
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 integrity of the
2 state procurement process can be undermined by subcontractors
3 who have engaged in unethical conduct on previous jobs.

4 The purpose of this Act is to ensure that subcontractors
5 who work on public works projects are held to the same standards
6 as contractors by:

7 (1) Amending the definition of contractor in chapter 103D,
8 Hawaii Revised Statutes, to include subcontractors;
9 and

10 (2) Applying the same sanctions to subcontractors for
11 unethical conduct.

12 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
13 amended by amending the definition of "contractor" to read:

14 "Contractor" means any person having a contract with a
15 governmental body[-] and includes subcontractors."

16 SECTION 3. Section 103D-702, Hawaii Revised Statutes, is
17 amended as follows:



1 1. By amending subsection (c) to read:

2 "(c) The existence of a cause for debarment does not
3 necessarily require that a contractor be debarred. The
4 seriousness of a contractor's or subcontractor's acts or
5 omissions and any remedial measure or mitigating factors shall
6 be considered in making any debarment decision. Before arriving
7 at any debarment decision, the chief procurement officer shall
8 consider factors such as the following:

9 (1) Whether the contractor or subcontractor had effective
10 standards of conduct and internal control systems in
11 place at the time of the activity constituting cause
12 for debarment or had adopted those procedures prior to
13 any government investigation of the activity cited as
14 the cause for debarment;

15 (2) Whether the contractor or subcontractor brought the
16 activity cited as the cause for debarment to the
17 attention of the appropriate government agency in a
18 timely manner;

19 (3) Whether the contractor or subcontractor fully
20 investigated the circumstances surrounding the cause



- 1 for debarment and made the result of the investigation
2 available to the chief procurement officer;
- 3 (4) Whether the contractor or subcontractor cooperated
4 fully with government agencies during the
5 investigation and any court or administrative action;
- 6 (5) Whether the contractor or subcontractor has paid or
7 has agreed to pay all criminal, civil, and
8 administrative liability for improper activity,
9 including any investigative or administrative costs
10 incurred by the governmental body, and has made or has
11 agreed to make full restitution;
- 12 (6) Whether the contractor or subcontractor has taken
13 appropriate disciplinary action against the
14 individuals responsible for the activity constituting
15 the cause for debarment;
- 16 (7) Whether the contractor or subcontractor has
17 implemented or agreed to implement remedial measures,
18 including any identified by the governmental body or
19 the chief procurement officer;



1 (8) Whether the contractor or subcontractor has instituted
2 or agreed to institute new or revised review and
3 control procedures and ethics training programs;

4 (9) Whether the contractor or subcontractor has had
5 adequate time to eliminate the circumstances within
6 the contractor's or subcontractor's organization that
7 led to the cause for debarment; and

8 (10) Whether the contractor's or subcontractor's management
9 recognizes and understands the seriousness of the
10 misconduct giving rise to the cause for debarment and
11 has implemented programs to prevent its recurrence.

12 The existence or nonexistence of any mitigating factors or
13 remedial measures such as those set forth in this subsection
14 shall not necessarily be determinative of a contractor's present
15 responsibility. If a cause for debarment exists, the contractor
16 or subcontractor has the burden of demonstrating to the
17 satisfaction of the chief procurement officer the contractor's
18 or subcontractor's present responsibility and that debarment is
19 not necessary."



H.B. NO. 1180

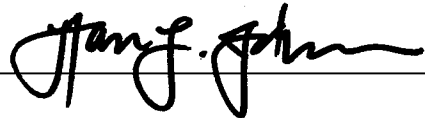
1 2. By amending subsection (f) to read:
2 "(f) The chief procurement officer shall transmit a copy
3 of the decision to debar or suspend a contractor or
4 subcontractor to the state procurement office, which shall
5 distribute a list to all governmental bodies containing the
6 names of persons or firms debarred or suspended from
7 consideration for award of all public contracts and from
8 performance on any public contract."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY:



JAN 24 2017



H.B. NO. 1180

Report Title:

Procurement; Subcontractors; Sanctions

Description:

Amends the definition of contractor in Chapter 103D, Hawaii Revised Statutes, relating to the Hawaii Procurement Code. Applies procurement sanctions to subcontractors for unethical violations.

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

