
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that the current
2 procurement process for design-build contracts requires offerors
3 to prepare, in most instances, conceptual design drawings as
4 part of their proposals. This requires a considerable initial
5 investment and may prevent many local firms from submitting
6 proposals for design-build contracts. As a result, purchasing
7 agencies may experience a decrease in competition and an
8 increase in prices, and may potentially be forced to sacrifice
9 design and construction creativity.

10 The purpose of this Act is to provide for the selection of
11 the most qualified offerors for design-build contracts and to
12 encourage the participation of Hawaii-based companies, including
13 local small firms, in the design-build contract proposal
14 process.

15 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
16 amended by adding a new definition to be appropriately inserted
17 and to read as follows:



1 "Design-build" means a project delivery method in which
2 the procurement officer enters into a single contract for design
3 and construction of an infrastructure facility."

4 SECTION 3. Section 103D-303, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsections (a) and (b) to read:

7 "(a) Competitive sealed proposals may be ~~[utilized]~~ used
8 to procure goods, services, or construction ~~[designated in rules~~
9 ~~adopted by the procurement policy board as goods, services, or~~
10 ~~construction which are]~~ that is either not practicable or not
11 advantageous to the State to procure by competitive sealed
12 bidding. ~~[Competitive sealed proposals may also be utilized~~
13 ~~when the head of a purchasing agency determines in writing that~~
14 ~~the use of competitive sealed bidding is either not practicable~~
15 ~~or not advantageous to the State.]~~

16 (b) Proposals shall be solicited through a request for
17 proposals ~~[-]~~; provided that for construction projects, the
18 procurement officer may determine to use the design-build method
19 where the cost of preparing proposals is high relative to the
20 size, estimated price, and complexity of the procurement. If
21 the design-build method is employed, the procurement officer
22 shall:



1 (1) Issue a request for proposals to prequalify offerors
 2 to select a short list of responsible offerors prior
 3 to submittal of proposals or discussions and
 4 evaluations pursuant to subsection (f); provided that
 5 the number of proposals that will be short-listed is
 6 stated in the request for proposals and prompt public
 7 notice is given to all offerors as to which proposals
 8 have been short-listed; or

9 (2) Pay stipends to unsuccessful offerors; provided that
 10 the amount of the stipend and the terms under which
 11 the stipends will be paid are stated in the request
 12 for proposals."

13 2. By amending subsection (d) to read:

14 "(d) Proposals shall be opened so as to avoid disclosure
 15 of contents to competing offerors during the process of
 16 [~~negotiation.~~] evaluation. A register of proposals shall be
 17 prepared [~~in accordance with rules adopted by the policy board]~~
 18 and shall be open for public inspection after contract award."

19 3. By amending subsection (f) through (h) to read:

20 "(f) Discussions may be conducted with responsible
 21 offerors who submit proposals determined to be reasonably
 22 [~~susceptible of being~~] likely to be selected for a contract



1 award for the purpose of clarification to assure full
2 understanding of, and responsiveness to, the solicitation
3 requirements. Offerors shall be accorded fair and equal
4 treatment with respect to any opportunity for discussion and
5 revision of proposals, and revisions may be permitted after
6 submissions and prior to award for the purpose of obtaining best
7 and final offers. In conducting discussions, there shall be no
8 disclosure of any information derived from proposals submitted
9 by competing offerors.

10 (g) Award shall be made to the responsible offeror whose
11 proposal is determined in writing to be the most advantageous,
12 taking into consideration price and the evaluation factors set
13 forth in the request for proposals. No other factors or
14 criteria shall be used in the evaluation. The contract file
15 shall contain the basis on which the award is made.

16 (h) In cases of awards made under this section,
17 nonselected offerors may submit a written request for debriefing
18 to the chief procurement officer [~~or designee~~] within three
19 working days after the posting of the award of the contract.
20 Thereafter, the [~~head of the purchasing agency~~] procurement
21 officer shall provide the [~~requester~~] nonselected offeror a
22 prompt debriefing [~~in accordance with rules adopted by the~~



1 ~~policy board~~]. Any protest by the [~~requester~~] nonselected
2 offeror pursuant to section 103D-701 following debriefing shall
3 be filed in writing with the [~~chief~~] procurement officer [~~or~~
4 ~~designee~~] within five working days after the date [~~that~~] upon
5 which the debriefing is completed."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2112.



Report Title:

Procurement; Design-build Contracts

Description:

Establishes the use of the design-build process where the cost of preparing proposals is high, relative to the size, estimated price, and complexity of the project. Authorizes a two-part process where prequalified applicants will be short-listed to submit design proposals. The short list shall be publically disclosed, or unsuccessful offerors will receive stipends. Effective July 1, 2112. (HB985 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

