

Surveying changes in payroll

Explaining the details of Chapter 104, HRS

It was a hectic end of year for Pamela Martin, administrator of the Wage Standards Division in the state Department of Labor and Industrial Relations, when 2006 drew to a close.

In a Dec. 29 memo, her boss – DLIR Director Nelson Befitel – clarified issues regarding survey work on public works projects.



Pamela Martin

In essence, that memo referenced another memo dating back to April 26, 2005, which reminded contracting agencies that once construction begins, survey work should be included in their certified payrolls.

Several construction groups – including the Building Industry Association of Hawaii, Hawaii Association of Land Surveyors and General Contractors Association of Hawaii – expressed concern about the April 26 interpretation of Chapter 104, HRS. It resulted in a meeting coordinated by Martin that involved contractors, surveyors, operating engineers and department personnel to clarify when survey work is rightfully included and excluded from certified payrolls.

Progress asked Martin to clarify this issue in the following Q&A format.

Q: How is it determined if surveying work should be included on certified payrolls of public works projects?

A: First, we look at what type of tools are used in the job. This area does not offer any differentiation between included and excluded work as all types of surveying use the same tools. Then we look at the tasks that the worker completes on the job. One of the distinctions that we recognized is the certification of the construction work by land surveyors, which may be

an indication of professional work as opposed to “laborer or mechanic” work. The Dec. 29 memo articulates that providing construction control points, construction stakeouts, certi-

fications, topographic maps, boundary studies and stakeouts, and incidental work to accomplish those tasks, are excluded work.

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SENIOR PROJECT MANAGER MAUI LANI

Maui Lani Partners, the developers of the Central Maui master planned community of Maui Lani is currently seeking a Senior Project Manager who will be responsible for all phases of various projects from conceptual development through final construction. The Senior Project Manager will manage site work and vertical construction projects (heavier emphasis on residential construction) including budgeting, pricing, bidding, permitting, negotiations with contractors, scheduling and managing of sub-contractors.

The ideal candidate will have 8+ years of experience as a Project Manager with a successful track record; exceptional communication skills; strong negotiation skills; sound judgment and analytical abilities; and must live and work on Maui. Bachelor's degree preferred. Above market salary and benefits.

Qualified candidates are welcomed to submit their resume, cover letter and salary requirements in confidence to:

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Surveyors | Penalties for violating Chapter 104 can be severe

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Q: What are the fines and/or penalties if Chapter 104 is not followed?

A: Penalties are assessed on a progressive basis in a three-step scale.

The first violation imposes a penalty equal to 10 percent of back wages due or \$25 per offense, whichever is greater.

If there is a second violation within two years of the first notification of violation, the penalty increases to the amount of back wages due or \$100 for each offense, again whichever is greater.

The penalty for the third violation is the most severe because, in addition to monetary penalties of two times the back wages due or \$200 per offense, contractors are suspended for three years from doing any new public work. If the back wages and/or penalties remain unpaid after the three-year suspension period, the suspension will remain in effect until full payment is made.

Q: How will your department educate the government employees who administer public contracts in Hawaii?

A: The memos are one way to get the word out. We also hold classes for contracting agencies and are negotiating a Memorandum of Agreement

on the joint enforcement of Chapter 104, HRS, with each of the major contracting agencies to ensure that each agency is enforcing the law consistently.

Q: What can a contractor do when a government employee does not know the law and imposes citations and fines improperly?

A: The only government employee who has the ability to impose a fine is the state director of labor. If the project manager of a contracting agency disagrees with your interpretation of what should be on the certified payroll, you should ask the individual to contact us to discuss the matter.

If you are still dissatisfied, you can always write directly to the Wage Standards Division and we will provide a written response to your request.

Q: How can contractors get more information on this issue?

A: Our Web site, www.hawaii.gov/labor/wsd has more information about Chapter 104, including the schedule of classes for contractors on this topic that occur twice a year. We also are willing to conduct classes for individual companies on the correct way to fill out a certified payroll or other topics on Chapter 104, HRS.

Geotech | Dusting the competition

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last minute," he admits. "But if you have the correct inventory, you'll always be an asset."

Ogasawara first became an entrepreneur in 1995, the same year Congress passed the Clean Water Act (CWA) that regulated the amount of sedimentary discharge into public waterways. Believing that many local companies simply did not have the products to comply with the CWA, Ogasawara -- then a part of his father's fertilizer/chemical business -- started his own company, Dust Abatement Hawaii.

The following year, he switched

names to Geotech Solutions and the rest, as they say, is history. "Everyone was going to be required to comply with the new regulations and the question was, 'Where are we going to get all these materials?'" he says.

"So I stepped in and established a business that was solutions-oriented, specifically for contractors, developers and designers. And that's the reason I wound up renaming the company. I wanted my customers to realize that we provide geotechnical answers to whatever their problems may be."

Call Ogasawara at 677-1580 or send e-mail to togasawara@aol.com.



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