
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by
3 adding a new chapter to be appropriately designated and to read
4 as follows:

5 "CHAPTER

6 RESPONSIBLE CONSTRUCTION CONTRACTOR LAW

7 § -A **Applicability.** (a) This chapter shall apply to
8 public works contracts under chapter 103 and to procurements for
9 construction under chapter 103D, if the general contract amount
10 is \$250,000 or more and to any subcontract of \$50,000 or more in
11 connection with any general contract.

12 (b) This chapter shall not apply to employees covered by a
13 collective bargaining agreement under chapter 89 if the
14 applicability of this chapter is expressly waived in the
15 collective bargaining agreement in clear and unambiguous terms.

16 § -B **Definitions.** As used in this chapter, the terms
17 "contract" and "contractor" shall have the same meaning as in



1 section 103D-104, as those terms apply to construction. The
2 term "construction" shall have the same meaning as in section
3 103D-104.

4 § -C **Prerequisites for award of contract.** (a) A
5 contractor who submits a bid for a contract for construction
6 shall show proof of compliance with subsection (c) to the
7 comptroller, the comptroller's county counterpart for contracts
8 under chapter 103, or the procurement officer for contracts
9 under chapter 103D, as applicable, as a prerequisite to being
10 awarded a construction contract. The requirements of this
11 subsection shall be deemed incorporated by reference in any
12 contract between the contractor and subcontractor.

13 (b) A subcontractor who subcontracts a contract for
14 construction with a contractor under subsection (a), shall show
15 proof of compliance with subsection (c) to the comptroller, the
16 comptroller's county counterpart for contracts under chapter 103
17 or the procurement officer for contracts under chapter 103D, as
18 a prerequisite to being awarded a subcontract; provided that the
19 contractor shall be primarily responsible for presenting the
20 proof required under this subsection. The requirements of this
21 subsection shall be deemed incorporated by reference in any
22 contract between the contractor and subcontractor.



1 (c) A contractor or subcontractor, as applicable, shall
2 comply with the following prerequisites:

3 (1) Classify all workers of the contractor and
4 subcontractor as employees;

5 (2) Comply with all applicable labor laws;

6 (3) Comply with the requirements under section 104-2 with
7 regard to prevailing wages;

8 (4) Commit to hiring Hawaii residents to compose not less
9 than eighty per cent of the workforce on the project;
10 provided that the department of labor and industrial
11 relations shall determine those trades falling within
12 a shortage category in this state, in which case this
13 paragraph shall not apply to shortage category trades;
14 provided further that contractors or subcontractors
15 that satisfy the requirements of this paragraph shall
16 be entitled to an adjustment in the bid amount by
17 subtracting therefrom five per cent;

18 (5) Provide its employees with a fair and neutral process
19 for resolving work-related issues, that does not force
20 the employee to waive statutory remedies and rights;

21 and

22 (6) Be appropriately licensed.



1 § -D **Compliance duration; compliance officer.** Each
2 contractor and subcontractor shall:

3 (1) Comply with section -C for the entire duration of
4 the contract of construction; and

5 (2) Certify compliance with section -C, under oath, by
6 an officer of the contractor and subcontractor, to the
7 comptroller, comptroller's county counterpart, or
8 procurement officer, as applicable, on a monthly
9 basis.

10 § -E **Failure to comply; sanctions.** A contractor or
11 subcontractor under this chapter who fails to comply with
12 section -C shall be subject to any of the following
13 sanctions:

14 (1) Temporary suspension of work on the project until the
15 contractor or subcontractor complies with

16 section -C;

17 (2) Withholding of payment on the contract or subcontract,
18 as applicable, until the contractor or subcontractor
19 complies with section -C;

20 (3) Permanent disqualification of the contractor or
21 subcontractor from any further work on the project;



1 (4) Recovery by the State or county, as applicable, of any
2 moneys expended on the contract or subcontract, as
3 applicable; and

4 (5) Proceedings for debarment or suspension of the
5 contractor or subcontractor under section 103D-702."

6 PART II

7 SECTION 2. The purpose of this part is to provide a
8 preference for offerors on a construction contract under chapter
9 103D, Hawaii Revised Statutes, if the contractor has a written
10 agreement with an apprenticeship program that is registered with
11 the department of labor and industrial relations at the time of
12 the general bidding.

13 SECTION 3. Chapter 103, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§103- Public works construction; apprenticeship
17 agreement. (a) A governmental body, as defined in section
18 103D-104, that enters into a public contract under this chapter
19 having an estimated value of not less than \$250,000, shall
20 decrease the bid amount of a bidder by five per cent if the
21 bidder is appropriately licensed and has a written agreement
22 with an apprenticeship program registered with the department of



1 labor and industrial relations and in conformance with chapter
2 372. The lowest total bid, taking the preference into
3 consideration, shall be awarded the contract unless the
4 solicitation provides for additional award criteria; provided
5 that the contract amount awarded shall be the amount of the
6 price offered, exclusive of the preference.

7 (b) For purposes of subsection (a) in determining whether
8 there is conformance with chapter 372, the procurement officer
9 shall consider the actual number of apprentices enrolled in and
10 the annual number of graduates of the apprenticeship program.

11 (c) At the time of submission by a bidder of a competitive
12 sealed bid under section 103D-302 or by an offeror of a
13 competitive sealed proposal under section 103D-303, a bidder or
14 offeror, as applicable, shall furnish written proof of having a
15 written agreement with a registered apprenticeship program and,
16 if awarded the contract, shall continue to certify monthly in
17 writing that the bidder has a written agreement with a
18 registered apprenticeship program. This subsection shall be
19 deemed to be incorporated by reference into a public works
20 contract. A bidder who is awarded a contract shall be subject
21 to the following sanctions if, after commencement of work, the



1 bidder at any time during the construction no longer has a
2 written agreement with a registered apprenticeship program:

3 (1) Temporary or permanent cessation of work on the
4 project, without recourse to breach of contract claims
5 by the bidder; provided that the governmental body
6 shall be entitled to restitution for nonperformance or
7 liquidated damages, as appropriate; or

8 (2) Proceedings to debar or suspend under section
9 103D-702."

10 SECTION 4. In codifying the new sections added by
11 section 1 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 5. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Apprenticeship; Procurement; Public Works Construction Contracts

Description:

Enacts the responsible construction contractor law for government procurements of construction projects. Provides procurement preference to contractors who have a written agreement with a registered apprenticeship program. (SB1125 HD1)

