

SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

Make the following amendments to said Section:

(I) Amend 107.01 Laws to be Observed by adding the following after the first paragraph:

"The Contractor shall expose the work to the inspection of the appropriate Federal agency. Such inspection shall not make the Federal Government a party to this contract."

(II) Amend 107.02 Wages and Hours Requirements as follows:

Amend the first paragraph to read as follows:

"107.02 Wages and Hours Requirements. The Contractor shall at all times observe and comply with all provisions of Chapter 104, HRS, which are emphasized in Attachment I entitled 'Requirements of Chapter 104, HRS Wages and Hours of Employees On Public Work Law', appended hereto and which require, in part, the following:"

Amend **(A) Hours of Labor** by revising the first paragraph to read as follows:

"(A) Hours of Labor. No work shall be done over 8 hours in any one day, Saturdays, Sundays, or legal holidays of the State without written consent of the Engineer. If the Engineer gives consent, workers shall receive compensation at a rate of not less than one and a half times the worker's basic hourly rate if the worker works:

- (1) over 8 hours in one day;
- (2) over 40 hours in one week; or
- (3) on Saturdays, Sundays or legal State holidays

plus the cost of fringe benefits according to wage rate schedules issued by the Director of Labor and Industrial Relations."

Amend **(B) Rate of Wages** to read as follows:

"(B) Rate of Wages. The Contractor shall pay:

- (1) no less than the prevailing wages, and
- (2) no less than the increases to the prevailing wages

to the various classes of laborers and mechanics as published in the wage rate bulletins determined by the Director of the Department of Labor and Industrial Relations (DLIR) for the entire term of the contract. For Federal projects, such wage rate schedule shall be applicable if consistent with Federal law, statutes or regulations.

For bidding purposes, the wage rate schedule established by DLIR five calendar days before the date of bid opening shall be applicable. For Federal-Aid projects, such wage rate schedule shall be applicable if consistent with Federal law, statutes or regulations.

Said wage rate schedule may be obtained from the Contracts Office, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813 and from the office of the Kauai District, Highways Division. The Department will include the current State wage rate schedule physically in the contract documents executed by the successful bidder.

The United States Department of Labor and the DLIR have established minimum wage rate schedules for workers. The Contractor shall not pay the workers less than the wages set forth on the applicable schedules.

Flaggers who perform traffic safety duties and no actual construction work on contract subject to the Davis Bacon labor standard provisions shall be considered laborers or mechanics within the meaning of the Davis Bacon Act.

On all Federal-Aid projects, both wage rate schedules shall apply, and the higher rates shall prevail.

The Contractor shall post the schedule of prevailing rates of minimum wages applicable to the work in a prominent and easily accessible place at the project site. The Contractor shall give to each worker employed under the contract a copy of that rates of wages required to be posted at the time of employment.

The following applicable wage rate schedule or schedules shall be appended hereto:"

(III) Delete 107.04 Citizen Labor in its entirety.

(IV) Amend 107.07 Contractor's Licensing Laws by revising the third paragraph to read as follows:

"If a Contractor's license is required by law for the performance of the work which is called for in this bid, the bidder and all subcontractors must have the required license before the submission of the bidder's proposal in the case of a non-federal-aid project, and for federal-aid projects, the bidder must have the required license prior to the award of the project and all subcontractors prior to the start of the subcontracted work."

(V) Amend 107.08 Permits, Licenses, And Taxes by adding the following paragraph:

"The Contractor shall be responsible in meeting the requirements of the grading, noise, and National Pollutant Discharge Elimination System (NPDES) permits and licenses needed to do its work on a timely basis.

If the Contractor decides to revise its working method that requires grading, noise, and/or NPDES permits, the Contractor shall be responsible in getting the necessary permits and licenses.

Delays in meeting the requirements of the permits and licenses shall not be a cause for time extension or cost increase."

(VI) Delete 107.11 Federal Aid Provisions in its entirety.

(VII) Amend 107.12 Sanitary, Health, And Safety Provisions to read as follows:

"107.12 Sanitary, Health, And Safety Provisions. The employees shall not work in conditions that are unsanitary, hazardous or dangerous to its health or safety. Provide and maintain sanitary, health and safety provisions for its employees according to the Department and local Boards of Health.

The Contractor is directed to the Federal, State, and County laws, rules, and regulations concerning construction safety and health standards."

(VIII) Amend 107.13 Public Convenience and Safety to read as follows:

"107.13 Public Convenience and Safety. Provide for the safety and convenience of the public and the protection of people and property according to Subsection 104.04 - Maintenance of Traffic."

(IX) Delete 107.14 Barricades and Warning Signs in its entirety.

(X) Amend 107.15 Use of Explosives or Combustibles to read as follows:

"107.15 Use of Explosives. When the use of explosives or combustibles is necessary, do not endanger life or property including the new work. The

Contractor shall be responsible for damages and injuries resulting from the use of explosives.

The storage and use of explosives shall be according to Section 396-9, HRS.

Notify each public utility company working near the work site in writing of its intentions to use explosives. Give 10 working days notice.

Use only electric detonators for blasting. Do not use common fuses."

(XI) Add the words "(For Oahu Projects Only)" before **107.21(A) Notes for Board of Water Supply (BWS) Facilities** on page 107-16.

(XII) Add the following:

"107.25 Contaminated and/or Hazardous Material. The Contractor shall at all times conduct its operations according to all Federal and State permit requirements concerning the disposal of contaminated or hazardous materials. Permit requirements include those established by the federal regulations administered by the United States Coast Guard and the U.S. Army Corps of Engineers.

The Contractor shall obtain appropriate permits for all activities associated with or incidental to the Contractor's operations including those on the Project site and in all adjacent areas, waste and disposal areas, borrow and gravel banks, storage areas, haul roads, access roads, detours, field office areas, and any other temporary staging areas. The Contractor shall be responsible for, and hold the State harmless from, any penalties or fines which any authority may assess due to the Contractor's failure to comply with the terms of all applicable permit requirements.

The Contractor shall submit all applications and obtain all permits required for Contract work within the limits shown on the plans or identified elsewhere in the Contract documents.

The Contractor shall submit in writing any request for authorization of activities or methods not specifically called for by the Contract, plans, applications submitted or applicable permits issued for the project. Include a detailed description of the proposed activities and supporting documentation showing that the proposed activities or methods, the justification for those activities and supporting documentation showing that the proposed activity or method will not create risks of damage to the environment. If the Engineer accepts such proposal, the Contractor shall process an application to the appropriate regulatory agency or agencies for any permit for any permit amendment, modification, revision, or new permit required for the Contractor to

carry out the additional activities or implement the changed methods on the project.

The Engineer will not grant any extension of time as a result of the Contractor's request to perform work not authorized as part of the established permit requirements. No such proposed additional activity shall commence nor shall the Contractor implement such changed method until the Engineer accepts the Contractor's request in writing.

The Contractor shall acquire any permits, identification numbers, and approvals required under the Resource Conservation and Recovery Act; Comprehensive Environment Response, Compensation, and Liability Act; or any other applicable Federal, State, or local environment law, for the management and disposal of all contaminated and/or hazardous material known to exist or discovered during construction operations, provided that:

- (1) such material is within the construction limits defined in the Contract, and;
- (2) such material is not comprised of waste materials generated by the Contractor.

If the Department has defined an area of known or suspected contamination within the project limits, and if contaminated material in that area has not been removed before the start of the project, the Contractor shall arrange for the disposition of such material with an appropriate party.

If the Contractor encounters or exposes any material, not previously known or suspected to be contaminated, but which exhibits abnormal properties which may indicate the presence of hazardous or contaminated material, the Contractor shall cease all operations in the vicinity of the abnormal condition, and notify the Engineer immediately. The presence of barrels, discolored earth, metal, wood, visible fumes or smoke, abnormal odors or excessively hot earth may indicate the presence of hazardous or contaminated material, and shall treat them with extreme caution. The Contractor shall arrange for the proper disposition of the material with an appropriate party.

When the Contractor performs support work incidental to the removal, treatment, or disposal of hazardous or contaminated material, the Engineer will make payment at the unit prices for applicable pay items in the Contract. When the Contract does not include appropriate pay items, the Engineer will make payment according to Subsection 104.03 - Extra Work.

The Contractor shall faithfully observe all security precautions established according to OSHA regulations including all revisions and amendments and shall not work in any area known to contain or suspected of containing hazardous or contaminated material without prior written acceptance of the Engineer.

The Contractor shall assume sole responsibility for the proper storage, handling, management, and disposal of all regulated materials and wastes associated with the Contractor's operations, including lubricants, antifreeze, engine fluids, paints, and solvents. All costs associated with the Contractor's failure to properly manage such materials according to Federal and State regulations, and all remedial and punitive costs incurred by the Department as a result of such failure will be charged to the Contractor. After properly disposing of such contaminated and/or hazardous material and after the State and/or utility company accepts such disposition in writing, the State and/or utility company will, thereafter, be responsible and liable for the contaminated and/or hazardous material."

END OF SECTION