sufficient cause for rejection of a bid.

Whenever the completion and submission of a questionnaire is required, all specifications and brochures submitted by the bidder shall be properly annotated identifying all applicable data on the item(s) being offered and shall fully substantiate the information requested in the questionnaire. In the event the information requested in the questionnaire cannot be substantiated by the manufacturer's specifications and brochures, the manufacturer shall certify in writing that the item(s) will be manufactured in accordance with the bid questionnaire and manufacturer's specifications.

Failure to comply with the requirements herein may be sufficient cause for rejection of a bid.

11. QUALIFICATION OF BIDDERS. Prospective bidders must be capable of performing the work for which bids are being called. Either before or after the deadline for bid submittal, the City may require a bidder to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the bidder's ability to furnish satisfactorily the goods or services being solicited by the City. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signature of the person who signs the bid. Any bidder who refuses to answer such inquiries will be considered non-responsive. All answers to such questions will be handled by the City on a confidential basis and will be returned after they have served their purpose.

The City also reserves the right to visit a bidder's place of business to inspect the bidder's facilities and equipment and to observe the methods of operation, including personnel, in order to facilitate evaluation of performance capabilities.

The Director shall be the sole judge of the qualifications of the bidder to perform the contract.

12. DISQUALIFICATION OF BIDDERS. A bidder shall be disqualified and its

bid automatically rejected for any one or more of the following reasons: bidder is under suspension or debarred from consideration of contract award in accordance with Chapter 126, Subchapter 2, Hawaii Administrative Rules (HAR); bidder lacks proper equipment and/or sufficient experience to perform the work contemplated; bidder does not meet or comply with bid requirements; goods or services offered does not meet or comply with bid requirements or bid specifications; bidder submits a bid not responsive to the bid solicitation; bidder does not possess proper license, if required to cover the type of work contemplated, at the time of the bid submittal due date, unless otherwise specified in this solicitation; bidder delivers its bid after the deadline specified in the public notice calling for bids, or as amended, except as allowed in Section 3-122-29 (1), HAR; bidder is determined to be non-responsible; or bidder fails to pay, or satisfactorily settle, all bills overdue for labor and material on former City contracts prior to the bid submittal due date.

13. IRREGULAR BIDS. Bids will be considered irregular and shall be rejected for the following reasons including but not limited to the following: if a bid guaranty is required and is received separately from the bid; if a bid guaranty is required and is not identifiable as guaranty for a specific bid; if a bid guaranty is required and is received after the date and time set for the opening; if a bid guaranty is required and is not in accordance with acceptable bid security requirements of Chapter 122, Subchapter 24, HAR; if the bidder or surety fails to sign the surety bond submitted as bid guaranty; if bidder fails to use the surety bond form furnished by the City or identical wording contained in the said form when submitting a surety bond as bid guaranty; if the bid is conditioned upon receiving award of both this particular contract being solicited and another City, County or State of Hawaii contract; if the bidder shows any non-compliance with applicable law or contains any unauthorized additions or deletions, or is in anyway making the bid incomplete, conditional, indefinite, or ambiguous as to its meaning; or is unbalanced in which the bid price for any item is obviously out of proportion to the prices for other items.

14. BRAND OR TRADE NAME. Whenever one or more manufacturer's brand or trade name is specified, bidders shall base their bids on one of the specified brands. However, other manufacturers' brands may also qualify if found to be equal to or better than those specified. A bid based on an unspecified brand will be subject to evaluation as to its comparable quality, including quality or adequacy of manufacturer and dealer support.

The burden of proof as to the comparable quality of alternate products shall be upon the bidder and the bidder shall, at the bidder's own expense, furnish within ten (10) calendar days, unless otherwise specified in the Special Provision or other section of this solicitation, from the date of the City's request, all necessary information and/or exact samples of the item(s) being considered for award. The Officer in Charge reserves the right to determine whether alternate brands are equivalent to and meet the indicated standards of quality, and the decision shall be final.

15. WAIVER OF MINOR DEVIATIONS. The Director reserves the right to waive and/or accept any minor deviations from the specifications and/or terms and conditions, if in the Director's opinion such waiver will be in the best

interest of the City, and that such waiver shall not affect the standards of performance, operation, capacities or capabilities of the item offered.

16. BIDDER MISTAKES. Bidder mistakes may be corrected if the mistake is a minor informality which is a matter of form rather than substance evident from the bid document or is an insignificant mistake that can be waived by the Director or corrected by the bidder without prejudice to other bidders depending on which is in the best interest of the City; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible.

If a mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of such mistakes include: typographical errors; errors in extending unit prices; transposition errors; and arithmetical errors. In the event of a discrepancy between unit bid prices and extensions, the unit price shall govern. In case of error in addition, the amount offered for each item added shall govern.

17. AWARD OF CONTRACT. RIGHT TO REJECT BIDS. Unless otherwise specified in the Special Provisions or other section of this solicitation, the Director will issue a written award of the contract, if an award is made, to the responsive and lowest responsible bidder on each individual item called for. The Director reserves the right to reject any or all bids, or any part thereof, or waive any defects, when in the Director's opinion, such rejection or waiver will be in the best interest of the City.

A notice of award of the contract, if any, shall be posted at the following location:

Office of the Purchasing Division
530 S. King Street, Room 115
Honolulu, Hawaii 96813

18. LOW TIE BIDS. In the event low tie bids or low identical priced bids are received from responsive and responsible bidders, award shall be made in accordance with Chapter 3-122, Subchapter 5, HAR.

19. WITHDRAWAL OF BID AFTER DEADLINE FOR BID SUBMITTAL. A bidder may be permitted to withdraw a low bid if a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.

20. AWARD LESS THAN \$50,000. On any individual award totaling less than \$50,000, the Director reserves the right to award the contract by Purchase Order. Also, on any individual award on a price commitment agreement, where the estimated total purchase expenditure for the duration of the agreement is less than \$50,000, the Director reserves the right to award the contract by letter. Award by Purchase Order or award by letter shall result in a binding contract between the parties without further action by either the Contractor or the City. The contract, whether awarded by purchase order or by letter, shall be performed in accordance with the terms set forth in the General Terms

and Conditions, Proposal and Specifications, Special Provisions and all other sections or documents which are attached hereto.

For awards made by purchase order or by letter, the Director may waive any requirement for security for faithful performance that may be required in the solicitation for bids.

21. **CANCELLATION OF AWARD.** The Director reserves the right to cancel an award at any time prior to the signing of the contract by the City.

22. **PROTEST PROCEDURES.** Protests on any part of this invitation for bids or award of contract shall be made pursuant to Hawaii Revised Statutes Section 103D, as amended, and applicable provisions of the Hawaii Administrative Rules.

23. **SPECIAL PROVISIONS, REQUIREMENTS OR SPECIFICATIONS.** Whenever separate proposal section, special provisions, requirements, specifications or plans are referred to or attached hereto, they shall be considered a part of this bid solicitation document as if contained herein. Should any of the proposal section, special provisions, requirements, specifications or plans conflict with these instructions to bidders, said proposals, special provisions, requirements, specifications or plans shall govern.