

1                                   **SECTION 109 - MEASUREMENT AND PAYMENT**

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3    Make the following amendment to said Section:

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5    **(I) Amend Subsection 109.05 Allowances for Overhead and Profit** by  
6    revising lines 101 to 110 to read as follows:

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8                   **“(1) 20 percent of the direct cost for any work performed by the**  
9                   **Contractor’s own labor force.**

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11                   **(2) 20 percent of the direct cost for any work performed by each**  
12                   **subcontractor’s own labor force.**

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14                   **(3) For the Contractor or any subcontractor for work performed**  
15                   **by their respective subcontractor or tier subcontractor, 10 percent**  
16                   **of the amount due to the performing subcontractor or tier**  
17                   **subcontractor.”**

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19    **(II) Amend 109.08(A) Monthly Payment** by adding the following after line  
20    411:

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22                   **“(1) Retainage.** If the Engineer finds that the Contractor is  
23                   progressing satisfactorily in completing the project work and:

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25                   a. Less than 50% of the whole contract cost is complete,  
26                   the Engineer shall retain 5% of the value of the work done  
27                   until the Engineer makes final payment;

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29                   b. More than 50% of the whole contract cost is  
30                   complete, the Engineer may make the remaining progress  
31                   payments in full.

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33                   c. After satisfactory completion of work other than  
34                   landscaping items, the Engineer may adjust the amount of  
35                   retainage to 15% of the landscaping items or 2½% of the  
36                   total contract amount whichever is less. Do not use this  
37                   subsection if the contract is only landscaping.”

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39    **(III) Amend Subsection 109.08(B) Payment for Material On Hand** by  
40    revising lines 421 to 423 to read as follows:

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42                   **“(2) The materials shall be stored and handled in accordance**  
43                   **with Subsection 105.14 – Storage and Handling of Materials and**  
44                   **Equipment.”**

47 **(IV) Amend Subsection 109.11 Final Payment** by revising lines 568 to 576  
48 to read as follows:  
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50 **“(3)”** A current “Certificate of Vendor Compliance” issued by the  
51 Hawaii Compliance Express (HCE). The Certificate of Vendor  
52 Compliance is used to certify the Contractor’s compliance with  
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54 **(a)** Section 103D-328, HRS (for all contracts \$25,000 or  
55 more) which requires a current tax clearance certificate  
56 issued by the Hawaii State Department of Taxation and the  
57 Internal Revenue Service;  
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59 **(b)** Chapters 383, 386, 392, and 393, HRS; and  
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61 **(c)** Subsection 103D-310(c), HRS. The State reserves  
62 the right to verify that compliance is current prior to the  
63 issuance of final payment. Contractors are advised that  
64 non-compliance status will result in final payment being  
65 withheld until compliance is attained.  
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67 Sums necessary to meet the claims of any governmental agencies  
68 may be withheld from the sums due the Contractor until said  
69 claims have been fully and completely discharged or otherwise  
70 satisfied.”  
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72  
73 **END OF SECTION 109**