

## **Appendix 24**

### **OWNER GENERAL CONTRACT REQUIREMENTS**



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**BUSINESS LICENSE:**

Bidders must comply with the licensing laws of the Virgin Islands and obtain all licenses required for the performance of the project. The Bidder is advised to contact the Department of Licensing and Consumer Affairs (“DLCA”) at (340)774-3130 for information on the requirements for obtaining a business license, information on whether their operation requires or does not require a business license, or to obtain a waiver of the business license requirement. Should bidder wish to claim that the scope of the services being provided do not require it to obtain a business license, Bidder must present to the Authority documented evidence from DLCA that the Bidder is not required to obtain a business license.

Copies of all necessary and applicable license(s), or copy of a business license waiver shall be obtained by the Bidder and copies presented to the Contracting Officer concurrent with the execution of the Contract. Additionally, Bidder must supply the Authority with its taxpayer identification number. Failure by Bidder to present its license(s) prior to execution of the contract or within such other reasonable time as agreed to by the parties may be grounds for the Authority to rescind the Contract.

At contract execution any bidder that does not possess the following:

- a) a business license, or
- b) a waiver letter from DLCA that a business license is not required, or
- c) evidence, subject to verification, that an application for a business license has been submitted to DLCA for processing

may, at the Authority's sole discretion, have the contract award rescinded.

**EMPLOYMENT OF U.S. VIRGIN ISLANDS RESIDENTS:**

For work involving “public works projects” (i.e. construction, improvement, alteration, or repair of any building, water system, sewer system, road, highway or bridge), contractors and

subcontractors must comply with the requirements of 31 VIC §§ 271 and 272 which mandates that all public works projects let by the Government of the Virgin Islands (to include its agencies and instrumentalities), excluding those contracts that use federal funds, shall hire only United States Virgin Islands residents. Residents for the purposes of the statute is defined at 31 VIC § 270 (b) (1) (A) (B) as a person who:

A. is a citizen of the United States and or other person legally admitted as a permanent resident to the United States ; and

B. has been a bona fide resident of the United State Virgin Islands for a period of at least one (1) year.

Contractors and subcontractors on any public works project, before employing any person not a resident of the Virgin Islands, shall notify the Virgin Islands Employment Services. Bidders are urged to obtain and review the requirements of this law, and shall ensure that all subcontracts include language containing this requirement.

In addition, 24 VIC §126 requires the following preference for resident workers (i.e.. any person capable of performing services or labor and who is a citizen of the United States or an immigrant alien admitted to the United States for permanent residence under the provision of the Immigration and Nationality Act as amended):

Resident workers shall be given preference in employment in the Virgin Islands in any industry or occupation for which such workers are qualified and available. Nonresident workers shall be employed only to supplement the labor force of available and qualified workers. No resident workers shall suffer any reduction in workweek below 40 hours a week by reason of an employer employing a non-resident worker. No employer shall employ a non-resident worker except in strict accordance with the provisions of this chapter and regulations hereunder. Nothing

contained herein shall be construed to interfere with the policy of the Employment Services in canvassing of affiliated state employment services to obtain workers before issuing clearance certification for alien workers.

Further, in accordance with 27 VIC § 303b any individual or company, having a business license in the Territory, is required to notify the Employment Security Agency, Virgin Islands Department of Labor of its intent to fill an existing position, now vacant, or soon to become vacant, or a new previously unfilled position. Contractors and its subcontractors are required to comply with this requirement and are urged to obtain and review the requirements of this law. Contractors shall ensure that all subcontracts include language containing this requirement.

Information or guidance on the legal requirements referenced herein can be obtained from the Virgin Islands Department of Labor, which can be contacted at 340-776-3700.

A finding by the Department of Labor that a Contractor or its Subcontractor(s) has not complied with the legal requirements contained herein may be grounds for termination of the contract. Further, said finding shall be a consideration in the award of future contracts with the Virgin Islands Water and Power Authority.

## **DRUG AND ALCOHOL TESTING FOR CONTRACTOR EMPLOYEES:**

The use of drugs, alcohol, and unauthorized substances are prohibited on all the Virgin Islands Water and Power Authority's (hereinafter the "Authority" or "WAPA") business locations, power generating, transmission and distribution, and potable water facilities, workplaces, worksites, and parking areas (hereinafter "Premises").

- Drugs are any drug or controlled substance which is not legally obtainable under both local and/or federal law, including but not limited to marijuana, opiates, PCP (phencyclidine), cocaine, heroin, amphetamines, barbiturates, benzodiazepines, narcotics, hallucinogens,

inhalants, designer drugs, and/or any substances and/or paraphernalia that are prohibited by federal or local law.

- Unauthorized substances are over-the-counter or prescription drugs that are used, possessed, purchased, transferred, dispensed, or distributed in the manner outlined below:
  - a. prescription drugs that are not prescribed and/or prescribed on an invalid prescription;
  - b. prescription drugs that are prescribed at non-therapeutic levels or used in a manner or quantity other than as set forth in the prescription;
  - c. over-the-counter drugs in a manner or quantity other than set forth in the directions;  
or
  - d. over-the-counter or prescription drugs in a manner that contradicts the direction or instructions for use.
- Alcohol is defined as a colorless volatile flammable liquid that is produced by the natural fermentation of sugars and is the intoxicating constituent of wine, beer, spirits, and other drinks.

All Contractors (and their subcontractors or agents) that furnish temporary employees that work alongside WAPA employees or that are assigned to work at any WAPA worksite must have a Drug, Alcohol, and Unauthorized Substance Testing Policy for their respective employees, which policy shall include reasonable suspicion and post-accident testing. In the event a Contractor, its agent or subcontractor do not have a Drug, Alcohol, or Unauthorized Substance Testing Policy, the Contractor, its agent or its subcontractor shall apply the Authority's Drug, Alcohol, and Unauthorized Substance Policy, approved April 26, 2016, and shall confirm in writing, to the Authority's Project Manager, within ten (10) work days after the effective date of the contract that its employees and employees of its agents or subcontractors have been notified of and instructed on the Authority's Policy requirements. Failure by the Contractor, or its agent, or subcontractor to have a Drug, Alcohol, or Unauthorized Substance Testing Policy and to present evidence of such

upon contract execution, or to agree to use the Authority's policy in the event they do not have a policy of their own; or to verify in writing their employees have been trained on the Authority's policy may be grounds to rescind the contract award or terminate the contract.

The Authority reserves the right to notify the Contractor if the Authority suspects that the Contractor's employee, agent or subcontractor employee is in violation of the Contract or the Authority's Drug, Alcohol, and Unauthorized Substance Policy. If notified, the Contractor shall immediately invoke reasonable suspicion or post-accident testing. The Contractor shall provide the Authority with a written report advising of the results of the testing, its investigation into the Authority's complaint and the status of the employee involved in the investigation. Any Contractor employee, or employee of a subcontractor, or agent that fails a drug, alcohol, or substance abuse test shall not be allowed to return to the Authority's Premises until the Contractor provides written verification to the Authority that the employee has passed a subsequent test and is appropriately rehabilitated. Provided however, the Authority may require the removal from the jobsite any employee of a Contractor or subcontractor or agent if in the judgment of the Contracting Officer such removal is necessary to protect the interest of the Authority.

A copy of the Contractor, Subcontractor or Agent's Drug, Alcohol, and Unauthorized Substance Policy must be presented upon contract execution.

#### **CONFIDENTIALITY:**

Bidders are advised that any and all materials, information and documentation in any proposal submitted in connection with an RFP or an IFB may become a record of the Authority and may be subject to the provisions of Title 3 V.I.C. § 881, et seq. ( Public Records Act). The Public Records Act requires disclosure of public documents upon request of any citizen unless the

public document is deemed to be confidential or otherwise exempted by law. To date no court of law has ruled on the application of this law to independent instrumentalities such as the Authority.

”Confidential Information” includes all technical business, personnel, taxpayer or other information including customer or client information and details of customer accounts, however, communicated or disclosed to the receiving party or its employees, relating to past, present and future research, development and business activities of the disclosing party and that has been identified as “confidential”. Both parties agree: (i) that the receiving party and its employees may disclose Confidential Information to others if required by law or with the prior written consent of the disclosing party; (ii) not to make use of Confidential Information other than for the performance of this Agreement; and (iii) that it will not use such information for its own advantage to the detriment of the disclosing party or its customers. Confidential information shall not include information which: (i) becomes generally available to the public (other than by the acts or omissions of the receiving party or its employees); (ii) was known prior to the date of this Agreement by “or becomes known to” the receiving party or its employees and was not obtained from any person under any obligation of confidentiality to the disclosing party, (iii) is independently developed by the receiving party; or (iv) is required to be disclosed pursuant to legal process or regulation.