

SECTION 103 - AWARD AND EXECUTION OF CONTRACT

103.01 Consideration of Proposals. The Department will compare the proposals *
 in terms of the summation of the products of the approximate quantities and *
 the unit bid prices after the Contracts Officer opens and reads the *
 proposals. The Department will make the results immediately available to the *
 public. If a discrepancy occurs between unit bid price and extension. The *
 unit bid price shall govern. *

The "Buy America" provisions in the Surface Transportation Assistance Act *
 of 1982 is applicable to Federal-aid projects. Bidders may submit a bid based *
 upon the furnishing and use of domestic steel or foreign steel. Also, the *
 Department will award the contract to the bidder who submits the lowest total *
 bid based on furnishing domestic steel unless such total bid exceeds the *
 lowest total bid based on furnishing foreign steel by more than twenty-five *
 (25) percent. The bases for the determination of foreign or domestic *
 character of the steel are on place of manufacture. Manufacturing processes *
 for domestic steel shall occur in the United States. |

The Department directs the bidder to page P-8 of the Proposal regarding *
 alternate bidding procedures for foreign steel. *

The Department will decide the total bid for bid comparison purposes as *
 provided in the proposal. The Department will consider the bid based on *
 furnishing domestic steel the lower of the bids if a tie occurs between a bid *
 based upon furnishing foreign steel for the steel items and a bid based upon *
 furnishing domestic steel for the steel items and including the twenty-five *
 (25) percent price differential allowed to bids based on furnishing domestic *
 steel. *

The Department reserves the right to reject proposals, waive *
 technicalities or advertise for new proposals, if the rejection, waiver, or *
 new advertisement favors the Department. *

103.02 (Unassigned).

103.03 Award of Contract. The Department may make the award of contract *
 within thirty (30) days but not later than sixty (60) calendar days after the *
 bid opening date to the lowest responsible and qualified bidder whose *
 proposal complies with the requirements prescribed. The Department will *
 notify the successful bidder by mail to the address shown on its proposal *
 regarding accepting the bid and awarding the contract. *

The awardee shall submit to the Department for information and review *
 the pre-construction data within fifteen (15) days from the date of award of *
 the contract. Such data will include:

- (1) List of Supervisory Personnel;
- (2) Name of person(s) authorized to sign for the Contractor; *
- (3) Work Schedule;

- (4) Tax Rates;
- (5) Insurance Rates and Insurance Certificate;
- (6) Progress Schedule;
- (7) Subcontractor's Form; and
- (8) List of Suppliers.

Non-Federal Aid County projects do not require subcontractor's form. *

103.04 Cancellation of Award. The Department reserves the right to cancel the award of contracts before the execution of said contract by the parties. There will be no liability to the awardee and to other bidders. *

103.05 Return of Proposal Guaranty. The Department will return the proposal guaranties, except those of the three (3) lowest bidders, after the Department checks the proposals. The Department will return the proposal guaranties of the remaining two (2) lowest bidders not awarded the contract within five (5) working days following the execution of the contract. The Department will return the successful bidder's proposal guaranty after the successful bidder furnishes a bond and executes the contract. *

103.06 Requirement of Contract Bond. Before the Department makes the contract, the successful bidder shall furnish to the Department a surety bond in the form supplied by the Department. The bond includes: *

(1) conditions on the full and faithful performance of the contract by the successful bidder according to terms and intent; *

(2) securing the prompt payment to others for labor and materials furnished to the bidder and used in the prosecution of the work provided for in the contract; *

(3) furnishing form and amount required by Sections 78-20, 103-34 and 103-35, H.R.S.; *

(4) an amount equal to one hundred (100) percent of the contract price, including amounts estimated to be required for extra work; if price-term, open-end, or requirements contracts for which the total amount paid to the Contractor cannot accurately be estimated at the time the contract is to be awarded, the bond amount shall be as designated in the bid documents; *

(5) requirements that the coverage of the bond shall increase when the Department and the Contractor agree on the modifications, change orders or other contract adjustments and the Surety approves them; and *

(6) terms accustom to the benefit of person entitled to file claims for labor done or materials furnished in the work according to Section 507-17, H.R.S. *

Bidders to whom the Department awards the contract may furnish a bond executed by the bidder alone, as principal according to Section 103-36, H.R.S.. The bidder shall similarly furnish security in certified check, certificate of deposit or other securities free from encumbrances and offsets, present and future instead of a surety or sureties.

103.07 Execution of the Contract. The successful bidder shall execute and return the contract with the Contract Bond within ten (10) days after the award of the contract. The Director may allow further time after the bidder receives the contract for execution.

The contract shall not bind the Department unless said parties execute the contract and the State Comptroller endorses the bidder's certificate according to Section 103-39, H.R.S..

103.08 Failure to Execute Contract. Failure to execute the contract and file acceptable bonds shall be cause for the cancellation of the award according to Subsection 103.07 - Execution of the Contract. Also, the Contractor forfeits the proposal guaranty which becomes the property of the Department. This is not a penalty, but liquidated damages sustained by the State. The Department may then make award to the next lowest responsible bidder or the Department may readvertise and construct the work under contract.

103.09 Submission of Insurance Certification. The Contractor shall submit to the Engineer within fifteen (15) days of the contract award date, three (3) copies each of insurance certification stating that the Contractor has taken out and is keeping in effect:

(1) Comprehensive Personal Injury and Property Damage Liability insurance with the following minimum limits of liability:

Bodily Injury Liability	\$500,000 each person \$1,000,000 each occurrence
Property Damage Liability	\$500,000 each occurrence \$1,500,000 aggregate

and with the State of Hawaii named as additional insured.

(2) Automobile Bodily Injury and Property Damage Liability insurance with the following minimum limits of liability:

Bodily Injury Liability	\$250,000 each person \$500,000 each occurrence
Property Damage Liability	\$500,000 each occurrence \$1,000,000 aggregate

and with the State of Hawaii named as additional insured.

(3) Workers' Compensation.

The insurance mentioned above shall cover the insured for work done as follows: *|
*|

- (1) under the contract including force account work, *|
- (2) incidental to the contract including traffic detour work or other work done out of the work area, *|
- (3) outside the project limits including hauling of equipment and materials, and |
- (4) contract change orders including force account work. *|

If the Contractor and/or its insurer wrongfully fails to defend and/or indemnify the State of Hawaii in any liability claims, the Department may bar the Contractor and/or its insurance company from bidding, working on construction projects, and/or insuring construction projects for a period of up to two (2) consecutive years from the date determined by the Department. |

This remedy is non-exclusive. The Department may exercise this remedy in addition to other remedies for breach of the project contract on account of any failure to defend and/or indemnify. *|