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December 29, 2006 (Revised 1/10/07)

MEMORANDUM NO. WSD-1A

TO: All State and County Governmental Contracting Agencies

FROM: Nelson B. Befitel, Director
Department of Labor and Industrial Relations

SUBJECT: Survey Work on Public Works Projects

The Department of Labor and Industrial Relations issued Memorandum No. WSD-1 on April 26, 2005 reminding all contracting agencies that the payment of prevailing wages under the Wages and Hours of Employees on Public Works Law, Chapter 104, Hawaii Revised Statutes (HRS), applies to certain survey work that is performed as part of the construction process.

Working with the surveying industry the Department has made further clarifications on the type of surveying work that is subject to prevailing wages under Chapter 104, HRS. This law applies to any laborer or mechanic who performs work on a covered project. Workers who use surveying tools for the construction process, specifically related to grade setting and laying out the work during actual construction from the surveyors' established points and elevations done in direct support of construction crews are subject to the prevailing wages. The classification for this type of work will be either Equipment Operator 8, for supervised work, or Equipment Operator 9A for unsupervised.

Work done by individuals or workers under their supervision who provide construction control points, construction stakeouts, certifications, topographic maps, boundary studies and stakeout, and any incidental work necessary to accomplish the same are not subject to the prevailing wage under Chapter 104, HRS. Once construction has started at the site work that is described in the preceding sentence is excluded from Chapter 104 HRS. For clarity, the Department will refer to non-included individuals who do this type of work as "Land Surveyors."

Caution – it is the *type* and *purpose* of work performed, not the *title* of the individual performing it or the construction phase that needs to be considered in determining which work is subject to prevailing wages under Chapter 104 HRS. The work done by the surveyor is professional in nature, and the purpose is establishing controls for the construction activity. Whereas the work of laborer or mechanic is considered work of a trade, and the purpose is to utilize the established controls to construct.

As partners in enforcement of Chapter 104, HRS, if you have any questions, please call Ms. Mari Imamura, Intake and Certification Branch Chief of our Wage Standards Division, at 586-8793.