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# A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

**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.**   (a)   If after an  
4   award it is determined that a solicitation or award of a  
5   contract is in violation of law, then:

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

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

12      (B)   The contract may be rescinded and awarded to the  
13      next lowest responsive, responsible bidder to  
14      whom the contract would have been awarded were it  
15      not for the violation of law, as applicable or as  
16      directed by the office of administrative hearing;  
17      or



1           ~~[(B)]~~   (C)   The contract may be terminated and the  
2                           person awarded the contract shall be compensated  
3                           for the actual expenses, other than attorney's  
4                           fees, reasonably incurred under the contract,  
5                           plus a reasonable profit, with such expenses and  
6                           profit calculated not for the entire term of the  
7                           contract but only to the point of termination;

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 contract may be ratified and affirmed, or  
12                           modified, if the action is in the best interests  
13                           of the State, without prejudice to the State's  
14                           rights to such damages as may be appropriate."

15       SECTION 2.   Statutory material to be repealed is bracketed  
16 and stricken.   New statutory material is underscored.

17       SECTION 3.   This Act shall take effect upon its approval.



**Report Title:**

Government Contracts; Procurement; Protests

**Description:**

Authorizes, where it is determined that a solicitation or award of a contract is in violation of law, government contract to be rescinded and awarded to the next lowest responsive, responsible bidder to whom the contract would have been awarded were it not for the violation of law, as applicable or as directed by the office of administrative hearings. (SD1)

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

