### A BILL FOR AN ACT

RELATING TO THE PROCUREMENT CODE.

#### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- SECTION 1. Section 103D-701, Hawaii Revised Statutes, is amended to read as follows:

  "\$103D-701 Authority to resolve protested solicitations

  and awards; pre-job conference. (a) For any project with a
- 5 total estimated contract value of \$500,000 or greater, the
- 6 appropriate chief procurement officer shall hold a pre-job
- 7 conference, which the contractor, all subcontractors, and any
- ${f 8}$  employee representative of workers who will be working on the
- 9 project shall be required to attend, at least thirty days prior
- 10 to the date the contractor plans to begin work.
- 11 [<del>(a)</del>] <u>(b)</u> Any actual or prospective bidder, offeror, or
- 12 contractor who is aggrieved in connection with the solicitation
- 13 or award of a contract may protest to the chief procurement
- 14 officer or a designee as specified in the solicitation. Except
- 15 as provided in sections 103D-303 and 103D-304, a protest shall
- 16 be submitted in writing within five working days after the
- 17 aggrieved person knows or should have known of the facts giving
- 18 rise thereto; provided that a protest of an award or proposed SB LRB 08-1228.doc



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award [shall], in any event, shall be submitted in writing
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    within five working days after the [posting of award of the
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    contract under section 103D-302 or 103D-303, if no request for
    debriefing has been made, as applicable; provided further that
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    no protest based upon the content of the solicitation shall be
    considered unless it is submitted in writing prior to the date
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    set for the receipt of offers.] pre-job conference held pursuant
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 8
    to subsection (a).
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         [(b)] (c) The chief procurement officer or a designee,
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    prior to the commencement of an administrative proceeding under
    section 103D-709 or an action in court pursuant to section 103D-
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    710, may settle and resolve a protest concerning the
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    solicitation or award of a contract. This authority shall be
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14
    exercised in accordance with rules adopted by the policy board.
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         [(c)] (d) If the protest is not resolved by mutual
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    agreement, the chief procurement officer or a designee shall
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    promptly issue a decision in writing to uphold or deny the
    protest. The decision shall:
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              State the reasons for the action taken; and
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         (1)
              Inform the protestor of the protestor's right to an
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         (2)
              administrative proceeding as provided in this part, if
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22
              applicable.
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          [\frac{d}{d}] (e) A copy of the decision under subsection [\frac{d}{d}]
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    (d) shall be mailed or otherwise furnished immediately to the
    protestor and any other party intervening.
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          [(e)] (f) A decision under subsection [(e)] (d) shall be
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    final and conclusive, unless any person adversely affected by
    the decision commences an administrative proceeding under
 6
    section 103D-709.
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 8
          \left[\frac{f}{f}\right] (g) In the event of a timely protest under
    subsection [\frac{a}{a}] (b), no further action shall be taken on the
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    solicitation or the award of the contract until the chief
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    procurement officer makes a written determination that the award
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    of the contract without delay is necessary to protect
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    substantial interests of the State.
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          [<del>(q)</del>] (h) In addition to any other relief, when a protest
    is sustained and the protestor should have been awarded the
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    contract under the solicitation but is not, then the protestor
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    shall be entitled to the actual costs reasonably incurred in
    connection with the solicitation, including bid or proposal
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    preparation costs but not attorney's fees.
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         (i) Regarding awards made under procedures pursuant to
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sections 103D-303 or 103D-304, unsuccessful offerors and non-

selected professional service providers may submit a written

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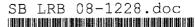
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My respect

- 1 request for a debriefing to the chief procurement officer or
- 2 designee within three working days after the posting of the
- 3 contract award. Thereafter, the appropriate chief procurement
- 4 officer shall provide the requestor a prompt debriefing in
- 5 accordance with rules adopted by the policy board. Any protest
- 6 by the requestor following the debriefing shall be submitted in
- 7 writing prior to the pre-job conference held pursuant to
- 8 subsection (a)."
- 9 SECTION 2. Statutory material to be repealed is bracketed
- 10 and stricken. New statutory material is underscored.
- 11 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



### Report Title:

Procurement Code; Pre-Job Conference

### Description:

Requires chief procurement officer to hold a pre-job conference at least 30 days before contract work begins. Allows unselected offerors of professional services and in competitive sealed proposals to ask for a debriefing. Requires any subsequent protest to be submitted before the pre-job conference.