

**Summary of Changes (v24.08):**

1. The following changes are required by ADMINISTRATIVE DIRECTIVE NO. 24-01 (Directive), dated February 16, 2024, Project Labor Agreement for State Construction Projects. The Directive takes effect immediately. Also, COMPTROLLER'S MEMORANDUM NO. 2024-20, Guidelines - Project Labor Agreements (PLA) for State Construction Projects, dated July 26, 2024, applies to solicitations for projects with proposal/bid due dates on or after July 1, 2024, and on or before the date on which the PLA expires.  
In accordance with the Directive, only covered construction projects with an award in excess of one million five hundred thousand dollars (\$1,500,000), are required to conform with Project Labor Agreement requirements.  
All formal solicitations for construction using the competitive sealed bidding or competitive sealed proposal methods of procurement will be required to contain the Project Labor Agreement requirements. The PLA requirements will only be invoked if the award amount exceeds one million five hundred thousand dollars.
2. Starting at page 4/15, page 00210-1, add subsection F. Project Labor Agreement for State Construction Projects.

**1. Coordination Issues:**

- 1.1 The information contained in and required by this section has serious contract implications. Ensure there are no errors in the final specification section. Note: There are very limited choices or edits to this section.
- 1.2 Make sure to match the appropriate TG 00100 Solicitation Notices to the respective section from TG 00210 Instructions to Bidders and respective sections from TG 00410 and TG 00411 Solicitation, Offer and Contract Form.
- 1.3 Under Act 52: On July 1, 2003, changes to the HAR Procurement Code require a prebid conference for projects exceeding \$500,000 and the deletion of In-State Contractor's Preference (§103D-1007).
- 1.4 Project Coordinator will confirm pre-bid meeting requirements and procedures and provide detailed meeting time, location and dates in Solicitation Notice.
- 1.5 Project Coordinator will direct if substitutions will be allowed prior to submitting the Bid. If so, include the provisions in SECTION 00800 - SPECIAL CONDITIONS.

**2. Design Issues:** (Not Used)**3. Drawing Notes:** (Not Used)**4. Standard Drawings:** (Not Used)**5. Specification Notes:**

- 5.1 Department of Commerce and Consumer Affairs provides information on Contractors classifications under HAR, Title 16, Chapter 77. The listings are found on the DCCA website [http://cca.hawaii.gov/rico/business\\_online/](http://cca.hawaii.gov/rico/business_online/).

**6. Guide Specification:**

- 6.1 Use attached Section TG 00210 INSTRUCTIONS TO BIDDERS with TG 00110 NOTICE TO BIDDERS and TG 00410 or TG 00411 SOLICITATION, OFFER AND CONTRACT FORM.

- 6.2 Use Section TG 00212 INSTRUCTIONS TO BIDDERS MULTI-STEP BID with TG 00112 INVITATION TO BIDDERS MULTI-STEP BID and TG 00412 MULTI-STEP SOLICITATION, OFFER AND CONTRACT FORM. **(To be developed)**
- 6.3 Use Section TG 00115 INFORMAL BID SOLICITATION LETTER with TG 00415 INFORMAL BID FORM.
- 6.4 Use Section TG 00220 INSTRUCTIONS TO OFFERS with TG 00120 REQUEST FOR PROPOSALS and TG 00420 SOLICITATION, OFFER AND CONTRACT FORM. **(To be developed)**

***SPECIFIER'S NOTE: Blue colored texts are Notes to Specifier and should be completely deleted from the final text. Where [red colored text in brackets] is shown in this specification section, insert wording, numbers, etc. as appropriate and delete brackets. Where <Red colored text in brackets> is shown, choice is indicated. Make the appropriate choice and delete the brackets. Maintain footer notation in italics with the current version used (e.g. TG 00210 ~~v22v24.08~~). Verify that section titles cross referenced in this Section correspond to this Project's specifications; Section titles may have changed.***

**Do not include the Project Name (etc.) line in the footer. Use the following format for the specification footer.**

TG 00210 ~~v22~~v24.08  
DAGS Job No. 00-00-0000

Instructions to Bidders  
00210 - 1

*End Footer Sample*

## **TG 00210 INSTRUCTIONS TO BIDDERS**

Use with TG 00110 NOTICE TO BIDDERS and TG 00410 or TG00411 SOLICITATION, OFFER AND CONTRACT FORM

### **SECTION 00210 - INSTRUCTIONS TO BIDDERS**

#### **PART 1 - GENERAL**

##### **1.01 GENERAL**

- A. Only bidders with the required Contractor's license(s) are eligible to submit a Bid.
- B. 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 are used in the solicitation documents.
  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.
  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.
  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.
- C. When announced by the NOTICE TO BIDDERS, all bidders who intend to submit a bid, are invited to attend an initial pre-bid meeting and the accompanying site visit(s). Other interested parties may attend the initial pre-bid meeting and the accompanying site visit(s). For other site visits not conducted by the Department, bidders shall contact and make arrangements with the Project Contact Person listed in SECTION 00800 - SPECIAL CONDITIONS of these specifications.
- D. Bidders shall submit the "Solicitation, Offer and Contract Form", bid bond (if required), and any other documents required by these solicitation documents.
- E. The *GENERAL CONDITIONS* set forth additional terms and conditions for the bid and award process. The *GENERAL CONDITIONS* will be part of the contract documents by which the State and the bidder (prospective Contractor) will be bound. Bidders are directed to the *GENERAL CONDITIONS*, for contract and statutory requirements and for Bidding and Execution of Contract Requirements. Bidders are also directed to SECTION 00700 - GENERAL CONDITIONS and SECTION 00800 - SPECIAL CONDITIONS of these specifications for definitions and modifications to the *GENERAL CONDITIONS*.

##### **F. Project Labor Agreement (PLA) for State Construction Projects**

1. ADMINISTRATIVE DIRECTIVE NO. 24-01 (Directive), dated February 16, 2024, requires a PLA (available at <https://budget.hawaii.gov/wp-content/uploads/2024/02/AD-24-01.pdf>) for all projects with award amounts in excess of one million five hundred thousand dollars (\$1,500,000),
2. COMPTROLLER'S MEMORANDUM NO. 2024-20, Guidelines - Project Labor Agreements (PLA) for State Construction Projects, dated July 26, 2024, provided Guidelines for Implementing Administrative Directive No. 24-01 relating to Use of Project Labor Agreements for State Construction Projects, Issued by the Department of Accounting and General Services, Effective July 26, 2024. (<https://ags.hawaii.gov/wp-content/uploads/2024/07/CM2024-20.pdf>)
3. The definitions of the terms 'Contractor' and "Subcontractor" for the purposes of this solicitation are those contained in the agency's General Terms and Conditions for Construction, not as defined in the PLA.
4. The required form of the Contractor's Agreement To Be Bound may be found in Attachment "A" at the end of this section. Any Letter of Assent shall take the substantial form of the Agreement To Be Bound. A sample Letter of Assent is provided in Attachment "B" at the end of this section.
5. Any subcontractor performing only trade work not represented by PLA signatories shall not be required to submit a Letter of Assent. However, any such subcontractor shall be required to execute and provide to the awarded Contractor a written statement attesting that the subcontractor will be performing only trade work not subject to the PLA, in the form of an Attestation of Exemption executed by a person authorized to bind the subcontractor. The awarded Contractor shall provide any such Attestation of Exemption to the Department upon demand. A sample Attestation of Exemption is provided in the Attachment "C" at the end of this section.
6. The Contractor who is awarded the project must:
  - a. Obtain either a Letter of Assent or Attestation of Exemption, as appropriate, from each subcontractor of any tier who may be employed on the project and make copies of such documents available to the Department upon demand.
  - b. Execute an Agreement-To-Be-Bound.
  - c. Submit to the Department a complete, fully executed Agreement-To-Be-Bound within fourteen (14) calendar days of project award, or as soon thereafter as is practicable as determined by the Department. Failure to timely submit any required Agreement-To-Be-Bound or to provide upon demand any required Letter of Assent or Attestation of Exemption shall be cause for the State in its sole discretion to rescind the subject award and to award the project to: the responsive and responsible offeror with the next lowest bid price for a solicitation made under HRS 103D-302; or the next highest ranked offeror satisfying all solicitation requirements for a solicitation made under HRS 103D-303.
7. By submitting an executed Agreement To Be Bound the Contractor shall be deemed to have certified that all required Letters of Assent and Attestations of Exemption have been gathered and will be made available to the Department upon demand.
8. Contractors and their subcontractors (of any tier) are not required to be party to any collective bargaining agreement to participate in a Covered Project.

9. The Contractor shall maintain in a current status throughout the life of the contract the Agreement-To-Be-Bound, and all Letters of Assent and Attestations of Exemption from subcontractors of all tiers.
10. It is understood that by virtue of executing an Agreement-To-Be-Bound, a Contractor will not be obligated to sign a collective bargaining agreement as a condition of performing work.
11. The Contractor has the primary obligation to meet all conditions of the PLA. This obligation cannot be relieved, evaded or diminished by subcontracting. Should the Contractor elect to subcontract, the Contractor shall continue to have such primary obligation.
12. The State shall remain impartial concerning any dispute between labor and its Contractor and not undertake the conciliation, mediation, or arbitration of a labor dispute. All labor disputes shall be resolved pursuant to the procedure set forth in the PLA.

#### **1.02 OFFEROR(S) or BIDDER(S)**

- A. The terms "Offeror" and "Bidder" are synonymous when used in this Section 00210 and other solicitation documents.

#### **1.03 PRE-BID MEETING AND SITE VISIT(S)**

- A. General
  1. The attendance of pre-bid meetings and site visits is strongly encouraged.
  2. Failure to attend the pre-bid meeting(s) and site visit(s) for a project DOES NOT absolve the bidder from its responsibilities under section 2.4.1 of the DAGS Interim General Conditions.
  3. 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 (see Section 2.5.1 of the DAGS Interim General Conditions).
- B. Mandatory Pre-bid Meetings and Site Visits
  1. The Project Coordinator may require all prospective bidder/offerors to attend a mandatory Pre-bid Meeting(s) and Site Visit(s).
  2. All bidders/offerors will be required to sign the attendance sheet.
  3. Failure to attend mandatory pre-bid meetings and site visits, if required, will automatically be cause for rejection of the bid.

#### **1.04 ADDENDA AND CLARIFICATIONS**

- A. The Department may periodically issue addenda and bid clarifications which may provide additional information or alter the plans and specifications.
- B. The Department will make addenda and bid clarifications available to Bidders via the Department's website and at the physical locations 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.
- C. Bidders discovering an ambiguity, inconsistency, or error when examining the bid documents or the site and bidders with questions or clarification requests shall transmit said discoveries, questions, and/or requests to the Department's

Contracts Engineer in writing. Bidders may use the form entitled 'Questions and Clarifications' at the end of Section 00800 - SPECIAL CONDITIONS which contains options for physical delivery and transmittal by fax. Bidders choosing not to use the form provided shall bear the responsibility for clearly labeling their submittal to allow its proper identification and routing and for following the instructions cited above for physical delivery or fax transmittal.

- D. All written transmittals shall be brief, concise, but complete enough to properly evaluate and determine the merits of the question or request. Include references to appropriate section numbers, paragraphs, drawings, details, schedule numbers, and provide other information as appropriate.
- E. Requests transmitted or otherwise communicated directly to the Consultant will not be considered to be transmitted to the Department and will not be addressed.
- F. Bidders shall submit all discoveries, questions, and/or requests no later than 14 calendar days prior to the submission date for sealed bids.
- G. Requests for Substitution will only be entertained prior to bid opening if Section 00800 - SPECIAL CONDITIONS indicates that substitutions before award are allowed for this project. If allowed, requests of this nature must be submitted before the deadline specified for this purpose in the Notice to Bidders.

#### **1.05 SOLICITATION, OFFER AND CONTRACT FORM (BID FORM)**

- A. Bidder shall fill out the "Solicitation, Offer and Contract Form" completely. This includes the "Offer" portion of the form and all remaining fill-ins. Write in ink or type. Bidders must also comply with the supplemental instructions contained within the "Solicitation, Offer and Contract Form." Do not alter the "Solicitation, Offer and Contract Form", and maintain the form intact. When the State makes changes to the "Solicitation, Offer and Contract Form", a completely new bid form with appropriate addendum notation will be issued. Bidders shall use the most current version. Bidders shall use their exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on the Solicitation, Offer and Contract Form.
- B. Schedule for Work: Note the provisions of this article, the referenced COST, TIME AND SCHEDULE article, and specification SECTION 01100 - PROJECT REQUIREMENTS for the construction dates including: project schedule, project start date, jobsite start date, jobsite completion date, contract completion date and contract duration, if provided.
- C. 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 COST, TIME AND SCHEDULE article on the "Solicitation, Offer and Contract Bid Form" and described in SECTION 01210 - ALLOWANCES of these specifications. 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.
  - 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.

- D. 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 SECTION 01270 - VARIABLE QUANTITIES UNIT PRICES. 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 bid form, COST, TIME AND SCHEDULE article.
- E. Alternates: If applicable to this project, bidder shall include its total cost(s) in the COST, TIME AND SCHEDULE article for the alternates that are described on the drawings or in SECTION 01230 - ALTERNATES. 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 "Solicitation, Offer and Contract Form" will be rejected as an irregular bid.**
1. For the purposes of evaluating the bid, the alternates are listed in the COST, TIME AND SCHEDULE article and in specification SECTION 01230 - ALTERNATES 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. Bidders are directed to the COST, TIME AND SCHEDULE article that lists additional or deductive consecutive calendar days that will be allowed for each accepted alternate.
- F. 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.
- G. Recycled Product Preference: If applicable to this project, a recycled product preference of at least 5 percent of the price of the item is available. All bidders, either proposing or not proposing to use the recycled product preference shall complete 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.
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. A sample of the certification form is in the GENERAL CONDITIONS.
  2. The "Recycled Product Schedule" shows the percent preference used for each listed recycled product.



H. Apprenticeship Agreement Preference:

1. If applicable to this project, any bidder seeking the preference must be a party to an apprenticeship agreement registered with the State Department of Labor and Industrial Relations (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.
  - a. The apprenticeship agreement shall be registered with the DLIR and conform to the requirements of Hawaii Revised Statutes Chapter 372.
  - b. Subcontractors do not have to be a party to an apprenticeship agreement for the bidder to obtain the preference.
  - c. The bidder is not required to have apprentices in its employ at the time the bid is submitted to qualify for the preference.
2. Self Certification. A bidder seeking the preference must identify each apprenticeable trade the bidder will employ to perform the work by completing the self certification in the solicitation, offer and contract form. "Apprenticeable trade" shall have the same meaning as "apprenticeable occupation" pursuant to Hawaii Administrative Rules (HAR) §12-30-5.
3. The certification of bidder's participation (Form 1)
  - a. 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.
  - b. The authorization shall be an original signature by an authorized official of the apprenticeship sponsor.
  - c. The completed *Certification of Bidder's Participation - Form 1* for each trade must be submitted with the bid. A facsimile or copy is acceptable to be submitted with the bid, however the signed original must be submitted within five (5) working days of the bid open date. If the signed original is not received within this timeframe, the preference may be denied. Previous certifications shall not apply.
  - d. 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 Department of Labor and Industrial Relations 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.
  - e. 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>

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.
  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.
  6. Should the bidder qualify for other preferences (for example, Hawaii Products), all applicable preferences shall be applied to the bid price.
- I. Other Conditions: Bidder acknowledges and agrees to the provisions and certifications stated in this article.
- J. Receipt of Addenda: Bidder shall fill in the appropriate dates any addenda were received.
- K. Listing Joint Contractors or Subcontractors:
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. 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.
  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.

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.
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.
6. Instructions to complete the Joint Contractors or Subcontractors List:
  - a. Describe the specialty Contractor's nature of work to be performed for this project and provide the complete firm name of the joint Contractor or Subcontractor in the respective columns.
  - b. List only one entity per required specialty contractor's classification. A bidder who intends to use more than one entity with the same specialty contractor's classification, will not be permitted to do so unless the nature of work to be performed by each entity is both distinct and separate and is appropriately described (i.e. two C-13 contractors are listed but one has the responsibility for AC control and the other for AC power). A bidder who intends to perform work that falls under the same specialty contractor's classification as that of a listed joint contractor or subcontractor must list itself, ensure that the nature of work is both distinct and separate, and is appropriately described.
  - c. For projects with alternate(s), fill out the respective "Joint Contractors or Subcontractors List for the Alternate(s)". Bidder shall describe the specialty Contractor's nature of work to be performed on this project for the respective alternate. Bidders shall fill in the complete firm name and nature of work to be performed by the respective joint Contractor or Subcontractor. If the joint Contractor or Subcontractor was previously listed under base bid, listing under Alternate(s) is not required.
- L. Cost, Time and Schedule: Bidder shall completely fill out the article and enter the cost for the Project Bid Price, Variable Quantities Unit Prices and Alternates when provided. Bidder shall tabulate the Project Bid Price, Variable Quantities Unit Prices and Allowances when provided, and the Bidders shall then enter the Total Lump Sum Bid Price. **BE SURE TO ENTER THE TOTAL LUMP SUM BID PRICE IN WORDS AND NUMERALS.** Refer to Bidder's Instructions located within the article.
  1. If provided, bidder shall fill in total costs for each alternate.
  2. The bidder is directed to the construction time information Article entitled "TIME" for the contract duration and construction time for alternates. Bidder shall refer to SECTION 01100 - PROJECT REQUIREMENTS of these specifications for additional construction time information, as applicable.
- M. Offer Page: Bidder shall completely fill out Blocks 11 through 22C. Bidder shall indicate if it is a "Hawaii Business" or a "Compliant Non-Hawaii Business" in Block 21. Also, bidder shall refer to Bidder's Instructions located near end of section.

## 1.06 EVALUATION CRITERIA

- A. Evaluating Bids: The lowest responsive, responsible bid is determined by the following procedures:
1. Chapter 103D, HRS, which provides for the preferences, shall apply.
  2. The total lump sum bid price is adjusted to reflect the applicable preferences.
    - a. For projects with alternates, the total lump sum base bid price and alternates will be adjusted to reflect the applicable preferences.
  3. Project control budget is established prior to the submission of bids.
  4. 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.
  5. The project will be evaluated based on the adjusted bid price.
- B. Evaluating Bids with Additive Alternates:
1. 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.
  2. 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) are compared to the project control budget, and must be within the project control budget.
  3. 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.
  4. 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.
  5. Additive Alternate Example: The project control budget available is \$100,000. In the order of precedence, alternates A-1, A-2 and A-3 are additive alternates. After applying the preferences, the bids are ranked lowest price to highest price and are "Bid A", "Bid B" and "Bid C". Bid A's total lump sum base bid price and three additive alternates (in the precedence order) are \$80,000, \$16,000, \$10,000 and \$5,000 respectively. Bid B's total lump sum base bid price and three additive alternates (in the precedence order) are \$82,000, \$10,000, \$9,000 and \$3,000 respectively. Bid C's total lump sum base bid price and three additive alternates (in the precedence order) are \$85,000, \$10,000, \$8,000 and \$4,000 respectively.
    - a. In adding the alternates to the bids, alternate A-1 is under the project control budget for all bids. The second alternate A-2 is initially skipped since it would cause the aggregate amount of all bids to exceed \$100,000. The third alternate A-3 is added and the aggregate amounts, including base bid price plus alternates A-1 and A-3, of both Bid B and

- Bid C, are under the project control budget.
- b. Bid A's aggregate total is \$101,000. Bid B's aggregate total is \$95,000. Bid C's aggregate total is \$99,000.
  - c. Bid B's price including alternates A-1 and A-3 is the lowest bid price (over Bid C) and has an aggregate amount within the adjusted project control budget, and therefore is designated the "Low Bidder" for the project.
6. Should the Lump Sum Base Bid of all bidders exceed the project control budget, the bidder with the lowest total lump sum base bid after application of the preferences is designated the low bidder for the project.
- C. Evaluating Bids with Deductive Alternates:
1. 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.
  2. After adjusting for applicable preferences, the alternates, in their precedence order, are deducted from the total lump sum base bid price. This (these) sum(s) are compared to the project control budget, and must be within the project control budget.
  3. Alternates will be deducted in the order of precedence until the aggregate total amount for at least one bid is within the project control budget. No additional alternates will be deducted once a bid is within the project control budget.
  4. 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 minus the deductive alternates in their precedence order, is the "Low Bidder" for the project and is designated for award.
  5. Deductive Alternate Example: The project control budget is \$100,000. In the order of precedence, alternates D-1, D-2, and D-3 are deductive alternates. After applying preferences, the bids are ranked lowest to highest price and are "Bid A", "Bid B", and "Bid C". Bid A's total lump sum base bid price and three deductive alternates, in precedence order, are \$118,000, \$10,000, \$9,000, and \$3,000 respectively. Bid B's total lump sum base bid price and three deductive alternates, in precedence order, are \$120,000, \$14,000, \$8,000, and \$4,000 respectively. Bid C's total lump sum base bid price and three deductive alternates, in precedence order are \$135,000, \$16,000, \$10,000, and \$5,000 respectively.
    - a. In tabulating alternates to the bids, deductive alternate D-1 is over the project control budget for all bids. The second alternate D-2 is tabulated and the aggregate amounts, including base bid price minus alternates D-1 and D-2 of Bid C is over the project control budget. Alternate D-3 does not need to be considered to designate the "Low Bidder" for the project.
    - b. Bid A's aggregate total including alternates D-1 and D-2 is \$99,000. Bid B's aggregate total is \$98,000. Bid C's aggregate total is \$109,000.
    - c. Bid B's price including alternates D-1 and D-2 is lower than Bid A, and has an aggregate amount within the project control budget, and therefore

is designated the "Low Bidder" for the project.

6. Should the Lump Sum Base Bid of one or more bidders be within the project control budget, the bidder with the lowest lump sum base bid after application of the preferences is designated the low bidder for the project.
7. Should the Lump Sum Base Bid including all deductive alternates of all bidders exceed the project control budget, then the bidder with the lowest total Lump Sum Base Bid, minus deductive alternates after application of the preferences is designated the Low Bidder for the project.

#### **1.07 METHOD OF AWARD**

- A. The contract will be awarded 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 and as determined by the Comptroller.
- B. In the event the total lump sum bid for bids without alternates or with additive alternates of all bidders exceeds the project control budget, the Department 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.
- C. In the event the total lump sum bid minus all the deductive alternates of all bidders exceeds the project control budget, the Department 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.
- D. 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:
  1. It is in the best interest of the State,
  2. Funds are available at the time of award, and
  3. The combination of the total lump sum base bid plus alternate(s) does not change the established Low Bidder for the project.

#### **1.08 OTHER CONDITIONS FOR AWARD**

- A. The Comptroller may reject any or all bids and waive any defects if the Comptroller believes the rejection or waiver is in the best interest of the State.
- B. The award of the contract is conditioned upon funds made available for the project (or projects if applicable).
- C. 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.

#### **1.09 RESPONSIBILITY OF AWARDED BIDDER**

- A. Pursuant to Section 103D-310(c), HRS, the responsive bidder recommended for contract award, if any, shall be compliant with all laws governing entities doing business in the State including the following chapters:
1. Chapter 237, tax clearance;
  2. Chapter 383, unemployment insurance;
  3. Chapter 386, workers' compensation;
  4. Chapter 392, temporary disability insurance;
  5. Chapter 393, prepaid health care; and
  6. Chapter 103D-310(c), Certificate of Good Standing (COGS) for entities doing business in the State.
- B. The State will verify compliance on Hawaii Compliance Express (HCE). The HCE is an electronic system that allows vendors/contractors/service providers doing business with the State to quickly and easily obtain proof that they are compliant with applicable laws. The HCE certificate, 'Certificate of Vendor Compliance', allows this single printable electronic certificate to be substituted for the tax clearance, labor certificate, and a Certificate of Good Standing required in Hawaii Revised Statutes (HRS), Section 103D-310(c), and Hawaii Administrative Rules (HAR), Section 3-122-112. The HCE provides compliance status in real time.
- C. Bidders are advised to register with Hawaii Compliance Express at <https://vendors.ehawaii.gov> before submitting an offer. Bidders are strongly encouraged to submit a 'Certificate of Vendor Compliance' with their bid package to ensure the State's ability to quickly verify compliance at the time of award. If an offeror is not compliant at the time of award, an otherwise responsive and responsible offeror may not receive the award.

**PART 2 - PRODUCTS (Not Used)**

**PART 3 – EXECUTION (Not Used)**

END OF SECTION