

**STATE PROCUREMENT OFFICE  
CONSTRUCTION PROCUREMENT  
WORKSHOP NO. 130**

**Supplemental Workshop Information**

**Apprenticeship Agreement Preference – HRS §103-55.6**

**Webinar  
August 28, 2013**

**TOPICS**

- Background
- Applicability
- Key Definitions
- Solicitation & Qualification Procedures
- Evaluation and Contract Award
- Contract Administration

## BACKGROUND

- 7/15/09: Became law by veto-override
- Law did not have provision to adopt rules for implementation
- DLIR developed:
  - Forms 1 and 2
  - List of construction trades in register apprenticeship programs
- 8/24/10: 1<sup>st</sup> Comptroller's Memorandum No. 2010-27
  - Provided guidelines for government agencies for implementation.
- 10/5/11: 5th Comptroller's Memorandum No. 2011-25
- CM's available on DAGS website:  
<http://ags.hawaii.gov/comptrollers-memoranda/>

## APPLICABILITY

- Any governmental body, HRS 103D-104
- Public Works contracts having an estimated value of \$250k or more
  - Competitive Sealed Bids (Low Bid)
  - Competitive Sealed Proposals (RFP/Design-Build)
- Allows for 5% bid preference for bidders
- Does not apply if conflicts with federal law

## KEY DEFINITIONS

- “Preference” means the 5% by which the qualified offer’s offer amount would be decreased for evaluation purposes
- “Employ” means the employment of a person in an employer-employee relationship

## SOLICITATION & QUALIFICATION PROCEDURES

- Procurement Officer determines applicability (estimated value of \$250k or more)
- If applicable, solicitation shall include provisions to allow bidder to seek or claim the preference
- If not applicable, the solicitation will not include provisions

## SOLICITATION & QUALIFICATION PROCEDURES

- Must be a party to an apprenticeship agreement registered with DLIR for each apprenticeable trade the offeror will employ to construct the public works project for which the offer is made.
  - Subcontractors do not have to be a party to an apprenticeship agreement
  - Offeror is not required to employ or to have apprentices employed at the time the offer/bid is made

### Example:

- If an offeror's employee is multi-skilled and able to perform work in more than one trade (for example, a project requires a carpenter and a laborer, and the employee is a carpenter, but is also able to perform the work of a laborer), the offeror need only be a party to the carpenter's apprenticeship agreement and does not need to be a party to the laborer's apprenticeship agreement in order to qualify for the preference. The offeror is not "employing" a laborer, only a carpenter, and so only needs to be a party to the carpenter's apprenticeship agreement.
- However, if an offeror employs both a carpenter and a laborer to perform the work, the offeror must be a party to both the carpenter's and laborer's apprenticeship agreements in order to qualify for the preference.
- Qualification for the preference is given on a project-by-project basis and depends upon the specific offer for a specific project. An offeror's employees may vary from project to project and may qualify for the preference on one project but may not qualify on another project. For example, on one project, if the offeror only employs carpenters to perform work in the carpentry and labor trades, then the offeror only needs to be a party to the carpenter's apprenticeship agreement in order to qualify for the preference. However, on another project if the same offeror employs both carpenters and laborers, then the offeror will not qualify for the preference if the offeror is only a party to the carpenter's apprenticeship agreement and not the laborer's apprenticeship agreement.

## SOLICITATION & QUALIFICATION PROCEDURES

- Offeror must provide a “*Certification of Bidder’s Participation Form 1*” for each apprenticeable trade they will “employ”
- Each completed *Form 1* must be signed original by an official of the apprenticeship sponsor authorized to certify bidder’s participation

## SOLICITATION & QUALIFICATION PROCEDURES

- If verified & qualified for each trade to be employed, the 5% preference will be applied
- If not verified, bidder will not be qualified and no preference will be applied

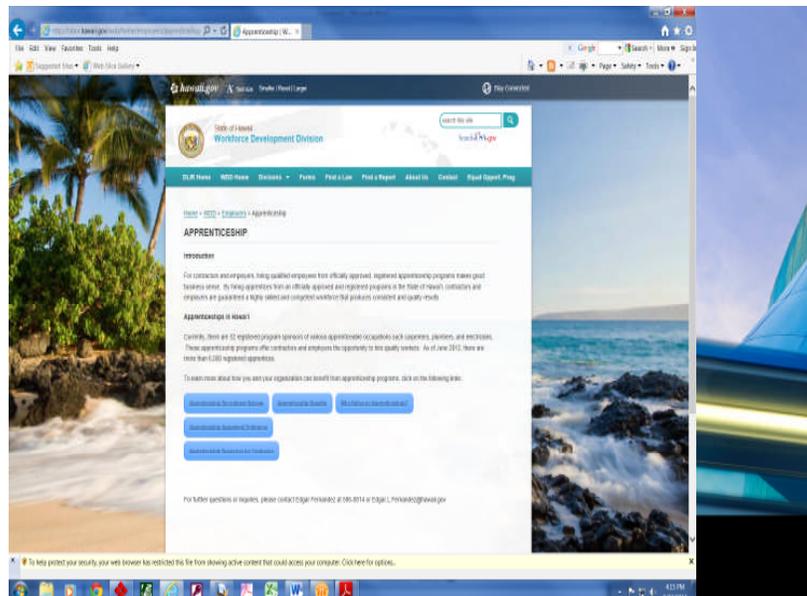
**DLIR Workforce Development Division's website:**

<http://labor.hawaii.gov/wdd/home/employers/apprenticeship>

- List of Construction Trades in Registered Apprenticeship Programs
- Certification of Bidder's Participation (Form 1)
- Monthly Report of Contractor's Participation (Form 2)
- Persons Authorized to Certify a Contractor's Participation in Apprenticeship Programs for Purposes of Act 17 (HRS §103-55.6)

**DLIR Workforce Development Division's website:**

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## SOLICITATION & QUALIFICATION PROCEDURES

### FORM 1

#### CERTIFICATION OF BIDDER'S PARTICIPATION IN APPROVED APPRENTICESHIP PROGRAM UNDER ACT 17

<b>I. Bidder's Identifying Information</b>			
A. Legal Business Name: _____			
B. Project Bid Title & Reference No.: _____			
C. Contact Person's Name: _____			
1. Phone No.: _____		2. E-Mail: _____	
<b>II. Apprenticable Trades To Be Employed*</b>			
A. (List)		B. Apprenticeship Sponsor* (One Sponsor Per Form)	C. No. Enrolled <small>(# of apprentices currently enrolled as of bidder's request date)</small>
1. _____	_____	_____	D. No. Completed <small>(# of apprentices who have completed the apprenticeship program in the 12 months prior to request date)</small>
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
<b>III. Bidder's Certification</b>			
I certify that the above information is accurate to the best of my knowledge. I understand that my willful misstatement of facts may cause forfeiture of the preference under Act 17 and may result in criminal action. I give permission for outside sources to be contacted and for them to disclose any information necessary to verify the bidder's preference.			
A. Name (Type) _____			3. Title _____
C. Signature (original signature required) _____			D. Date _____
<b>IV. Apprenticeship Sponsor's Contact Information</b>			
A. Training Coordinator's Name: _____			
B. Address: _____			
C. Phone No.: _____		D. E-Mail: _____	E. Fax No.: _____
<b>V. Apprenticeship Program Sponsor's Certification</b>			
I certify that the above information is accurate to the best of my knowledge. I understand that my willful misstatement of facts may cause forfeiture of the bidder's preference and may result in criminal action. I give permission for outside sources to be contacted and for them to disclose any information necessary to verify the bidder's preference under Act 17.			
A. Name or Authorized Official _____		B. Title _____	
C. Signature (original signature required) _____		D. Date _____	

\* Name of Apprenticable Trades and Apprenticeship Sponsor must be the same as recorded in the List of Construction Trades in Registered Apprenticeship Programs that is posted on the State Department of Labor and Industrial Relations website.

(Rev. 08/28/2010)

## EVALUATION & CONTRACT AWARD

- Preference applied by decreasing the total bid amount by 5% for evaluation purposes only
- If other preferences offered (ex. Hawaii Products), all applicable preferences will be applied
- Contract amount will be the original offer/bid amount, exclusive of any preferences

## CONTRACT ADMINISTRATION

- Monthly certification is required for duration of contract
  - Applies to all contracts awarded if the bidder qualified for the preference
  - Even if bid award was won outright
  - If a bidder did not offer or claim the preference, the monthly certification does not apply

## CONTRACT ADMINISTRATION

- Monthly certification shall be made on the "*Monthly Report on Contractor's Participation in Approved Apprenticeship Program Under Act 17 (Form 2)*"
- Each completed *Form 2* must be signed original by an official of the apprenticeship sponsor authorized to certify bidder's participation
- Name of Apprenticeable Trade and Apprenticeship Sponsor must be the same as listed by DLIR

## CONTRACT ADMINISTRATION

(Form 2 available on DLIR website:  
<http://labor.hawaii.gov/wdd/home/employers/apprenticeship>)

### FORM 2

#### MONTHLY REPORT OF CONTRACTOR'S PARTICIPATION IN APPROVED APPRENTICESHIP PROGRAM UNDER ACT 17

<b>I. Contractor's Identifying Information</b>		<b>II. Reporting Period</b>	
A. Legal Business Name: _____		A. Month: _____	B. Year: _____
3. Project Contract Title & Reference No.: _____			
C. Contact Person's Name: _____			
1. Phone No.: _____	2. E-Mail: _____		
<b>III. Apprenticeship Program (Complete a separate form for each apprenticeship program in which workers are employed on the project.)</b>			
A. Contractor was a party to an apprenticeship program or programs with the following sponsor. (Give sponsor's name.) _____		B. Was the contractor a party to the program during the entire report month?	
		1. Yes <input type="checkbox"/>	
		2. No <input type="checkbox"/> If No, state applicable period and why (may be subject to sanctions): _____	
<b>IV. Contractor's Certification</b>			
I certify that the above information is accurate to the best of my knowledge. I understand that my willful misstatement of facts may cause forfeiture of the preference under Act 17 and may result in criminal action. I give permission for outside sources to be contacted and for them to disclose any information necessary to verify the bidder's preference.			
A. Name (First) _____		B. Title _____	
C. Signature (original signature required) _____		D. Date _____	
<b>V. Apprenticeship Sponsor's Contact Information</b>			
A. Training Coordinator's Name: _____			
B. Address: _____			
C. Phone No.: _____	D. E-Mail: _____	E. Fax No: _____	
<b>VI. Apprenticeship Program Sponsor's Certification</b>			
I certify that the above information is accurate to the best of my knowledge. I understand that my willful misstatement of facts may cause forfeiture of the bidder's preference and may result in criminal action. I give permission for outside sources to be contacted and for them to disclose any information necessary to verify the bidder's preference under Act 17.			
A. Name of Authorized Official _____		B. Title _____	
C. Signature (original signature required) _____		D. Date _____	

\* Name of Apprenticeship Sponsor must be the same as reported in the List of Construction Trades in Registered Apprenticeship Programs that is posted on the State Department of Labor and Industrial Relations website.

(Rev. 08/25/2010)

## CONTRACT ADMINISTRATION

- Failure to comply:
  - Refuse to submit monthly certification Form 2 or,
  - Cease to be a party to a registered apprenticeship agreement for each apprenticeable trade the contractor employs

## CONTRACT ADMINISTRATION

- Sanctions:
  - Temporary or permanent cessation of work
  - Proceed to debar or suspend

**PROCUREMENT OF CONSTRUCTION SERVICES**  
**PUBLIC WORKS DIVISION**  
**Department of Accounting & General Services**

***Mahalo!***

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