
A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 103D-310, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§103D-310 Responsibility of offerors. (a) Unless the
4 policy board, by rules, specifies otherwise, before submitting
5 an offer, a prospective offeror, not less than ten calendar days
6 prior to the day designated for opening offers, shall give
7 written notice of the intention to submit an offer to the
8 procurement officer responsible for that particular procurement.

9 (b) Whether or not an intention to bid is required, the
10 procurement officer shall determine whether the prospective
11 offeror has the financial ability, resources, skills,
12 capability, and business integrity necessary to perform the
13 work. For this purpose, the officer, in the officer's
14 discretion, may require any prospective offeror to submit
15 answers, under oath, to questions contained in a standard form
16 of questionnaire to be prepared by the policy board. Whenever
17 it appears from answers to the questionnaire or otherwise, that



1 the prospective offeror is not fully qualified and able to
2 perform the intended work, a written determination of
3 nonresponsibility of an offeror shall be made by the head of the
4 purchasing agency, in accordance with rules adopted by the
5 policy board. The unreasonable failure of an offeror to
6 promptly supply information in connection with an inquiry with
7 respect to responsibility may be grounds for a determination of
8 no responsibility with respect to such offeror. The decision of
9 the head of the purchasing agency shall be final unless the
10 offeror applies for administrative review pursuant to section
11 103D-709.

12 (c) All offerors, upon award of contract, shall comply
13 with all laws governing entities doing business in the [State,
14 state, including chapters 237, 383, 386, 392, and 393. Offerors
15 shall produce documents to the procuring officer to demonstrate
16 compliance with this subsection. Any offeror making a false
17 affirmation or certification under this subsection shall be
18 suspended from further offerings or awards pursuant to section
19 103D-702. The procuring officer shall verify compliance with
20 this subsection for all contracts awarded pursuant to sections
21 103D-302, 103D-303, 103D-304, and 103D-306; provided that the
22 attorney general may waive the requirements of this subsection



1 for contracts for legal services if the attorney general
2 certifies in writing that comparable legal services are not
3 available in this [~~State-~~] state.

4 (d) Any false information or misrepresentation knowingly
5 placed in the solicitation of an offeror or a subcontractor
6 shall be a basis for not awarding the contract to the offeror or
7 the subcontractor, and the chief procurement officer shall apply
8 the provisions of section 103D-702; provided that a one year
9 mandatory suspension from consideration for awards under this
10 chapter shall be imposed.

11 [~~(d)~~] (e) Information furnished by an offeror pursuant to
12 [~~this section~~] subsections (a), (b), and (c) shall not be
13 disclosed to any person except to law enforcement agencies as
14 provided by chapter 92F."

15 SECTION 2. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Procurement; False Information; Sanctions

Description:

Subjects offerors or subcontractors who intentionally use false information or misrepresentations to obtain a procurement contract to sanctions including the rejection of the solicitation and a one year mandatory suspension from consideration for procurement awards. (SB2867 HD1)

