

## ACT 17

S.B. NO. 19

A Bill for an Act Relating to Procurement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§103- Public works construction; apprenticeship agreement.** (a) A governmental body, as defined in section 103D-104, that enters into a public works contract under this chapter having an estimated value of not less than \$250,000, shall decrease the bid amount of a bidder by five per cent if the bidder is a party to an apprenticeship agreement registered with the department of labor and industrial relations for each apprenticeable trade the bidder will employ to construct the public works, and in conformance with chapter 372. The lowest total bid, taking the preference into consideration, shall be awarded the contract unless the solicitation provides for additional award criteria. The contract amount awarded, however, shall be the amount of the price offered, exclusive of the preference.

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

(c) At the time of submission of a competitive sealed bid or a competitive sealed proposal by a bidder, the bidder shall furnish written proof of being a party to a registered apprenticeship agreement for each apprenticeable trade the bidder will employ to construct the public works and, if awarded the contract, shall continue to certify monthly in writing that the bidder is a party to a registered apprenticeship agreement for each apprenticeable trade the bidder will employ to construct the public works for the entire duration of the bidder's work on the project. This subsection shall be deemed to be incorporated into a public works contract. A bidder who is awarded a contract shall be subject to the following sanctions if, after commencement of work, the bidder at any time during the construction is no longer a party to a registered apprenticeship agreement for each apprenticeable trade the bidder will employ to construct the public works:

- (1) Temporary or permanent cessation of work on the project, without recourse to breach of contract claims by the bidder; provided that the governmental body shall be entitled to restitution for nonperformance or liquidated damages, as appropriate; or
- (2) Proceedings to debar or suspend under section 103D-702.
- (d) For purposes of this section, “bidder” means an entity that submits a competitive sealed bid under section 103D-302 or submits a competitive sealed proposal under section 103D-303.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Vetoed by Governor and veto overridden by Legislature on July 15, 2009.)

**Note**

1. Edited pursuant to HRS §23G-16.5.