Act 291 (SLH 2006) HB 3036 CD1

SOH/DAGS/PWD

Items to be covered

- Section 1 - Purpose
- Section 2 – Prompt Payment
- Section 3 – Retainage
- Section 4 – Change Orders
- Questions and Answer Session

Section 1
Purpose of Law

- To accelerate a subcontractor's right to payment upon completion of subcontract or furnishing of materials in government projects.

Section 2
Prompt Payment

- Act 291
  - With proper bonding, full payment of subcontract including retainage upon completion of the subcontract work.
  - Partial and full subcontract payments with 10 days after receiving payment from the Government.
- Current Hawaii Administrative Rules
  - Contractor may withhold subcontract retainage until completion of contract.

Section 2
Prompt Payment

- Act 291
  - Same as Current except Contractor and or Government can be charge with a 1.5% penalty per month for late payments.
- Current Hawaii Administrative Rules
  - Late/non subcontractor payment results in 1.5% per month contractor penalty.
  - Action by Contracting Board for repeated non/late-subcontractor payment.

Section 3
Contract Provision for Retainage

- Act 291
  - If within the subcontract language and with proper notice to the Procurement Officer, all retainage, subcontract retainage included, shall be held by the procurement officer.
- Current Hawaii Administrative Rules
  - Procurement officer hold contract retainage.
  - Contractor holds subcontract retainage.

Section 3
Contract Provision for Retainage

- Act 291
  - If subcontractor is bonded, retain up to 5% of the subcontract.
  - If subcontractor is not bonded, retain up to 10% of the subcontract.
- Current Hawaii Administrative Rules
  - If subcontractor is bonded, the contractor may retain up to 5% of the subcontract.
  - If subcontractor is not bonded, there is no limit on retainage on the subcontract.

Section 3
Contract Provision for Retainage

- Act 291
  - If contractor withholds payment from subcontractor for deficient work, a notice must be issued to the subcontractor and Procurement Officer stating the reason for withholding.
- Current Hawaii Administrative Rules
  - Contractor may withhold payment without notification.

Section 4
Change Orders

- Agreed Contract Price Adjustment
  - Fixed price prior to commencement
  - Cost Plus prior to commencement
  - Any method agreed upon prior to commencement
- In the absence of an agreement Act 291 provides new guidelines for settlement of change order costs

Section 4
Change Orders

- In the absence of an agreement prior to commencement of CO work, law addresses 2 scenarios
  - CO under $50K
    - Force Account
  - CO over $50K
    - Unilaterial

Section 4
Change Orders – Under $50K

- Act 291
  - Force Account (FA) method is used
  - OH&P
    - 20% GC
    - 10% Sub
  - 15 days to issue CO
- Current Hawaii Administrative Rules
  - Government choose method of price determination
  - OH&P - IGC 1999
    - 15% GC OH&P
    - 7% Sub Mark-up
  - Government determines when to issue CO

Section 4
Change Orders – Over $50K

- Act 291
  - Government issues Unilaterial CO
  - OH&P
    - 20% GC
    - 10% Sub
  - 10 days to issue CO
- Current Hawaii Administrative Rules
  - Government choose method of price determination
  - OH&P – IGC 1999
    - 15% GC
    - 7% Sub
  - DAGS determines when to issue CO

Effective Timetable

Act 291	Effective Date
Section 2 - Prompt Payment	Contracts executed on or after July 1, 2007
Section 3 - Subcontractor Retainage	Contracts executed on or after July 1, 2007
Section 4 - Change Orders	All new and existing Contracts on or after July 1, 2007

Act 291 (SLH 2006) HB 3036 CD1

- Useful information
  - DAGS PW Websites
    - http://www.hawaii.gov/pwd - home page
    - http://www.hawaii.gov/pwd/Members/PWD_admin/cmb_forms - construction admin forms
    - http://www.hawaii.gov/pwd/Members/qc/act291 – Act 291 info
      - Click on email link on this page to send us your questions on DAGS procedures

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BUSINESS | GOVERNMENT | EMPLOYMENT | COMMUNITY | VISITING | EDUCATION

Governor Linda Lingle

Department of Accounting and General Services
Public Works Division

Upcoming Events

Act 291 Informational Briefing for State/County Agencies
State Capitol Auditorium, June 22, 2007

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June 21, 2007

Notice to Providers of Professional Services for Capital Improvement Projects 2007-08
May 30, 2007

REORGANIZATION of the Public Works Division
May 23, 2007

UPCOMING BID OPENINGS
May 15, 2007

The Public Works Division plans, coordinates, organizes, directs and controls a variety of engineering and architectural services for the State, including land acquisition, planning, designing, inspecting and managing construction projects, facilitating quality control, contracting, construction management, and equipping facilities and other improvements for State agencies. The Division, through its Leasing Branch, locates, negotiates and leases office space in non-state buildings for user agencies.

Next Step Project, Kakaako Temporary Transitional Shelter: Given less than five days to make all necessary arrangements and improvements to convert a "bare bones" warehouse space to a habitable overnight shelter to house 200 displaced persons of all ages, DAGS Public Works and Central Services Divisions' staffs completed the physical requirements of the project on time to meet the May 1, 2006 opening targeted by the Governor. After opening, the shelter's enrollment swelled to 300 persons, and additional improvements were made to provide additional amenities and services.

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Contact Information
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1151 Punchbowl St.
P.O. Box 119
Honolulu HI 96813
Ph: (808) 586-0526
Fax: (808) 586-0521

- Home
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A1 FORM DPW-CIA 2/05

FORM DPW-CIA 2/05

STATE OF HAWAII

Department of Accounting and General Services

Division of Public Works

MONTHLY ESTIMATE

FOR THE MONTH OF MARCH 2007

Date: April 6, 2005

CONTRACTOR:

ADDRESS:

Contract No. 49445 [ ]

City, State ZIP:

DAGS Job No. 12-29-7083

PROJECT TITLE: Aliiaimoku Bldg, Replace Air Conditioning System

CONTRACT

Basic Contract Amount $ 1,904,000.00

CHANGE ORDERS

FOR INSPECTION BRANCH USE

[ ] SUBMITTAL REGISTER [ ] COMMENCEMENT REQUIREMENTS

DUE MONTHLY:

[ ] PROJECT SCHEDULE - INITIAL & ONGOING

[ ] DAILY REPORTS [ ] PAYROLL AFFIDAVITS

MONTHLY ESTIMATE CHECKLIST

[ ] CONTRACT NUMBER [ ] PROJECT NAME & LOCATION

Instrctn | MNTHLY EST | MNTHLY PROG RPT1 | CHANGE ORDERS | RETAINAGE | MNTHLY PROG RPT1 (2) | MNTHLY PROG RPT1 (3) | MNTHLY PROG RPT1 (4)

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DPW-CIA 7/06

CONTRACTOR RETAINAGE Calculation

STATE OF HAWAII

Department of Accounting and General Services

Division of Public Works

For the Month of: MARCH 2007

CONTRACTOR: 0

Contract No.: 49445

PROJECT TITLE: Aliiaimoku Bldg, Replace Air Conditioning System

DAGS Job No.: 12-29-7083

CLOSED	SUBCONTRACTOR LIST	TRADE	LICENSE NO.	ORIGINAL CONTRACT AMOUNT	AMENDMNT ADDED	AMENDED CONTRACT AMOUNT	% CMPL	SUBJ TO PAYMNT	RETN RTE	AMOUNT RETAINED
	Somebody Construction	General Contractor	ABC-23456	$996,000	$4,000	$1,000,000	75%	$750,000	5%	$37,500
	Secon Application	Sealer	C-56789	$100,000	$100,000	$200,000	50%	$100,000	10%	$10,000
	Black and Green	Landscape	C-7865	$25,000	$25,000	$50,000	25%	$12,500	10%	$1,250
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0
						$0	0%	$0	10%	$0

Instrctn | MNTHLY EST | MNTHLY PROG RPT1 | CHANGE ORDERS | RETAINAGE | MNTHLY PROG RPT1 (2) | MNTHLY PROG RPT1 (3) | MNTHLY PROG RPT1 (4)

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I55 =(I34+I43+E47)*4.712%

	A	B	C	D	E	F	G	H	I	J	K
1	PROJECT:								DATE:		
2											
3	D.A.G.S. JOB NO.			CONTRACTOR:							
4											
5	REFERENCE:		Bulletin No.		P.C.D. NO.		Field Change				
6											
7	DESCRIPTON:										
8											
9											
10	MATERIALS										
11		Description		Unit	Unit Price		Subtotal				
12				0	$0.00		$0.00				
13							$0.00				
14							$0.00				
15							$0.00				
16							$0.00				
17	TOTAL FOR MATERIALS									$0.00	(1)
18											
19	LABOR				Wages	*Fringe					
20		Classification		Hours	Hour Rate	Rate	(Fringe x Hrs)		(Wage x Hrs.)		
21		-		0	$0.00	$0.00	$0.00		$0.00		
22							$0.00		$0.00		
23							$0.00		$0.00		
24							$0.00		$0.00		
25							$0.00		$0.00		
26	SUBTOTALS						$0.00	(2)	$0.00		(3)
27	*If requested, fringe benefit shall be indicated separately under each classification.										
28	TOTAL FOR LABOR (Wages & Fringe) (2) + (3)									$0.00	(4)
29											
30	SUBTOTAL - Materials & Labor (1) + (4)									$0.00	(5)
31	Overhead & Profit		20	% of (5)						$0.00	(6)
32	Insurance & Tax	27	% of (3)							$0.00	(7)
33	Overhead for Insurance & Taxes (6%) of (7)									$0.00	(8)

Sheet1 Sheet2 Sheet3

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I55 =(I34+I43+E47)*4.712%

	A	B	C	D	E	F	G	H	I	J	K
26	**SUBTOTALS**						$0.00	(2)		$0.00	(3)
27	*If requested, fringe benefit shall be indicated separately under each classification.										
28	**TOTAL FOR LABOR** (Wages & Fringe) (2) + (3)									$0.00	(4)
29											
30	**SUBTOTAL - Materials & Labor** (1) + (4)									$0.00	(5)
31	Overhead & Profit		20	% of (5)						$0.00	(6)
32	Insurance & Tax	27	% of (3)							$0.00	(7)
33	Overhead for Insurance & Taxes (6%) of (7)									$0.00	(8)
34	**TOTAL - MATERIALS & LABOR** (5) + (6) + (7) + (8)									$0.00	(9)
35											
36	**EQUIPMENT / REIMBURSABLE COSTS** (per diem, air fare, etc.)										
37			Classification	Unit/Hours	Rate		Subtotal				
38							$0.00				
39							$0.00				
40							$0.00				
41							$0.00				
42							$0.00				
43	**TOTAL FOR EQUIPMENT / REIMBURSABLE COSTS**									$0.00	(10)
44											
45	**SUBCONTRACTORS**			Allowed Mark-up:	10	%					
46			NAME	AMOUNT	Markup		Subtotal				
47				$0.00	$0.00		$0.00				
48					$0.00		$0.00				
49					$0.00		$0.00				
50					$0.00		$0.00				
51	**TOTAL FOR SUBCONTRACTORS**									$0.00	(11)
52											
53	**TOTAL (MATERIAL, LABOR, EQUIPMENT)** (9) + (10) + (11)									$0.00	(12)
54	Bond Fee	1	% on (12) (If Applicable)							$0.00	(13)
55	General Excise Tax (Less Subcontractor's Cost) 4.712% on (12) + (13) - (11)									$0.00	(14)
56											
57	**TOTAL FOR CHANGE ORDER** (12) + (13) + (14)									$0.00	
58							To nearest $1.00			$0	
59	**DPW Form 116 - Rev 6/07**										

Sheet1 Sheet2 Sheet3

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The Question and Answer Session

Act 291 (SLH 2006) HB 3036 CD1

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Thank You!