



City of Muscatine



AGENDA ITEM SUMMARY

City Council

DATE:

February 26, 2021

STAFF

Pat Lynch, City Engineer

Brian Stineman, Public Works Director

SUBJECT

Resolution Awarding the Contract for the 2020/2021 Hot Mix Asphalt Alley Overlay Project to Manatts, Inc. for the amount of \$168,909.25.

EXECUTIVE SUMMARY

The City of Muscatine Public Works Department has compiled a list of alleys to be overlayed with hot mix asphalt during Fiscal Year 2020/2021. The bids were received on February 23, 2021 at 10:00 am and have been tabulated (bid tab attached). Manatts, Inc. was the apparent low responsive, responsible bidder with a bid of \$168,909.25.

STAFF RECOMMENDATION

Staff recommends Council approve a resolution to award the contract for the 2020/2021 Hot Mix Alley Overlay Project Manatts Inc. in the amount of \$168,909.25.

BACKGROUND/DISCUSSION

The City of Muscatine Roadway Maintenance Division has compiled a list of alleys that qualify for Hot Mix Asphalt overlay based on a matrix previously developed. The bids were received on February 23, 2021 at 10:00 am and have been tabulated. This project was delayed due to uncertainty of road use tax revenue due to the Covid 19 pandemic. The alleys included in this project are bound by:

- Washington Street, Hawthorne Lane, Park Avenue and Orchard Avenue
- Hagerman Drive, Lorenz Street, Terrace Heights Drive and Roscoe Avenue
- Pine Street, Linn Street, 3rd Street, and 4th Street
- Cedar Street, Walnut Street, 7th Street and 8th Street
- Jackson Street, Monroe Street, Grand Avenue and Lincoln Boulevard
- Chestnut Street, Iowa Avenue, 5th Street and 6th Street
- Harrison Street, McArthur Street, Lincoln Boulevard and Grand Avenue
- Cedar Street, Mulberry Avenue, 8th Street and 9th Street
- Hawthorne Lane, Parkington Drive, Orchard Avenue and Park Avenue

It should be noted that of the bids received, the low bid had to be rejected due to the Iowa Bidder Preference Law. In late 2020, Illinois enacted their Illinois Preference Act which requires contractors to use at least 90% Illinois laborers on all public works projects that receive state funds or projects by which Illinois administers the funds. Iowa has a reciprocal bidding statute that is now in effect. "Due to current high unemployment, the State of Illinois is applying their bidder preference to require public work contracts only to be awarded to businesses that will be using 90% Illinois residents. Iowa will now mirror Illinois' statute. Illinois contractors now have an obligation to employ 90% Iowa residents on any Iowa public works job," said Iowa Labor Commissioner Rod Roberts.

As an Iowa government entity, the City of Muscatine has been advised by our legal counsel to follow Iowa Code Section 73A.21 and Iowa Administrative Rules Chapter 156. Therefore, we were forced to reject the low bid from Taylor Ridge Paving & Construction from Taylor Ridge, Illinois, because they could not provide proof of meeting these legislative rules.

CITY FINANCIAL IMPACT

The funds for this project come from the Roadway Maintenance Budget. This project was anticipated to cost approximately \$100,000.

ATTACHMENTS

- Bid Tab
- Iowa Code Section 73A.21
- Chapter 156; Bidder Preferences in Government Contracting

RESOLUTION NO. 2021-0078

AWARD CONTRACT FOR HMA ALLEY OVERLAY PROJECT 2020/2021

It is resolved that the following bid is determined to be the lowest responsible bid for the HMA Alley Overlay Project 2020/2021.

<u>NAME & ADDRESS CONTRACTOR</u>	<u>AMOUNT OF BID</u>
Manatt's, Inc. 1425 N. Washington Blvd Camanche, IA 52730	\$168,909.25

It is further resolved that the HMA Alley Overlay Project 2020/2021 is awarded to the above named contractor for \$168,909.25, and the Mayor and City Clerk are authorized and directed to enter into a written contract with said contractor covering the furnishing of material for, and construction of the HMA Alley Overlay Project 2020/2021, such contract not to be binding until approved by resolution of this Council.

It is further resolved that the amount of the contractor's bond is fixed at \$168,909.25, which is one hundred percent of the contract price.

PASSED, APPROVED, AND ADOPTED THIS 4th DAY OF MARCH, 2021.

Diana Broderson, Mayor

ATTEST:

Carol Webb, City Administrator

20/21 HMA ALLEYS PROJECT

BID TABULATION 2/23/2021

				Brandt Construction		Manatts, Inc	
		Quantity	Units	Unit Price	Extended Price	Unit Price	Extended Price
1	Milling	8115	SY	\$ 4.00	\$ 32,460.00	\$ 5.95	\$ 48,284.25
2	Hot Mix Asphalt	1325	TON	\$ 103.00	\$ 136,475.00	\$ 87.00	\$ 115,275.00
3	Recycled Asphalt Pavement	0	TON	\$ 102.50	\$ -	\$ 82.50	\$ -
4	Manhole Adjustment	0	EA	\$ -	\$ -	\$ 750.00	\$ -
5	Traffic Control	1	LS	\$ 7,500.00	\$ 7,500.00	\$ 5,350.00	\$ 5,350.00
6					\$ -	\$ -	
					\$ -	\$ -	
					\$ 176,435.00		\$ 168,909.25

Total from Bid Form

				Taylor Ridge Paving & Const.		Paco Construction LLC	
		Quantity	Units	Unit Price	Extended Price	Unit Price	Extended Price
1	Milling	8115	SY	\$ 3.46	\$ 28,077.90	\$ 4.75	\$ 38,546.25
2	Hot Mix Asphalt	1325	TON	\$ 96.00	\$ 127,200.00	\$ 105.00	\$ 139,125.00
3	Recycled Asphalt Pavement	0	TON	\$ 96.00	\$ -	\$ 102.50	\$ -
4	Manhole Adjustment	0	EA	\$ 100.00	\$ -	\$ 1,500.00	\$ -
5	Traffic Control	1	LS	\$ 2,000.00	\$ 2,000.00	\$ 6,000.00	\$ 6,000.00
6					\$ -	\$ -	
					\$ -	\$ -	
					\$ 157,277.90		\$ 183,671.25

Total from Bid Form

\$ 157,077.90

\$ 185,171.25

CHAPTER 156
BIDDER PREFERENCES IN GOVERNMENT CONTRACTING

875—156.1(73A) Purpose, scope and definitions. These rules institute administrative and operational procedures for enforcement of the Act. The definitions and interpretations contained in Iowa Code section 73A.21 shall be applicable to such terms when used in this chapter.

“*Act*” means Iowa Code section 73A.21.

“*Affiliate*,” when used with respect to any specified person or entity, means another person or entity that, either directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control or ownership with, such specified person or entity.

“*Commissioner*” means the labor commissioner appointed pursuant to Iowa Code section 91.2, or the labor commissioner’s designee.

“*Division*” means the division of labor of the department of workforce development.

“*Nonresident bidder*” means a person or entity that does not meet the definition of a resident bidder, including any affiliate of any person or entity that is a nonresident bidder.

“*Parent*,” when used with respect to any specified person or entity, means an affiliate controlling such specified person or entity directly or indirectly through one or more intermediaries.

“*Public body*” means the state and any of its political subdivisions, including a school district, public utility, or the state board of regents.

“*Public improvement*” means a building or other construction work to be paid for in whole or in part by the use of funds of the state, its agencies, and any of its political subdivisions and includes road construction, reconstruction, and maintenance projects.

“*Public utility*” includes municipally owned utilities and municipally owned waterworks.

“*Resident bidder*” means a person or entity authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least three years prior to the date of the first advertisement for the public improvement. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.

“*Resident labor force preference*” means a requirement in which all or a portion of a labor force working on a public improvement is a resident of a particular state or country.

“*Subsidiary*,” when used with respect to any specified person or entity, is an affiliate controlled by such specified person or entity directly or indirectly through one or more intermediaries.
[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.2(73A) Reporting of resident status of bidders.

156.2(1) Reporting to public body. When a contract for a public improvement is to be awarded to the lowest responsible bidder, the public body shall request a statement from each bidder regarding the bidder’s resident status. The statement shall be on the form designated by the commissioner. The statement shall require the bidder to certify whether the bidder is a resident bidder or a nonresident bidder. In the case of a resident bidder, the statement shall require the resident bidder to identify each office at which the resident bidder has conducted business in the state during the previous three years and the dates on which the resident bidder conducted business at each office. In the case of a nonresident bidder, the statement shall require the nonresident bidder to identify the nonresident bidder’s home state or foreign country as reported to the Iowa secretary of state, to identify each preference offered by the nonresident bidder’s home state or foreign country, and to certify that, except as set forth on the form, there are no other preferences offered by the nonresident bidder’s home state or foreign country. The statement shall include such additional information as requested by the commissioner. The statement must be signed by an authorized representative of the bidder. A fully completed statement shall be deemed to be incorporated by reference into all project bid specifications and contract documents with any bidder on a public improvement. Failure to provide the statement with the bid may result in the bid being deemed nonresponsive. This may result in the bid being rejected by the public body.

156.2(2) Determining residency status.

a. For purposes of the Act, a person or entity is a resident bidder if the person or entity:

(1) Is authorized to transact business in Iowa; and

(2) Has had one or more places of business in Iowa at which it is conducting or has conducted business in this state for at least three years immediately prior to the date of the first advertisement for the public improvement.

b. If the person or entity is a resident of a state or foreign country that has a more stringent definition than is set forth in paragraph 156.2(2) "a" for determining whether a person or entity in that state or country is a resident bidder, then the more stringent definition applies.

156.2(3) Determining authorization to transact business. A person or entity is authorized to transact business in the state if one or more of the following accurately describes the person or entity:

a. In the case of a sole proprietorship, the sole proprietor is an Iowa resident for Iowa income tax purposes;

b. In the case of a general partnership or joint venture, more than 50 percent of the general partners or joint venture parties are residents of Iowa for Iowa income tax purposes;

c. In the case of a limited liability partnership which has filed a statement of qualification in this state, the statement has not been canceled;

d. In the case of a limited liability partnership whose statement of qualification is filed in a state other than Iowa, the limited liability partnership has filed a statement of foreign qualification in Iowa and a statement of cancellation has not been filed pursuant to Iowa Code section 486A.105(4);

e. In the case of a limited partnership or limited liability limited partnership whose certificate of limited partnership is filed in this state, the limited partnership or limited liability limited partnership has not filed a statement of termination;

f. In the case of a limited partnership or a limited liability limited partnership whose certificate of limited partnership is filed in a state other than Iowa, the limited partnership or limited liability limited partnership has received notification from the Iowa secretary of state that the application for certificate of authority has been approved and no notice of cancellation has been filed by the limited partnership or the limited liability limited partnership;

g. In the case of a limited liability company whose certificate of organization is filed in this state, the limited liability company has not filed a statement of termination;

h. In the case of a limited liability company whose certificate of organization is filed in a state other than Iowa, the limited liability company has received a certificate of authority to transact business in this state and the certificate has not been revoked or canceled;

i. In the case of a corporation whose articles of incorporation are filed in this state, the corporation (1) has paid all fees required by Iowa Code chapter 490, (2) has filed its most recent biennial report, and (3) has not filed articles of dissolution;

j. In the case of a corporation whose articles of incorporation are filed in a state other than Iowa, the corporation (1) has received a certificate of authority from the Iowa secretary of state, (2) has filed its most recent biennial report with the secretary of state, and (3) has neither received a certificate of withdrawal from the secretary of state nor had its authority revoked; or

k. The person or entity is registered with the Iowa division of labor as a construction contractor pursuant to Iowa Code chapter 91C.

156.2(4) Determining if bidder has conducted business in state. In order to determine if a bidder has a place of business for transacting business within Iowa at which it is conducting and has conducted business for at least three years prior to the date of the first advertisement of the public improvement, the bidder shall meet the following criteria for the three-year period prior to the first advertisement for the public improvement:

a. Continuously maintained a place of business for transacting business in Iowa that is suitable for more than receiving mail, telephone calls, and emails; and

b. Conducted business in the state for each of those three years and filed an Iowa income tax return, if applicable, made payments to the Iowa unemployment insurance fund, if applicable, and maintained an Iowa workers' compensation policy, if applicable, in effect for each of those three years.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.3(73A) Application of preference. When awarding a contract for a public improvement to the lowest responsible bidder, the public body shall allow a preference to a resident bidder as against a nonresident bidder that is equal to any preference given or required by the home state or foreign country in which the nonresident bidder is a resident without regard to whether such preferences are actually enforced by the applicable regulatory body in each state. If the bidder is a subsidiary of a parent that would be a nonresident bidder if such parent were to bid on the public improvement in its own name, then the public body shall allow a preference as against such bidder that is equal to the preference given or required by the home state or foreign country of the bidder's parent. In the instance of a labor force preference, a public body shall apply the same resident labor force preference to a public improvement in this state as would be required in the construction of a public improvement by the home state or foreign country of the nonresident bidder, or the parent of a resident bidder if the parent would qualify as a nonresident bidder if such parent were to bid on the public improvement in its own name.

A preference shall not be applied to a subcontractor unless the home state or foreign country of the nonresident bidder to whom the contract was awarded would apply a preference to the subcontractor.

Specific methods of calculating and applying a preference shall mirror those that apply in the home state or foreign country of the nonresident bidder to whom the contract was awarded. In the event that the specific method used by the nonresident bidder's home state or foreign country cannot be determined, the calculation for a labor force preference shall include only the labor force working on the public improvement in Iowa on a regular basis calculated by pay period.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.4(73A) Complaints regarding alleged violations of the Act.

156.4(1) Complaints. Any person with information regarding a violation of the Act may submit a written complaint to the commissioner. Any complaint must provide the information required pursuant to subrule 156.4(2) or as much of such information as is reasonably practicable under the circumstances. The completed written complaint form shall be mailed to the commissioner at Labor Services Division, 150 Des Moines Street, Des Moines, Iowa 50309.

156.4(2) Written complaint form. The commissioner shall prepare a written complaint form that a person with information regarding a potential violation of the Act may submit pursuant to subrule 156.4(1). The written complaint form shall request the following information: the name, address, telephone number, and email address of the complainant; the name of the bidder that is believed to have violated the Act; a description of any relationships between the complainant and the bidder; an identification of the public body to which the bidder submitted a bid; the home state or foreign country of the bidder; a description of the goods and services provided under the bid; and such additional information as requested by the commissioner.

156.4(3) Availability of written complaint form. The written complaint form shall be available in all division offices and on the department of workforce development's website.

[ARC 1271C, IAB 1/8/14, effective 2/12/14; ARC 4639C, IAB 8/28/19, effective 10/2/19; ARC 5022C, IAB 4/8/20, effective 5/13/20]

875—156.5(73A) Nonresident bidder record-keeping requirements. While participating in a public improvement, a nonresident bidder from a home state or foreign country with a resident labor force preference shall make and keep, for a period of not less than three years, accurate records of all workers employed by the contractor or subcontractor on the public improvement. The records shall include each worker's name, address, telephone number if available, social security number, trade classification, and starting and ending date of employment.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.6(73A) Investigations; determination of civil penalty. The commissioner or an authorized designee shall cause an investigation to be made into charges of violations of the Act, including allegations set forth in a written complaint.

156.6(1) Investigative powers. The commissioner or the authorized designee shall have the following powers:

- a. *Hearings.* The commissioner may hold hearings and investigate charges of violations of the Act.
- b. *Entry into place of employment.* The commissioner may, consistent with due process of law, enter any place of employment to inspect records concerning labor force residency, to question an employer or employee, and to investigate those facts, conditions, or matters as are deemed appropriate in determining whether any person has violated the provisions of the Act. The commissioner shall only make an entry into a place of employment in response to a written complaint.
- c. *Residency of workers.* The commissioner may investigate and ascertain the residency of a worker engaged in any public improvement in this state.
- d. *Oaths; depositions; subpoenas.* The commissioner may administer oaths, take or cause to be taken deposition of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, registers, payrolls, and other evidence relevant to a matter under investigation or hearing.
- e. *Employment of personnel.* The commissioner may employ qualified personnel as are necessary for the enforcement of Iowa Code section 73A.21. The personnel shall be employed pursuant to the merit system provisions of Iowa Code chapter 8A, subchapter IV.
- f. *Request for records.* The commissioner shall require a contractor or subcontractor to file, within 10 days of receipt of a request, any records enumerated in rule 875—156.5(73A). If the contractor or subcontractor fails to provide the requested records within 10 days, the commissioner may direct, within 15 days after the end of the 10-day period, that the fiscal or financial office charged with the custody and disbursement of funds of the public body that contracted for construction of the public improvement or undertook the public improvement, to withhold immediately from payment to the contractor or subcontractor up to 25 percent of the amount to be paid to the contractor or subcontractor under the terms of the contract or written instrument under which the public improvement is being performed. The amount withheld shall be immediately released upon receipt by the public body of a notice from the commissioner indicating that the request for records as required by this paragraph has been satisfied.

156.6(2) Division determination. Upon conclusion of an investigation, the commissioner or an authorized designee shall issue a written determination to the party that was the subject of the investigation. The determination shall indicate whether or not the division finds a violation of the Act by the party. If the determination indicates that the party engaged in a violation of the Act, the determination shall also indicate the remedies the division intends to pursue as a result of the violation.

156.6(3) Informal conference. A party seeking review of the division's determination pursuant to this rule may file a written request for an informal conference. The request must be received by the division within 15 days after the date of issuance of the division's determination. During the conference, the party seeking review may present written or oral information and arguments as to why the division's determination should be amended or vacated. The division shall consider the information and arguments presented and issue a written decision advising all parties of the outcome of the informal conference.
[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.7(73A) Remedies. Following the conclusion of the informal conference, or following the expiration of the time in which a party may file a written request for an informal conference, the division may pursue the following remedies.

156.7(1) Injunctive relief. If the division determines that a violation of the Act has occurred, the division may sue for injunctive relief against the awarding of a contract, the undertaking of a public improvement, or the continuation of a public improvement.

156.7(2) Civil penalty. Any person or entity that violates the provisions of this chapter is subject to a civil penalty in an amount not to exceed \$1,000 for each violation found in a first investigation by the division, not to exceed \$5,000 for each violation found in a second investigation by the division, and not to exceed \$15,000 for a third or subsequent violation found in any subsequent investigation by the division. Each violation of this chapter for each worker and for each day the violation continues constitutes a separate and distinct violation. In determining the amount of the penalty, the division shall

consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violation(s). The collection of these penalties shall be enforced in a civil action brought by the attorney general on behalf of the division.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.8(73A) Compliance with federal law. If it is determined that application of this chapter and the Act may cause denial of federal funds which would otherwise be available for a public improvement, or would otherwise be inconsistent with requirements of any federal law or regulation, the application of this chapter shall be suspended to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

875—156.9(73A) Severability. If any rule under this chapter, any portion of a rule under this chapter, or the applicability of any rule under this chapter to any person or circumstance is held invalid by a court, the remainder of these rules or the rules' applicability to other persons or circumstances shall not be affected.

[ARC 1271C, IAB 1/8/14, effective 2/12/14]

These rules are intended to implement Iowa Code section 73A.21.

[Filed ARC 1271C (Notice ARC 1160C, IAB 10/30/13), IAB 1/8/14, effective 2/12/14]

[Filed ARC 4639C (Notice ARC 4497C, IAB 6/19/19), IAB 8/28/19, effective 10/2/19]

[Filed ARC 5022C (Notice ARC 4894C, IAB 2/12/20), IAB 4/8/20, effective 5/13/20]

73A.21 Reciprocal resident bidder and resident labor force preference by state, its agencies, and political subdivisions — penalties.

1. For purposes of **this section**:
 - a. "Commissioner" means the labor commissioner appointed pursuant to **section 91.2**, or the labor commissioner's designee.
 - b. "Division" means the division of labor of the department of workforce development.
 - c. "Nonresident bidder" means a person or entity who does not meet the definition of a resident bidder.
 - d. "Public body" means the state and any of its political subdivisions, including a school district, public utility, or the state board of regents.
 - e. "Public improvement" means a building or other construction work to be paid for in whole or in part by the use of funds of the state, its agencies, and any of its political subdivisions and includes road construction, reconstruction, and maintenance projects.
 - f. "Public utility" includes municipally owned utilities and municipally owned waterworks.
 - g. "Resident bidder" means a person or entity authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least three years prior to the date of the first advertisement for the public improvement. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.
 - h. "Resident labor force preference" means a requirement in which all or a portion of a labor force working on a public improvement is a resident of a particular state or country.
2. Notwithstanding **this chapter**, **chapter 73**, **chapter 309**, **chapter 310**, **chapter 331**, or **chapter 384**, when a contract for a public improvement is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a nonresident bidder from a state or foreign country if that state or foreign country gives or requires any preference to bidders from that state or foreign country, including but not limited to any preference to bidders, the imposition of any type of labor force preference, or any other form of preferential treatment to bidders or laborers from that state or foreign country. The preference allowed shall be equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident. In the instance of a resident labor force preference, a nonresident bidder shall apply the same resident labor force preference to a public improvement in this state as would be required in the construction of a public improvement by the state or foreign country in which the nonresident bidder is a resident.
3. If it is determined that this may cause denial of federal funds which would otherwise be available, or would otherwise be inconsistent with requirements of any federal law or regulation, **this section** shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.
4. The public body involved in a public improvement shall require a nonresident bidder to specify on all project bid specifications and contract documents whether any preference as described in **subsection 2** is in effect in the nonresident bidder's state or country of domicile at the time of a bid submittal.
5. The commissioner and the division shall administer and enforce **this section**, and the commissioner shall adopt rules for the administration and enforcement of **this section** as provided in **section 91.6**.
6. The commissioner shall have the following powers and duties for the purposes of **this section**:
 - a. The commissioner may hold hearings and investigate charges of violations of **this section**.
 - b. The commissioner may, consistent with due process of law, enter any place of employment to inspect records concerning labor force residency, to question an employer or employee, and to investigate such facts, conditions, or matters as are deemed appropriate in determining whether any person has violated the provisions of **this section**. The commissioner shall only make such an entry in response to a written complaint.
 - c. The commissioner shall develop a written complaint form applicable to **this section**.

and make it available in division offices and on the department of workforce development's internet site.

d. The commissioner may sue for injunctive relief against the awarding of a contract, the undertaking of a public improvement, or the continuation of a public improvement in response to a violation of [this section](#).

e. The commissioner may investigate and ascertain the residency of a worker engaged in any public improvement in this state.

f. The commissioner may administer oaths, take or cause to be taken deposition of witnesses, and require by subpoena the attendance and testimony of witnesses and the production of all books, registers, payrolls, and other evidence relevant to a matter under investigation or hearing.

g. The commissioner may employ qualified personnel as are necessary for the enforcement of [this section](#). Such personnel shall be employed pursuant to the merit system provisions of [chapter 8A, subchapter IV](#).

h. The commissioner shall require a contractor or subcontractor to file, within ten days of receipt of a request, any records enumerated in [subsection 7](#). If the contractor or subcontractor fails to provide the requested records within ten days, the commissioner may direct, within fifteen days after the end of the ten-day period, the fiscal or financial office charged with the custody and disbursement of funds of the public body that contracted for construction of the public improvement or undertook the public improvement, to immediately withhold from payment to the contractor or subcontractor up to twenty-five percent of the amount to be paid to the contractor or subcontractor under the terms of the contract or written instrument under which the public improvement is being performed. The amount withheld shall be immediately released upon receipt by the public body of a notice from the commissioner indicating that the request for records as required by [this section](#) has been satisfied.

7. While participating in a public improvement, a nonresident bidder domiciled in a state or country that has established a resident labor force preference shall make and keep, for a period of not less than three years, accurate records of all workers employed by the contractor or subcontractor on the public improvement. The records shall include each worker's name, address, telephone number when available, social security number, trade classification, and the starting and ending time of employment.

8. Any person or entity that violates the provisions of [this section](#) is subject to a civil penalty in an amount not to exceed one thousand dollars for each violation found in a first investigation by the division, not to exceed five thousand dollars for each violation found in a second investigation by the division, and not to exceed fifteen thousand dollars for a third or subsequent violation found in any subsequent investigation by the division. Each violation of [this section](#) for each worker and for each day the violation continues constitutes a separate and distinct violation. In determining the amount of the penalty, the division shall consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violations. The collection of these penalties shall be enforced in a civil action brought by the attorney general on behalf of the division.

9. A party seeking review of the division's determination pursuant to [this section](#) may file a written request for an informal conference. The request must be received by the division within fifteen days after the date of issuance of the division's determination. During the conference, the party seeking review may present written or oral information and arguments as to why the division's determination should be amended or vacated. The division shall consider the information and arguments presented and issue a written decision advising all parties of the outcome of the conference.

[84 Acts, ch 1045, §1; 85 Acts, ch 67, §5](#)

C85, §23.21

C93, §73A.21

[2008 Acts, ch 1031, §86; 2011 Acts, ch 133, §7, 10, 11; 2014 Acts, ch 1026, §17](#)

Referred to in [§26.9, 26.16, 84A.5](#)

See also [§8A.311](#)