GENERAL INFORMATION REGARDING DISADVANTAGED BUSINESS ENTERPRISES (DBEs)

I. **GENERAL** - The following shall be incorporated as part of the contract documents for compliance. If any requirements herein are in conflict with the general provisions or special provisions applicable to this project, the requirements herein shall prevail unless specifically superseded or amended in the special provisions or by addendum.

II. **EFFECTS OF THE DECERTIFICATION OF A DBE**

A. Should a DBE become decertified during the term of its subcontract with the prime bidder, for reasons beyond the control of, and through no fault or negligence of the contractor, any incomplete work remaining under the subcontract may subject to the review by the Department. The prime bidder shall continue to be credited for the work or supplies of the decertified DBE towards the DBE goal, but the Department shall not count the decertified DBE work or supplies towards the accomplishment of its overall goal.

B. Should a DBE be decertified after the contract award, but before the notice to proceed has been issued by the Department, the contractor shall be required to meet the DBE goal by continuing with the subcontract with the decertified DBE and expending Good Faith Efforts to find other work not already subcontracted out to DBEs in an amount sufficient to meet the DBE goal. The work performed or supplies provided shall not be counted toward the DBE contract goal or the Department's overall goal.

III. **BIDDERS LIST**

A. All bidders are requested to register with the Office of Civil Rights, DBE section. All bidders that previously bid on Department federal aid projects after January 1, 2001 and certified DBEs are considered registered with the Department. Registered bidders are posted on the Internet at the Department's home page: http://www.state.hi.us/dot/. From the Department's home page, link to the Business Related Information, then to the Office of Civil Rights home page and then link to the Disadvantaged Business Enterprise home page.

B. New bidders are requested to complete a Bidder Registration form that may be obtained from the Office of Civil Rights, DBE Section. The completed form may be faxed to (808) 587-2025, e-mailed to:melanie.martin@hawaii.gov or mailed to address on the Bidder's Registration form.

IV. **EVIDENCE OF GOOD FAITH EFFORTS** - The kinds of effort that will be considered demonstrative of "Good Faith Efforts", include but are not limited to the following:

A. Whether the bidder solicited through all reasonable and available means (e.g. attendance at meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform part or all of the work to be included under the contract. The Hawaii Department of Transportation ("HDOT") will also consider whether the bidder solicited the participation of potential DBEs in sufficient time to allow the DBEs to properly inquire about the project and respond to the solicitation, and will also review whether the bidder took appropriate steps to follow up with interested DBEs in a timely manner to facilitate participation by DBEs in this project;

B. Whether the bidder identified and broke up portions of work that can be performed by DBEs in order to increase the likelihood that DBEs will be able to participate, and that the DBE goal could be achieved (e.g. breaking out contract items into economically feasible units to facilitate DBE participation, even when the bidder might otherwise prefer to perform these work items with its own forces);

C. Whether the bidder made available or provided interested DBEs with adequate information about the plans, specifications, and requirements of the project in a timely manner, and assisted them in responding to the bidder's solicitation;

D. Whether the bidder negotiated in good faith with interested DBEs. Evidence of such negotiations includes documenting: a) the names, addresses, and telephone numbers of DBEs that were contacted by the bidder; b) a description of the information that was provided to DBEs regarding the plans and specifications; and c) detailed explanations for not utilizing individual DBEs in the project;

The fact that there may be additional or higher costs associated with finding and utilizing DBEs are not, by themselves, sufficient reasons for a bidder's refusal to utilize a DBE, or the failure to meet the DBE goal, provided that such additional costs are not unreasonable. Also, the ability or desire of a bidder to perform a portion of the work with its own forces, that could have been undertaken by an available DBE, does not relieve the bidder of the responsibility to make good faith efforts to meet the DBE goal, and to make available and solicit DBE participation in other areas of the project to meet the DBE goal;

E. Whether the bidder rejected DBEs as being unqualified without sound reasons, based on a thorough investigation of their capabilities. The DBE's standing within the industry, membership in specific groups, organizations, or associations, and political or social affiliation, are not legitimate bases for the rejection or non-solicitation of bids from particular DBEs;

F. Whether the bidder made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance;

G. Whether the bidder made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and

H. Whether the bidder effectively used the services of available minority/women community organizations, minority/women business groups, contractors' groups, local, state, and federal minority/women business assistance offices, or other organizations to provide assistance in recruitment and placement of DBEs.

I. It is the sole responsibility of the bidder to submit any and all documents, logs, correspondence, and any other records or information to the HDOT that will demonstrate that the bidder made good faith efforts to meet the DBE goal. Additionally, for each DBE that was contacted by, but not utilized by the bidder for this contract, the bidder shall submit a detailed written explanation for each DBE of the reasons for the bidder's failure or inability to utilize, or to allow the DBE to participate in this contract. In its good faith evaluation, the HDOT may, but shall not be required to perform the following as part of its evaluation: a) Request additional information and documents from the bidder; b) Compare the bidder's bid against the bids of other bidders, and comparing the DBEs and DBE work areas utilized by the bidder with the DBEs listed in other bids submitted for this contract; c) Verify contacts by bidders with DBEs; and d) Compare the DBE

and the categories of DBE work targeted by the bidder for participation in this contract, with the total available pool of DBEs available for each particular subcontract targeted by the bidder.

V. **RECORDS AND REPORTS** – The bidder shall maintain and keep all records necessary for the HDOT to determine compliance with the bidder's DBE obligations. The records shall be available at reasonable times and places for inspection by the HDOT, and appropriate Federal agencies. The records to be kept by the bidder shall include:

A. The names of all DBE subcontractors and vendors identified as DBEs (for vendor, indicate also if a supplier or manufacturer);

B. The nature of work of each DBE subcontractor and vendor; and

C. The dollar amount contracted with each DBE subcontractor and vendor.