

JAN 27 2016

S.B. NO. 3092

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 delivery and
2 award of public works construction projects can be hindered by
3 bid challenges resulting in a lapse in funding and other
4 procurement issues. Many times there are communications from a
5 bidder indicating flaws or technical discrepancies in a low-
6 bidder's proposal before a determination has been made that the
7 low bidder is the responsible and responsive bidder. Several
8 recent informal inquiries and bid challenges related to
9 subcontractor listing and licensing issues have caused major
10 delays and cost increases for public works construction
11 projects.

12 The legislature further finds that due to the large number
13 of licenses available, it has become increasingly difficult for
14 general contractors to verify whether a subcontractor has the
15 proper license to perform the type of work that the
16 subcontractor has been contracted to perform. Ensuring that
17 subcontractors meet all of the necessary requirements to perform



1 contracted work on State and county projects will address
2 licensing concerns and greatly minimize bid challenges
3 pertaining to the verification of subcontractor qualifications
4 and licensing.

5 The purpose of this Act is to decrease bid challenges that
6 lead to an increase in costs and delay public works construction
7 projects by authorizing procurement officers to clarify a
8 subcontractor's scope of work after bid opening and consider a
9 previously licensed and listed subcontractor's license as valid;
10 provided that certain conditions are satisfied.

11 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Ministerial act" means an act that does not involve
15 judgment or discretion and is required based on established
16 criteria or a set of adopted requirements as established by
17 law."

18 SECTION 3. Section 103D-302, Hawaii Revised Statutes, is
19 amended by amending subsection (g) to read as follows:

20 "(g) Correction or withdrawal of inadvertently erroneous
21 bids before or after award, or cancellation of invitations for



1 bids, awards, or contracts based on such bid mistakes, shall be
2 permitted in accordance with rules adopted by the policy board.

3 After bid opening no changes in bid prices or other provisions
4 of bids prejudicial to the interest of the public or to fair
5 competition shall be permitted[-]; provided that the procurement
6 officer may:

7 (1) Allow clarification of a listed subcontractor's scope
8 of work if the listed subcontractor has the correct
9 license to perform the work and the low bidder's
10 affected and listed subcontractors do not provide
11 written objection to clarification; and

12 (2) Consider a previously licensed and listed
13 subcontractor's license as valid; provided that the
14 subcontractor's license at bid time has been suspended
15 or forfeited due solely to a ministerial act, pursuant
16 to chapter 444, and the subcontractor's license is
17 restored prior to the award.

18 Except as otherwise provided by rule, all decisions to permit
19 the correction or withdrawal of bids, or to cancel awards or
20 contracts based on bid mistakes, shall be supported by a written



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1 determination made by the chief procurement officer or head of a
2 purchasing agency."

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

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

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S.B. NO. 3092

Report Title:

Procurement Officers; Competitive Sealed Bidding;
Subcontractors; Scope of Work; Licensing

Description:

Authorizes procurement officers to permit clarification of a listed subcontractor's scope of work and consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied.

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

