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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-302, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsections (b), (c), and (d), to read:

4 "(b) An invitation for bids shall be issued~~(7)~~ and shall  
5 include a purchase description and all contractual terms and  
6 conditions applicable to the procurement. If the invitation for  
7 bids is for construction, ~~[it]~~ the invitation for bids shall  
8 specify that all bids include the name of each person or firm to  
9 be engaged by the bidder as a joint contractor or subcontractor  
10 in the performance of the contract and the nature and scope of  
11 the work to be performed by each. Construction bids that do not  
12 comply with this requirement may be accepted if acceptance is in  
13 the best interest of the State and the value of the work to be  
14 performed by the joint contractor or subcontractor is equal to  
15 or less than one per cent of the total bid amount.

16 (c) Adequate public notice of the invitation for bids  
17 shall be given a reasonable time before the date set forth in



1 the invitation for the opening of bids. The policy board shall  
2 adopt rules [~~which~~] that specify:

- 3 (1) The form that the notice is to take;  
4 (2) What constitutes a reasonable interim between  
5 publication and bid opening; and  
6 (3) How notice may be published, including publication in  
7 a newspaper of general circulation, notice by mail to  
8 all persons on any applicable bidders mailing list,  
9 publication by any public or private telecommunication  
10 information network, or any other method of  
11 publication [~~it~~] the policy board deems to be  
12 effective.

13 (d) Bids shall be opened publicly in the presence of one  
14 or more witnesses, at the time and place designated in the  
15 invitation for bids. The amount of each bid and other relevant  
16 information specified by rule, together with the name of each  
17 bidder, shall be recorded. The record and each bid shall be  
18 open to public inspection."

19 2. By amending subsection (f) to read:

20 "(f) Bids shall be evaluated based on the requirements set  
21 forth in the invitation for bids. These requirements may



1 include criteria to determine acceptability, such as inspection,  
2 testing, quality, workmanship, delivery, and suitability for a  
3 particular purpose. [~~These criteria~~] Criteria that will affect  
4 the bid price and be considered in evaluation for award shall be  
5 objectively measurable, such as discounts, transportation costs,  
6 and total or life cycle costs. The invitation for bids shall  
7 set forth the evaluation criteria to be used. No criteria may  
8 be used in bid evaluation that are not set forth in the  
9 invitation for bids."

10 3. By amending subsection (h) to read:

11 "(h) The contract shall be awarded with reasonable  
12 promptness by written notice to the lowest responsible and  
13 responsive bidder, or second lowest responsible and responsive  
14 bidder in certain cases as determined by the purchasing agency,  
15 whose bid meets the requirements and criteria set forth in the  
16 invitation for bids. In the event all bids exceed available  
17 funds as certified by the appropriate fiscal officer, the head  
18 of the purchasing agency responsible for the procurement in  
19 question is authorized in situations where time or economic  
20 considerations preclude resolicitation of work of a reduced  
21 scope to negotiate an adjustment of the bid price, including



1 changes in the bid requirements, with the low responsible and  
2 responsive bidder~~[7]~~ or second lowest responsible and responsive  
3 bidder, in order to bring the bid within the amount of available  
4 funds."

5 SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect on July 1, 2112.



**Report Title:**

Procurement; Competitive Sealed Bidding; Second Lowest Bidder

**Description:**

Allows purchasing agencies to award a contract to the second lowest bidder in certain cases through the competitive sealed bidding process. Effective 7/1/2112. (HD1)

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

