
A BILL FOR AN ACT

RELATING TO LABOR LAW COMPLIANCE FOR GOVERNMENT CONTRACTS.

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

1 SECTION 1. Section 103-55, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§103-55 Wages, hours, and working conditions of employees
4 of contractors performing services. (a) Before any offeror
5 enters into a contract to perform services in excess of \$25,000
6 for any governmental agency, the offeror shall certify that the
7 services to be performed will be performed under the following
8 conditions:

9 (1) Wages. The services to be rendered shall be performed
10 by employees paid at wages or salaries not less than
11 the wages paid to public officers and employees for
12 similar work[-], as follows:

13 (A) The contractor or the contractor's subcontractor
14 shall pay all mechanics and laborers employed on
15 the job site, unconditionally and not less often
16 than once a week and without deduction or rebate
17 on any account, except as allowed by law, the



1 full amounts of the mechanics' and laborers'
2 wages including overtime, accrued to not more
3 than five working days prior to the time of
4 payment, regardless of any contractual
5 relationship which may be alleged to exist
6 between the contractor or subcontractor and the
7 laborers and mechanics. A copy of the rates of
8 wages shall be given to each laborer and mechanic
9 employed under the contract by the contractor at
10 the time each laborer and mechanic is employed;
11 provided that the contractor does not have to
12 provide the contractor's employees the wage rate
13 schedules where there is a collective bargaining
14 agreement; and

15 (B) The governmental contracting agency may withhold
16 from the contractor so much of the accrued
17 payments as the governmental contracting agency
18 may consider necessary to pay, to the laborers
19 and mechanics employed by the contractor or any
20 subcontractor on the job site, the difference
21 between the required wages and the wages received



1 and not refunded by the laborers and mechanics;

2 and

3 (2) Compliance with labor laws. All applicable laws of
4 the federal and state governments relating to workers'
5 compensation, unemployment compensation, payment of
6 wages, and safety will be fully complied with.

7 (b) Every contract and the specifications for the contract
8 shall contain a provision that a certified copy of all payrolls
9 shall be submitted weekly to the governmental contracting agency
10 for review. The contractor shall be responsible for the
11 submission of certified copies of the payrolls of all
12 subcontractors. The certification shall affirm that the
13 payrolls are correct and complete, the wage rates contained
14 therein are not less than the applicable rates, and the
15 classifications set forth for each laborer or mechanic conform
16 with the work the laborer or mechanic performed. Any
17 certification discrepancy found by the governmental contracting
18 agency shall be reported to the contractor and the director of
19 labor and industrial relations to effect compliance. Payroll
20 records for all laborers and mechanics working at the site of
21 the work shall be maintained by the contractor and the



1 contractor's subcontractors, if any, during the course of the
2 work and preserved for a period of three years thereafter. The
3 records shall contain the name of each employee, the employee's
4 correct classification, rate of pay, daily and weekly number of
5 hours worked, deductions made and actual wages paid. The
6 contractor shall make payroll records available for examination
7 within ten days from the date of a written request by a
8 governmental contracting agency, director of labor and
9 industrial relations, or any authorized representatives thereof.

10 Any contractor who:

- 11 (1) Fails to make payroll records accessible within ten
12 days;
13 (2) Fails to provide information requested for the proper
14 enforcement of this chapter within ten days; or
15 (3) Fails to keep or falsifies any record required under
16 this chapter,

17 shall be assessed a penalty as provided in section 104-22(b).

18 The administration and enforcement of the requirement for
19 certified payroll records pursuant to this subsection shall be
20 in the same manner as sections 104-4, 104-21 through 104-28, and
21 104-33 in relation to service contracts.



1 [~~(b)~~] (c) No contract to perform services for any
2 governmental contracting agency in excess of \$25,000 shall be
3 granted unless all the conditions of this section are met.
4 Failure to comply with the conditions of this section during the
5 period of contract to perform services shall result in
6 cancellation of the contract, unless such noncompliance is
7 corrected within a reasonable period as determined by the
8 procurement officer. Final payment of a contract or release of
9 bonds or both shall not be made unless the procurement officer
10 has determined that the noncompliance has been corrected.

11 It shall be the duty of the governmental contracting agency
12 awarding the contract to perform services in excess of \$25,000
13 to enforce this section.

14 [~~(e)~~] (d) This section shall apply to all contracts to
15 perform services in excess of \$25,000, including contracts to
16 supply ambulance service and janitorial service.

17 This section shall not apply to:

- 18 (1) Managerial, supervisory, or clerical personnel;
19 (2) Contracts for supplies, materials, or printing;
20 (3) Contracts for utility services;



1 (4) Contracts to perform personal services under section
2 46-33(7), (8), and (9), section 76-16(b)(2), (3),
3 (12), and (15), and section 76-77(7), (8), and (12);

4 (5) Contracts for professional services;

5 (6) Contracts to operate refreshment concessions in public
6 parks, or to provide food services to educational
7 institutions;

8 (7) Contracts to provide transportation services for
9 school children; or

10 (8) Contracts with nonprofit institutions."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on January 1, 2050.



Report Title:

Contractors; Government Contracts; Labor Law; Compliance;
Mechanics; Laborers

Description:

Specifies requirements for contractor or subcontractor payment to all mechanics and laborers employed on a government service contract job site. Permits governmental contracting agencies to withhold accrued payments as necessary to pay mechanics and laborers. Requires that contractors for public works projects maintain and submit weekly certified payroll records to demonstrate compliance with wage and hour requirements. Specifies penalties for noncompliance. Effective 1/1/2050.
(SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

