
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[~~7~~]; provided that the violation of law entails
6 an error of at least \$10,000 for contracts less than \$1,000,000
7 or an error of at least ten per cent of the estimated value of
8 the contract for contracts with an estimated value of \$1,000,000
9 or more, then:

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

12 (A) The award of the 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6 all the parties, the award may be rescinded, in
7 which case remedies prior to award shall be
8 applied pursuant to section 103D-706, and the
9 contract may be reevaluated and awarded to the
10 next lowest responsive and responsible bidder or
11 next ranked 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21 all the parties, the award may be rescinded, in
22 which case remedies prior to award shall be



1 applied pursuant to section 103D-706, and the
2 contract may be reevaluated and awarded to the
3 next lowest responsive and responsible bidder or
4 next ranked 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; Contract Remedies After An Award

Description:

Amends the Public Procurement Code to permit an additional post-award remedy through rescission of the award and application of pre-award remedies, including contract reevaluation and the award to the next lowest responsive and responsible bidder or next ranked responsible offeror. (HB1768 HD2)

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