

July 2016

DEPARTMENT OF FINANCE  
COUNTY OF KAUAI



**GENERAL INSTRUCTIONS TO  
OFFERORS**

**FOR**

**GOODS AND SERVICES CONTRACTS**

DEPARTMENT OF FINANCE

County of Kauai

**GENERAL INSTRUCTIONS TO OFFERORS**

**FOR GOODS AND SERVICES CONTRACTS**

July 2016

**TABLE OF CONTENTS**

**Article I GENERAL** ..... 5

    Section 1.01 Introduction ..... 5

    Section 1.02 Application ..... 5

    Section 1.03 Definitions ..... 5

**Article II SOLICITATION**..... 6

    Section 2.01 Order of precedence..... 6

    Section 2.02 County’s estimates..... 6

    Section 2.03 Pre-bid or pre-proposal conference. .... 6

    Section 2.04 Price Items. .... 6

    Section 2.05 Bid security..... 7

    Section 2.06 Brand Names, Model, Make, or Method. .... 8

    Section 2.07 No Substitutions on Restrictive Specifications ..... 8

    Section 2.08 General Terms & Conditions..... 8

    Section 2.09 Request for clarification. .... 8

    Section 2.10 Request for substitution. .... 9

    Section 2.11 Cancellation of solicitation..... 9

    Section 2.12 Solicitation addenda. .... 9

    Section 2.13 Offer Prices..... 10

**Article III PREFERENCES** ..... 11

    Section 3.01 Preferences..... 11

**Article IV OFFER**..... 12

    Section 4.01 Preparation of offers. .... 12

    Section 4.02 Brochures, Specifications, and Questionnaires ..... 12

    Section 4.03 Offer Guaranty..... 13

    Section 4.04 Certificate of cost or pricing data. .... 13

Section 4.05	Proprietary or Confidential.....	13
Section 4.06	Offer Submission.....	13
Section 4.07	Pre-opening modification or withdrawal of offers.....	13
<b>Article V</b>	<b>OPENING OF BIDS AND REGISTRATION OF PROPOSAL.....</b>	<b>14</b>
Section 5.01	Public bid opening of IFB solicitations.....	14
Section 5.02	Registration of RFP solicitations.....	14
Section 5.03	Late offers, late withdrawals, and late modifications.....	14
<b>Article VI</b>	<b>EVALUATION OF OFFERS.....</b>	<b>15</b>
Section 6.01	Mistakes in bid; corrections or withdrawals after solicitation opening or registration of offer.....	15
Section 6.02	Waiver of informalities.....	15
Section 6.03	Multiple or alternate offers.....	15
Section 6.04	Conditioned offers.....	15
Section 6.05	Limiting acceptance to entire offer.....	15
Section 6.06	Anti-competitive practices.....	16
Section 6.07	Unauthorized communications.....	16
Section 6.08	Suspended or debarred List.....	16
Section 6.09	Disqualification of an Offeror.....	16
Section 6.10	Non-responsive offers or non-responsible Offerors.....	17
Section 6.11	Rejection of offers.....	17
<b>Article VII</b>	<b>DISCUSSION AND BEST AND FINAL OFFER.....</b>	<b>18</b>
Section 7.01	Priority Listed Offers.....	18
Section 7.02	Discussions.....	18
Section 7.03	Best and Final Offer (BAFO).....	18
<b>Article VIII</b>	<b>AWARD.....</b>	<b>19</b>
Section 8.01	Invitation for Bids (IFB) solicitations.....	19
Section 8.02	Request for Proposals (RFP) solicitation.....	19
Section 8.03	Exceeding available funds.....	19
Section 8.04	Failure to execute contract.....	19
Section 8.05	Cancellation of award.....	20
<b>Article IX</b>	<b>DEBRIEFING, PROTEST, SUSPENSION, AN DEBARMENT.....</b>	<b>21</b>
Section 9.01	Debriefing.....	21
Section 9.02	Authority to resolve protested solicitations and awards.....	21
Section 9.03	Authority to debar or suspend.....	21
Section 9.04	Solicitation or award in violation of law.....	21



# **Article I GENERAL**

## **Section 1.01 Introduction**

These General Instructions to Offerors (“Instructions”) state the County's policies relating to Invitation for Bids (“IFB”) and Request for Proposals (“RFP”) solicitations. Before submitting a bid or a proposal, the Offeror shall be responsible for reading and examining the solicitation documents, including Offer pages, Scope of Work, Special Provisions, Exhibits, County’s General Terms and Conditions, addenda (if any), and any other sections or documents attached hereto, these Instructions and all applicable requirements by law. Submission of an offer shall be deemed verification of such reading and examination. No Offeror shall in any way be relieved of any obligation with respect to its offer or the contract due to its failure or neglect to secure, receive, examine, familiarize itself with, acquaint itself with, or understand the work requirements, the Solicitation Documents, or any addenda hereto, applicable standards or requirements, or existing conditions, difficulties, restrictions or obstacles. No claim for additional compensation to the Offeror shall be allowed based on lack of knowledge or misunderstanding.

## **Section 1.02 Application**

These General Instructions to Offerors (“Instructions”) shall only apply to procurements conducted under Hawai'i Revised Statutes §103D-302 and §103D-303. These Instructions, and any solicitation using these Instructions, are subject to the Hawai'i Revised Statutes (“HRS”) §103D and the Hawai'i Administrative Rules (“HAR”) Title 3, Department of Accounting and General Services. Should any provision herein be inconsistent with the HRS or HAR, the HRS or HAR, respectively, shall govern. Provisions from the HRS and HAR are presented for convenience only and may not be complete. Unless otherwise specified, these instructions are intended to be incorporated into awarded contracts.

## **Section 1.03 Definitions**

The terms used in this General Instructions to Offerors shall have the same meanings as defined in the County’s General Terms and Conditions.

## **Article II SOLICITATION**

### **Section 2.01 Order of precedence.**

Whenever separate Offer pages, Scope of Work, Special Provisions, Exhibits, requirements, specifications or plans are referred to or attached hereto, they shall be considered a part of this solicitation document as if contained herein. Should any of the offer pages, scope of work, special provisions, requirements, specifications or plans conflict with these General Instructions to Offerors, said Offer pages, Scope of Work, Special Provisions, requirements, specifications or plans shall govern.

### **Section 2.02 County's estimates.**

Any estimate provided by the County is for the convenience of the Offeror only and the County does not represent or warrant its accuracy. An Offeror should conduct its own review and analysis and not base its offer on the County's estimate.

### **Section 2.03 Pre-bid or pre-proposal conference.**

Pre-bid or pre-proposal conference, if held, shall be announced in the solicitation document, or in an addendum. Unless specified otherwise in the solicitation, preoffer conferences shall be non-mandatory. Nothing stated at the pre-offer conference shall change the solicitation unless a change is made by written addendum.

### **Section 2.04 Price Items.**

- (a) Unless otherwise specified in the solicitation document, Offerors must provide a price for all items listed in the solicitation document.
- (b) In figuring the offer price, Offerors shall take into consideration the cost of all freight and delivery charges, insurance, taxes, permits, and other applicable or related costs/fees, unless specified otherwise .
- (c) The cost of furnishing and installing all equipment as called for in the specifications including warranty repairs of the complete unit shall be included. Whenever installation is specified, installation shall include all necessary labor, materials and other incidentals required to make a complete operative unit. When an Offeror is in doubt as to the proper item to which the anticipated cost of any incidental item is to be allocated, the cost in the lump sum or unit price for the items that is deemed most appropriate shall be included.
- (d) When alternates are provided for in the solicitation, Offerors should enter a price for each and every item listed setting forth the amount to be added to or deducted from the Offeror's total basic price should such alternate be incorporated into the contract. Failure to enter a price for each and every item may result in the Offeror's offer not being considered for

award, provided that if award is based on the item or items on which offers have been submitted, the Offeror's offer may be considered for award.

- (e) Whenever required herein, Offeror shall indicate the exact brand name and number, or make and model of the item on which they are bidding. Failure to do so may be sufficient cause for rejection of bid.
- (f) In submitting an offer, the Offeror certifies that the price submitted was independently arrived at without collusion.
- (g) Offers in which prices are unbalanced, which contain omissions, erasures, alterations, or additions not called for, or irregularities of any kind shall be cause for rejection of an offer.
- (h) Prices shall remain valid for sixty (60) calendar days after the established bid submission deadline.

#### Section 2.05 Bid security.

- (a) When required, Offerors shall provide, at no cost to the County, an offer security. If an offer security is required and an Offeror fails to accompany its offer with an offer security, the offer shall be deemed non-responsive, except as provided in HAR §3-122-223 (d).
- (b) Bid security amount. Unless otherwise specified in the solicitation, an offer security shall be in an amount equal to at least five per cent of the amount of the base offer and additive alternates.
- (c) An acceptable bid security shall be limited to:
  - (i) Surety bond in the form attached to the solicitation and underwritten by a company licensed to issue bonds in this State. Failure to utilize the County's surety bond forms shall not relieve the Offeror from liability or responsibility if it is discovered that the form utilized is not compliant with the HAR.
  - (ii) Legal tender; or
  - (iii) A certificate of deposit; credit union share certificate; or cashier's, treasurer's, teller's, or official check drawn by, or a certified check accepted by a bank, a savings institution, or credit union insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, and payable at sight or unconditionally assigned to the Director of Finance, County of Kauai.
    - 1) These instruments may be utilized only to a maximum of \$100,000.00.

- 2) If the required security amount totals over \$100,000.00, more than one instrument not exceeding \$100,000.00 each and issued by different financial institutions shall be accepted.

#### Section 2.06 Brand Names, Model, Make, or Method.

- (a) Whenever one or more manufacturers' brand or trade name is specified, an Offeror shall base the offer on one of the specified brands. However, other manufacturers' brands may also qualify if found to be equal to or better than those specified.
- (b) The burden of proof as to whether an alternate item is equal to or superior to the item specified shall lie with the Offeror. The Offeror understands and agrees that the Officer-in-Charge reserves the sole and final right to determine whether alternate brands are equivalent to and meet indicated standards of quality.

#### Section 2.07 No Substitutions on Restrictive Specifications

Whenever the specifications restrict offers to only a specific manufacturer's make or model, offers for other products will not be accepted.

#### Section 2.08 General Terms & Conditions.

The County's General Terms and Conditions shall be incorporated by reference. Offers submitted with any alterations to the County's General Terms and Conditions so made by the Offeror without approval by the County may be sufficient cause for rejection of the offer.

#### Section 2.09 Request for clarification.

- (a) Prospective Offeror should examine and review the solicitation document with care. If a prospective Offeror believes that any of the matters in, or related to, the solicitation are not sufficiently described or explained in the solicitation, or that any discrepancy exists between different parts of the solicitation, or that the full intent of the solicitation is not clear, then the Offeror shall submit a written request via PPS for clarification no later than five (5) calendar days prior to the submittal deadline stated in the solicitation document.
- (b) The Offeror submitting the inquiry shall be responsible for proper transmission. If additional information is deemed necessary, such information will be issued in an addendum by the Division of Purchasing. The addendum will be issued via PPS to all persons who have properly registered and obtained the solicitation. All addenda issued shall be a part of the Contract.
- (c) If during discussions there is a need for any substantial clarification or change in the RFP, the RFP shall be amended by an addendum to incorporate the clarification or change. Addenda to the RFP shall be distributed only to priority-listed Offerors.

## Section 2.10 Request for substitution.

Substitution of alternate brands, makes, or methods may be qualified through the submittal of a request to [cokpurchasing@kauai.gov](mailto:cokpurchasing@kauai.gov) for review and approval. An alternate brand, make, or method approved for one procurement or project is not to be considered as approved for any other procurement or project. Offeror shall submit a written request for substitution no later than five (5) calendar days prior to the submittal deadline stated in the solicitation document. Requests submitted less than four (4) calendar days prior to the submittal deadline will be denied.

Unless otherwise specified, requests for substitution must state all features of the proposed substitution that differ from the brand, model, make or method specified in the solicitation. The written request shall also include sufficient evidence to enable the County to evaluate each feature to determine if it is equal or better than specified brand, model, make or method.

## Section 2.11 Cancellation of solicitation.

A solicitation may be canceled in whole or in part and at any time during the solicitation process for reasons specified in, but not limited to, HAR §3-122-96.

## Section 2.12 Solicitation addenda.

- (a) Addenda part of contract.

All addenda issued shall be a part of the Contract.

- (b) Written addendum

Oral interpretations or clarifications or changes or approved substitutions will be without legal effect. Only interpretations or clarifications or changes or approved substitutions provided by formal written addendum to the solicitation shall be binding.

- (c) Notification of addenda

Notifications of addenda will be issued to all registered vendors. If the addendum is issued after the receipt of proposals, notifications will be sent to those Offerors who submitted proposals or who are “priority listed.”

- (d) Modification to price items

Should an addendum or amendment modify the description and/or quantities of a price item, it shall be the responsibility of the Offeror to modify or withdraw its submitted offer, if necessary.

## Section 2.13 Offer Prices

Unless otherwise specified in the solicitation, prices offered shall be based on f.o.b. place of destination and shall include all applicable taxes, freight, delivery, handling and related charges.

## **Article III      PREFERENCES**

This Article shall not apply whenever its application will disqualify the County from receiving Federal funds or aid.

### **Section 3.01 Preferences**

All offers shall comply with the preferences, as applicable, outlined in HAR 3-124.

## **Article IV      OFFER**

### **Section 4.01   Preparation of offers.**

All offers shall comply with the following.

- (a) The electronic offer form within the solicitation reflects a list of items upon which the computation of compensation is to be based. The transmitted offer must contain all items to be used in such computation, and the compensation computed therefrom shall be full compensation for the performance of the Contract.
- (b) Shall not include samples or descriptive literature unless expressly requested. Any unsolicited samples, descriptive literature, or attachments will not be examined or tested, and will not be deemed to vary any of the provisions of the solicitation.
- (c) All costs to prepare and submit an offer shall be at the Offeror's expense. The County will not reimburse any offer costs or any best and final offer costs incurred by any Offeror, any prospective Offeror, or any other person.

### **Section 4.02   Brochures, Specifications, and Questionnaires**

- (a) Whenever a questionnaire is attached to the solicitation document, Offerors shall complete and submit such questionnaire with their offer. Supporting specifications and brochures may be submitted wherein available.
- (b) The Director reserves the right to request Offerors to provide, at their own expense and within ten (10) days from the date of the request, all specifications and brochures regarding the item or items offered. Failure to comply with the County's request within the time specified shall be sufficient cause for rejection of the offer.
- (c) Whenever the preparation and submission of a questionnaire is required, all specifications and brochures submitted by the Offeror 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 solicitation questionnaire and manufacturer's specifications.
- (d) In answering the respective questions Offerors are warned that a response of "as specified" may not be acceptable and may also be cause for rejection of the offer. Accordingly, Offerors are directed to avoid using phrases similar or comparable to "as specified" when answering the questionnaire.

Failure to comply with the requirements of the provisions herein shall be sufficient cause for rejection of the offer.

### Section 4.03 Offer Guaranty

Unless required by the Special Provisions, a bid or proposal security deposit, or any other guaranty, is not required on any offer for goods or services.

### Section 4.04 Certificate of cost or pricing data.

When an offer in response to a Request for Proposal (RFP) solicitation is in excess of \$100,000.00, a Certificate of cost or pricing data form shall be completed and transmitted with the Offeror's offer. Failure to transmit the required certification may be grounds for disqualification of the Offeror's offer. The Certificate of cost or pricing data shall be used to certify that the Offeror's transmitted cost or pricing data is accurate, complete, and current as of the date of the offer.

### Section 4.05 Proprietary or Confidential.

Offeror shall clearly label any proprietary information as confidential and the information shall be readily separable from the offer to facilitate public inspection of the solicitation documents. Any information labeled as confidential will remain confidential to the extent provided by law. Offers submitted to the County shall become the property of the County.

Failure to label proprietary information as confidential shall result in the information being available for public inspection.

### Section 4.06 Offer Submission.

- (a) Electronic Submission Required. Offers shall be electronically submitted via the online hosted eProcurement system, PPS, in accordance with the requirements of the solicitation. Offers that cannot transmit successfully as a result of system failure within the County shall be addressed via the issuance of the appropriate addendum.
- (b) Failure to use PPS. Offers transmitted via any other means than PPS shall be deemed unacceptable and shall be rejected. (HAR 3-122-16.08(a)(b))

### Section 4.07 Pre-opening modification or withdrawal of offers.

Timely modification or withdrawal. Offers may be modified or withdrawn via PPS at any time prior to the time fixed in the notice to Offerors for opening of offers, or if applicable pursuant to solicitation documents, prior to the date at which the Best and Final Offer is due.

## **Article V OPENING OF BIDS AND REGISTRATION OF PROPOSAL**

### **Section 5.01 Public bid opening of IFB solicitations.**

- (a) Electronic sealed offers via the PPS will be received up to the submittal deadline and recorded immediately for the Division of Purchasing, Department of Finance.
- (b) Bid reading information will be posted on the Division of Purchasing website. Offers to competitive sealed bids may be inspected only as provided for in this section.
- (c) The opened bids shall be available for public inspection following bid reading except to the extent that the bidder designates trade secrets or other proprietary data to be confidential.
  - (i) For multi-step sealed bidding, un-priced technical offers shall be open for public inspection after the Contract is signed by all parties.
- (d) The opening and reading of a bid does not imply, indicate, or mean that a bid is responsive and responsible. A complete review and evaluation of all pertinent factors will be conducted by the County after the bids are read and recorded. Accordingly, bidders should not presume that they are entitled to an award until a written award is issued. The successful vendor will be notified via electronic transmission of the letter of award that the vendor is being awarded the Contract; provided that if the amount of the award is less than \$25,000.00, a purchase order incorporating the terms and conditions herein, may be issued.
- (e) Bids shall be unconditionally accepted without alteration or correction, except as allowed in Section 5.03 LATE OFFERS, LATE WITHDRAWALS, AND LATE MODIFICATIONS and Section 6.01 MISTAKES IN BIDS.

### **Section 5.02 Registration of RFP solicitations.**

Electronic sealed offers via PPS will be received up to the submittal deadline and recorded immediately for the Division of Purchasing. Proposals and modifications shall not be opened publicly. Proposals and modifications shall be shown only to members of the evaluation committee. For competitive sealed proposals, except for confidential portions, the proposals shall be made available for public inspection upon notice of award.

### **Section 5.03 Late offers, late withdrawals, and late modifications.**

Late offers and late modifications are not permitted and cannot be transmitted via the PPS system.

Late withdrawals emailed to [cokpurchasing@kauai.gov](mailto:cokpurchasing@kauai.gov) may be allowed at the discretion of the Director pursuant to HAR 3-122-16.08.

## **Article VI      EVALUATION OF OFFERS**

### **Section 6.01 Mistakes in bid; corrections or withdrawals after solicitation opening or registration of offer.**

An obvious mistake in an offer may be corrected or withdrawn, or waived by the County to the extent it is not contrary to the best interest of the County or to the fair treatment of other Offerors.

- (a) A mistake in an offer discovered after the deadline for receipt of offers but prior to award may be corrected or waived or the offer withdrawn under the conditions stated in HAR §3-122-31.
- (b) A mistake in an offer discovered after award of contract may be corrected or withdrawn if the County makes a written determination that it would be unreasonable not to allow the mistake to be remedied or withdrawn. The determination shall be final and conclusive.

### **Section 6.02 Waiver of informalities.**

The County may waive or accept any minor informalities, irregularities, deviations or other defects, if in the County's judgment such waiver or acceptance will be in the best interest of the County.

### **Section 6.03 Multiple or alternate offers.**

Unless specifically provided for in the solicitation, multiple or alternate offers shall not be accepted and all such offers shall be rejected. This includes offers submitted by any one person under the same or different names. Without limiting the generality of the foregoing provision, a person shall be considered to have submitted more than one offer if such person submits more than one offer under the same name, or through agents, or through joint ventures, partnerships or corporation in which such person has more than a twenty-five per cent interest in each of them, or through any combination thereof.

### **Section 6.04 Conditioned offers.**

Offers that are conditioned may be rejected. This includes any offer that is conditioned upon receiving award of both the particular contract being solicited and another County contract.

### **Section 6.05 Limiting acceptance to entire offer.**

An Offeror may not limit acceptance to the entire offer, unless allowed by the solicitation:

- (a) If the acceptance of an offer is so limited by the Offeror but not allowed, the offer will be determined to be not acceptable and rejected.

- (b) If the acceptance of an offer is so limited by the Offeror and allowed, the Director shall not reject part of the offer and award on the remainder.

#### Section 6.06 Anti-competitive practices.

If there is any evidence indicating that two or more Offerors are in collusion to restrict competition or have otherwise engaged in anti-competitive practices relating to the procurement, the offers of all such Offerors shall be rejected and such evidence may be a cause for the disqualification of the participants in any future procurement.

#### Section 6.07 Unauthorized communications.

Except as otherwise authorized in the solicitation, offerors and their respective representatives shall not make any contact or communications with the Director, any member of a Selection Committee or Evaluation Team appointed by the Director, or any other County officer, employee or agent directly serving the procurement activity.

#### Section 6.08 Suspended or debarred List.

No contract will be awarded to any Offeror suspended or debarred by the Federal, State or County, or who has not provided any required clearances.

#### Section 6.09 Disqualification of an Offeror.

An Offeror may be disqualified and its offer may be rejected for any one or more of the following reasons:

- (a) Offeror lacks proper equipment and/or sufficient experience to perform the work contemplated;
- (b) Offeror does not possess proper license, if required to cover the type of work contemplated, at the time of the offer submittal due date, unless otherwise specified in this solicitation;
- (c) Offeror who has uncompleted work on contracts in force, or a record of unsatisfactory work performance or delays on completed contracts or on contracts in force which, in the

judgment of the County, might hinder or prevent the prompt completion of additional work if awarded;

- (d) Offeror who has complaints filed against the Offeror for abusive or threatening language or behavior during previous contracts toward any County employee;
- (e) Offeror who has had a previous contract terminated for default by the County;
- (f) Offeror who has failed to comply or is delaying compliance with the requirements for final inspection or final payment of the County's General Terms and Conditions for any contract in force;
- (g) Offeror is determined to be non-responsive; or Offeror fails to pay, or satisfactorily settle, all bills overdue for labor and material on former County contracts prior to the offer submittal due date; or
- (h) The Offeror was paid for services to develop or prepare the specifications or work statements.

#### Section 6.10 Non-responsive offers or non-responsible Offerors.

Offers submitted by Offerors who have been determined to be non-responsive or non-responsible shall be rejected. An offer is considered non-responsive when it does not conform in all material respects to the solicitation by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the solicitation.

#### Section 6.11 Rejection of offers.

The County reserves the right to reject any or all offers when in the County's opinion; such rejection will be in the best interest of the County. Reasons for rejection of an offer includes but is not limited to the reasons stated in these instructions and the reasons stated in HAR §3-122-97 "Rejection of offers."

## **Article VII      DISCUSSION AND BEST AND FINAL OFFER**

### **Section 7.01   Priority Listed Offers.**

The County may establish a Priority List consisting of at least three (3) Offerors for discussions and Best and Final Offers (BAFOs). Those Offerors who are selected for the priority list are referred to as the "Priority-Listed Offerors (PLO)." The County will not publicly identify the Priority-Listed firms prior to the notice of award being posted.

### **Section 7.02   Discussions.**

Discussions will be limited to only Priority-Listed Offerors (PLO). Discussions are held to: (1) Promote understanding of the County's requirements and the priority listed Offeror's proposals; and (2) Facilitate arriving at a contract that will provide the best value to the County, taking into consideration the evaluation factors set forth in the request for proposals. PLOs shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of offers; however, offers may be selected without such discussion. Addenda to this RFP after establishment of a priority list shall be distributed only to PLOs. New proposals or amendments to the existing solicitation that, in the County's sole judgment, significantly change the nature of the procurement will not be permitted. Should the County believe it is in its best interest to go forward with a significant change, then the solicitation may be cancelled and a new solicitation issued. Non-Disclosure of offer contents. The contents of any offer shall not be disclosed so as to be available to competing Offerors during the discussion process.

### **Section 7.03   Best and Final Offer (BAFO).**

Although the County reserves the right to issue a request for Best and Final Offers (BAFOs), the County is under no obligation to do so. The County may make its selection and Award based on the initial offers submitted. If the County requests BAFOs, Priority-Listed Offerors may be informed of and requested and/or allowed to revise their offers, including correction of any weaknesses, minor irregularities, errors, and/or deficiencies identified to the Priority-Listed Offerors by the County following initial evaluation of the offers. The request for BAFOs will allow adequate time for the Priority-Listed Offerors to revise their offers. Upon receipt of any BAFOs, the process of evaluation will be repeated. The process will consider the revised information and re-evaluate and revise scores as appropriate. If discussions are held, the County will attempt to limit the selection process to a single BAFO following discussions.

## **Article VIII     AWARD**

### **Section 8.01 Invitation for Bids (IFB) solicitations.**

For Invitation for Bids (IFB) solicitations under HRS §103D- 302, the contract shall be awarded with reasonable promptness by written notice to the lowest responsive, responsible Offeror whose offer meets the requirements and criteria set forth in the solicitation.

#### **(a) Additive alternates**

In the event additive alternates are included in the solicitation, the lowest offer will be determined after adding to the total basic price, the alternate or alternates considered for award. Alternates, if any are awarded, shall be awarded in the order listed in the offer. Award of alternates shall be dependent upon the availability of funds.

#### **(b) Low Tie Bids**

In the case of low tie bids from responsible and responsive Offerors that are identical in price and which meet all the requirements and criteria set forth in the solicitation are received, award shall be made by the drawing of cards.

### **Section 8.02 Request for Proposals (RFP) solicitation.**

For Request for Proposal (RFP) solicitations under HRS §103D-303, the contract shall be awarded to the responsible and responsive Offeror whose offer is determined in writing to provide the best value to the County taking into consideration the evaluation criteria set out in solicitation. Other factors and criteria shall not be used in the determination.

### **Section 8.03 Exceeding available funds.**

In the event all offers exceed available funds as certified by the appropriate fiscal officer, and where time or economic considerations preclude re-solicitation of a reduced scope of work, the County may negotiate an adjustment of the offer price, including changes in the solicitation requirements, with the low responsive and responsible Offeror, in order to bring the offer within the amount of available funds.

### **Section 8.04 Failure to execute contract.**

If the Offeror to whom a Contract is awarded shall fail or neglect to enter into the Contract and to furnish satisfactory security as required by Section 3.09 Performance and Payment Bonds (GT&C) within ten (10) days after receipt of Contract documents or within such further time as the Director may allow, the Division of Purchasing shall pay the amount of Offeror's bid or proposal security deposit, as required under Section 4.03 OFFER GUARANTY, into the County General Fund. The

Director may thereupon award the Contract to the next lowest responsive, responsible Offeror or may call for new offers, whichever method is determined to be in the best interest of the County.

#### Section 8.05 Cancellation of award.

The County reserves the right to cancel the award of any contract any time before the signing of the contract by the Director.

**Article IX            DEBRIEFING, PROTEST, SUSPENSION, AN  
DEBARMENT**

Section 9.01 Debriefing.

Debriefing shall apply only to Request for Proposal (RFP) solicitations. The purpose of a debriefing is to inform the non-selected Offerors of the basis for the source selection decision and contract award. A written request for a debriefing shall be made within three (3) working days after the posting of the award.

Section 9.02 Authority to resolve protested solicitations and awards.

Complaints and protest of awards shall be subjected to the requirements specified in HAR §3-126-1 and HRS §103D-701.

Section 9.03 Authority to debar or suspend.

The County, in accordance with the provisions of HRS §103D-702, and HAR §3-126-2, may debar or suspend an Offeror for cause from consideration for award of contracts. The period of debarment shall not be more than three (3) years, and for suspension, not more than three (3) months.

Section 9.04 Solicitation or award in violation of law.

If a solicitation or award is found to be in violation of law, it shall be resolved in accordance with HAR §3-126-4.

APPROVED AS TO FORM AND LEGALITY:

*[Signature]*  
\_\_\_\_\_  
For County Attorney

*7-28-16*  
\_\_\_\_\_  
Date

APPROVED:

*[Signature]*  
\_\_\_\_\_  
Director of Finance

*7/28/16*  
\_\_\_\_\_  
Date