

Prepared by Office of Procurement and Real Property Management.
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A8.215

A8.200 Procurement

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P 1 of 7

A8.215 Definitions

The words defined in this section shall have the meanings set forth below whenever they appear in this procedure unless:

- a. the context in which they are used clearly requires a different meaning; or
- b. a different definition is prescribed for a particular section.

Amendment of Solicitation: A written document issued by the Procurement Officer after the issuance of an Invitation for Bids or a Request for Proposals, but before bid opening or prior to submission of proposals, to modify or correct the solicitation.

Bid: The executed document submitted by a bidder in response to an Invitation for Bids or a multi-step bidding procedure.

Bid or Proposal Security: The legally sufficient form of security furnished by an offeror as a warranty of good faith that the offeror will enter into a contract with the University and supply the necessary performance and payment bonds should its offer be accepted and which amount will be forfeited in the event of failure or refusal of the offeror to enter into a contract.

Bid Opening: The process of opening and reading bids at the time and place specified in the Invitation for Bids and/or the advertisement and in the view of anyone who wishes to attend.

Bidder: Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly, or through a duly authorized representative or agent, a bid for the goods, services, or construction contemplated.

Brand Name Specification: A specification limited to one or more items by manufacturers' names or catalog numbers.

Brand Name or Acceptable Alternate Specification: A specification which uses one or more manufacturer's names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet requirements and which provides for the submission of equivalent products.

Change Order: A written order signed by the Procurement Officer directing the Contractor to make changes which the Changes clause of the contract authorizes the Procurement Officer to order without the consent of the Contractor.

Chief Procurement Officer: The President of the University of Hawaii as provided in Section 103D-203, HRS, or the officer's designee

Competitive Sealed Bidding: A procurement method by which vendors submit sealed bids (offers) in response to an advertised solicitation.

Concession Contract: A contract granting the privilege of conducting operations involving the retailing of goods or services to the general public on real property owned or controlled by the University.

Construction: The process of building, altering, repairing, improving or demolishing any University structure, building or improvement to real property, including painting and decorating. The term includes the routine operation, repair or maintenance of existing University structures, buildings, or real property.

Contract: A legally enforceable agreement between the University and a Contractor.

Contract Modification: Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

Contract Time: The time stated in the invitation and the contract, giving the definite number of consecutive calendar

days or work days in which to perform and complete all work covered by the contract. The contract time shall start on the specified date in the "Notice to Proceed."

Contractor: Any individual, partnership, firm, corporation, joint venture, or other legal entity undertaking the execution of the work under the terms of the contract with the University, and acting directly or through its agents or employees.

Cooperative Agreement: A contract wherein the University and Contractor mutually agree to a joint endeavor requiring the performance of specified duties by both parties.

Days: Calendar days unless otherwise specified.

Default: Failure by a party to a contract without legal justification to comply with contractual requirements.

Designee: A duly authorized representative of a person holding a superior position to act on its behalf with delegated authority.

Emergency Purchase: A purchase made without following the normal purchasing procedures in order to obtain goods, services, or construction immediately to meet an emergency. Emergencies for this purpose are defined as situations that threaten the health and safety of any person or the preservation or protection of buildings or property of the University and other situations that would cause serious adverse effects to University programs or operations if not remedied immediately.

F.O.B. Point: The F.O.B. (free on board) point (origin or destination) of an order determines the point at which title to goods passes from the vendor to the University.

Goods: All property, including but not limited to equipment, equipment leases, materials, supplies, printing, insurance and processes, including computer systems and software, excluding land or a permanent interest in land, leases of real property, and office rentals.

Invitation for Bids (IFB): A written solicitation, including all documents, whether attached or incorporated by reference, to prospective bidders requesting bids on University requirements.

Lease-purchase Agreement: A rental contract in which the University's periodic payments or parts thereof are applied both to fulfill the rental obligation and as installments for eventual University-ownership of the commodity upon completion of the agreement.

Life-cycle Costing: A procurement technique which considers operating, maintenance, acquisition price, and other costs of ownership in the award of contracts to ensure that the item acquired will result in the lowest total ownership cost.

Liquidated Damages: A specified sum of money in the contract to be paid by the Contractor to the University in the event the Contractor fails to perform as agreed.

May: Means permissive.

Offer: Bid, proposal, or quotation to provide goods, services or construction.

Offeror: Any individual, partnership, firm, corporation, joint venture, or other entity submitting, directly or through a duly authorized representative or agent, an offer to provide the goods, services, or construction contemplated.

Payment Bond: The legally sufficient form of security which guarantees payment and protection for those furnishing labor and materials to the contractor or its subcontractors for the work bonded.

Performance Bond: The legally sufficient form of security which indemnifies the University against loss resulting from the failure of the contractor to perform a contract, in particular a construction contract, in accordance with the plans and specifications.

Procurement: The buying, purchasing, renting, leasing, or otherwise acquiring of goods, services, or construction including all functions that pertain to the obtaining of goods, services, or construction such as description of requirements,

selection and solicitation of sources, preparation and award of contracts and all phases of contract administration.

Procurement Officer: The Director, Office of Procurement and Real Property Management (OPRPM), or any person who has been delegated authority to enter into and administer contracts and make written determinations with respect to the contract. The delegated authority is received from the President or designee.

Professional Services: Those services within the scope of the practice of architecture, landscape architecture, professional engineering, land surveying, real property appraisal, law, medicine, accounting, dentistry, public finance bond underwriting, public finance bond investment banking or any other practice defined as professional by the laws of this State or the professional and scientific occupation series contained in the United State Office of Personnel Management's Qualification Standards Handbook.

Proposal: The executed document submitted by an offeror in response to a Request for Proposals or a multi-step proposal procedure.

Protest: A complaint concerning a University procurement action or decision brought by a bidder or vendor to the appropriate University official.

Purchase Order: A purchasing document used to formalize a transaction with a vendor containing statements as to the quantity, description, and price of the goods, services, or construction ordered; agreed terms as to payment, discounts, date of performance, transportation terms, and all other information pertinent to the purchase and its execution by the vendor.

Request for Information: A formal written request, or an informal written, oral, or electronic media request, or a combination of formal and informal requests, for soliciting information to obtain recommendations from suppliers for a procurement that cannot be described in sufficient detail to prepare a solicitation.

Request for Proposals: A written solicitation, including all documents, whether attached or incorporated by reference, to

prospective offerors requesting proposals on University requirements.

Requirements Contract: A contract in which the vendor agrees to supply all the University requirements that arise for an item or items within a specified period.

Requisition: An internal University document by which a using agency requests either the Fiscal Officer or the OPRPM to initiate a procurement.

Responsible Bidder or Offeror: A bidder or offeror who meets minimum or special standards as may be prescribed. A bidder or offeror must have adequate financial resources, or the ability to obtain such resources as required for contract performance; be able to comply with required delivery or performance schedule, taking into consideration all existing business commitments; have a satisfactory record of performance; have a satisfactory record of integrity and business ethics; have the necessary organization, experience, licensing, accounting and operational controls, and technical skills or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, and quality assurance measures applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors); have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and be otherwise qualified and eligible to receive an award under applicable laws. When the situation warrants, special standards of responsibility applicable to a particular procurement may be developed to insure the existence of unusual expertise or other factors necessary for adequate contract performance.

Responsive Bidder or Offeror: A bidder or offeror whose bid or offer conforms in all material respects to the invitation for bids, request for proposals, or request for quotations.

Restrictive Specifications: Specifications that limit competition by requiring unnecessary features or capabilities.

Services: The furnishing of labor, time, or effort by a contractor, not including the delivery of a specific end product other than reports which are merely incidental to the required performance.

Shall: Means mandatory.

Solicitation: An invitation for bids, a request for proposals, a request for quotations, or any other document issued by the University for the purpose of soliciting bids or proposals to perform a University contract.

Specifications: The directions, provisions, and requirements contained in the General Provisions, Amendments, Special Provisions, Plans, and Technical Specifications pertaining to the method and manner of performance and to quantities and qualities of materials to be furnished under the contract. Special Provisions and Technical Specifications are intended to cover work pertaining to a particular project, but not satisfactorily covered by the General Provisions.

Subcontractor: An individual, partnership, firm, corporation, joint venture or other legal entity which enters into an agreement with the contractor to perform a portion of the work for the contractor.

Technical Representative of the Procurement Officer (TRPO): The person identified and designated by the Procurement Officer to address technical matters within the Specifications.

University: University of Hawaii.