

JAN 18 2012

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, then:

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

8 (A) The award of contract may be ratified and
9 affirmed, or modified; provided it is determined
10 that doing so is in the best interests of the
11 State; [~~or~~]

12 (B) The contract may be terminated and the person
13 awarded the contract shall be compensated for the
14 actual expenses, other than attorney's fees,
15 reasonably incurred under the contract, plus a
16 reasonable profit, with such expenses and profit
17 calculated not for the entire term of the
18 contract but only to the point of termination; or



1 (C) If the contract has not been fully executed by
2 all the parties, the award may be rescinded and
3 remedies prior to award shall be applied pursuant
4 to section 103D-706, which may include the
5 reevaluation and award of the contract to the
6 next lowest responsive and responsible bidder or
7 next ranked responsible offeror;

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

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

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

16 (C) If the contract has not been fully executed by
17 all the parties, the award may be rescinded and
18 remedies prior to award shall be applied pursuant
19 to section 103D-706, which may include the
20 reevaluation and award of the contract to the
21 next lowest responsive and responsible bidder or
22 next ranked responsible offeror."



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

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

7

INTRODUCED BY: 
BY REQUEST

S.B. NO. 2074

Report Title:

Procurement; City and County of Honolulu Package

Description:

Amends section 103D-707, HRS, to permit an additional post-award remedy if the contract is not fully executed. Allows for rescission of the award and application of remedies provided for in section 103D-706, HRS.

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

