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# 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-707, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§103D-707 Remedies after an award.** If after an award it  
4 is determined that a solicitation or award of a contract is in  
5 violation of law, provided that the violation of law entails an  
6 error of at least \$10,000 for contracts less than \$1,000,000 or  
7 an error of at least ten per cent of the estimated value of the  
8 contract for contracts with an estimated value of \$1,000,000 or  
9 more, then:

10 (1) If the person awarded the contract has not acted  
11 fraudulently or in bad faith:

12 (A) The award of contract may be ratified and  
13 affirmed, or modified; provided it is determined  
14 that doing so is in the best interests of the  
15 State; [~~or~~]

16 (B) The contract may be terminated and the person  
17 awarded the contract shall be compensated for the  
18 actual expenses, other than attorney's fees,



1 reasonably incurred under the contract, plus a  
2 reasonable profit, with such expenses and profit  
3 calculated not for the entire term of the  
4 contract but only to the point of termination; or

5 (C) If the contract has not been fully executed by  
6 all the parties, the award may be rescinded,  
7 remedies prior to award shall be applied pursuant  
8 to section 103D-706, and the contract may be  
9 reevaluated and awarded to the next lowest  
10 responsive and responsible bidder or next ranked  
11 responsible offeror;

12 (2) If the person awarded the contract has acted  
13 fraudulently or in bad faith:

14 (A) The contract may be declared null and void; or

15 (B) The award of contract may be ratified and  
16 affirmed, or modified, if the action is in the  
17 best interests of the State, without prejudice to  
18 the State's rights to such damages as may be  
19 appropriate[-]; or

20 (C) If the contract has not been fully executed by  
21 all the parties, the award may be rescinded,  
22 remedies prior to award shall be applied pursuant



1           to section 103D-706, and the contract may be  
2           reevaluated and awarded to the next lowest  
3           responsive and responsible bidder or next ranked  
4           responsible offeror."

5           SECTION 2. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun, before its effective date.

8           SECTION 3. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 4. This Act shall take effect upon its approval.

**Report Title:**

Procurement; City and County of Honolulu Package; Contract Remedies

**Description:**

Amends section 103D-707, Hawaii Revised Statutes (HRS), to permit an additional post-award remedy through rescission of the award and application of remedies provided for in section 103D-706, HRS, including contract reevaluation and award to the next lowest responsive and responsible bidder. (HB1768 HD1)

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

