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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1           SECTION 1. A well-trained, construction-trades work force  
2 is critical to state and county public works, which are  
3 conducted on a regular basis. The safe, efficient, and  
4 economical construction of public works will be threatened if  
5 there is a lack of well-trained construction workers. By  
6 providing for the use of apprentices on public works projects,  
7 state and county government can create opportunities, in  
8 partnership with private industries, for training that will help  
9 ensure a well-trained work force for future public works  
10 construction.

11           The purpose of this Act is to require an offeror for a  
12 construction contract subject to chapter 103D, Hawaii Revised  
13 Statutes, to be a party to an apprenticeship agreement that is  
14 registered with the department of labor and industrial relations  
15 at the time of general bidding.

16           SECTION 2. Section 103D-310, Hawaii Revised Statutes, is  
17 amended to read as follows:

1           **"§103D-310 Responsibility of offerors.** (a) Unless the  
2 policy board, by rules, specifies otherwise, before submitting  
3 an offer, a prospective offeror, not less than ten calendar days  
4 prior to the day designated for opening offers, shall give  
5 written notice of the intention to submit an offer to the  
6 procurement officer responsible for that particular procurement.

7           (b) Whether or not an intention to bid is required, the  
8 procurement officer shall determine whether the prospective  
9 offeror has the financial ability, resources, skills,  
10 capability, and business integrity necessary to perform the  
11 work. For this purpose, the procurement officer, in the  
12 procurement officer's discretion, may require any prospective  
13 offeror to submit answers, under oath, to questions contained in  
14 a standard form of questionnaire to be prepared by the policy  
15 board. Whenever it appears from answers to the questionnaire or  
16 otherwise, that the prospective offeror is not fully qualified  
17 and able to perform the intended work, a written determination  
18 of nonresponsibility of an offeror shall be made by the head of  
19 the purchasing agency, in accordance with rules adopted by the  
20 policy board. The unreasonable failure of an offeror to  
21 promptly supply information in connection with an inquiry with  
22 respect to responsibility may be grounds for a determination of

1 nonresponsibility with respect to [~~such~~] the offeror. The  
2 decision of the head of the purchasing agency shall be final  
3 unless the offeror applies for administrative review pursuant to  
4 section 103D-709.

5 (c) At the time of general bidding, an offeror for a  
6 construction contract with a total estimated contract value of  
7 \$250,000 or more shall be a party to an apprenticeship agreement  
8 that is registered with the department of labor and industrial  
9 relations, which continues to conform to the standards  
10 established pursuant to chapter 372, for apprenticeable trades;  
11 provided that this subsection shall not apply to sole source  
12 procurements pursuant to section 103D-306.

13 In determining whether or not an apprenticeship agreement  
14 conforms to the standards established pursuant to chapter 372,  
15 the procurement officer shall consider the credible number of  
16 apprentices enrolled in, and the annual number of graduates of  
17 the apprenticeship program.

18 (d) At the time of general bidding, offerors shall furnish  
19 written proof of being a party to a registered apprenticeship  
20 agreement, and shall certify the same in writing on a monthly  
21 basis for the entire duration of their work on the project. The

1 requirements in this subsection shall be incorporated into each  
2 contract.

3 (e) Any contractor who fails to comply with the  
4 requirements of this section subsequent to commencing work shall  
5 be subject to one or more of the following sanctions:

6 (1) Cessation of work on the project;

7 (2) Withholding of payment due under the applicable  
8 contract;

9 (3) Permanent removal from further work on the project;

10 (4) Liquidated damages to the contracting agency; or

11 (5) Suspension from further offerings or awards under  
12 sections 103D-302 and 103D-303.

13 [~~e~~] (f) All offerors, upon award of contract, shall  
14 comply with all laws governing entities doing business in the  
15 State, including chapters 237, 383, 386, 392, and 393. Offerors  
16 shall produce documents to the procuring officer to demonstrate  
17 compliance with this subsection. Any offeror [~~making~~] who makes  
18 a false affirmation or certification under this subsection shall  
19 be suspended from further offerings or awards pursuant to  
20 section 103D-702. The procuring officer shall verify compliance  
21 with this subsection for all contracts awarded pursuant to  
22 sections 103D-302, 103D-303, 103D-304, and 103D-306; provided

1 that the attorney general may waive the requirements of this  
2 subsection for contracts for legal services if the attorney  
3 general certifies in writing that comparable legal services are  
4 not available in this State.

5 [~~d~~] (g) Information furnished by an offeror pursuant to  
6 this section shall not be disclosed to any person except to law  
7 enforcement agencies as provided by chapter 92F."

8 SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

**Report Title:**

Apprenticeship; Procurement; Construction Contracts

**Description:**

Requires an offeror for certain construction contracts subject to the state public procurement code, to be a party to an apprenticeship agreement registered with the department of labor and industrial relations at the time of general bidding. (SD1)