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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. The legislature finds that under the State's  
2 procurement code, an aggrieved party that submitted a bid for a  
3 state project that was not awarded the bid may protest the bid  
4 award. The legislature further finds that procurement protest  
5 review process can be lengthy, causing project delays, thereby  
6 increasing project costs that are borne by taxpayers. Thus, it  
7 is imperative that the review process for protests are completed  
8 in a timely manner to reduce the cost of state projects.  
9 Establishing a deadline for bid protests to be reviewed and  
10 resolved would expedite the protest review process and reduce  
11 the cost associated with state-awarded projects.

12           The purpose of this Act is to:

- 13           (1) Require the chief procurement officer or designee to  
14           address protests as expeditiously as possible;
- 15           (2) Create time limits to resolve protests to the awards  
16           of competitive sealed proposal contracts and



1 procurements of professional services, if the protest  
2 is not resolved by mutual agreement; and

3 (3) Amend the cash or protest bond amount for a party  
4 initiating an administrative proceeding for review of  
5 a decision on the solicitation or award of a  
6 competitive sealed bidding or competitive sealed  
7 proposal contract.

8 SECTION 2. Section 103D-701, Hawaii Revised Statutes, is  
9 amended by amending subsection (c) to read as follows:

10 "(c) The chief procurement officer or a designee shall  
11 address any protest as expeditiously as possible. If the  
12 protest is not resolved by mutual agreement, for procurements  
13 under section 103D-303 or 103D-304, the chief procurement  
14 officer or a designee shall [~~promptly~~] issue a written decision  
15 [~~in writing~~] to uphold or deny the protest[-] within  
16 calendar days of receipt of the protest, unless extenuating  
17 circumstances require additional time. The decision shall:

- 18 (1) State the reasons for the action taken; and  
19 (2) Inform the protestor of the protestor's right to an  
20 administrative proceeding as provided in this part, if  
21 applicable."



1 SECTION 3. Section 103D-709, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3 "(e) The party initiating a proceeding falling within  
4 subsection (d) shall pay to the department of commerce and  
5 consumer affairs a cash or protest bond in the amount of:

6 [~~(1)~~ ~~\$1,000 for a contract with an estimated value of less~~  
7 ~~than \$500,000;~~

8 ~~(2)] (1) [~~\$2,000 for a contract with an estimated value of~~  
9 ~~\$500,000 or more, but] One per cent of the estimated  
10 value of the contract if the estimated value of the  
11 contract is less than \$1,000,000; or~~~~

12 [~~(3)] (2) [~~One-half] Two per cent of the estimated value of~~~~

13 the contract if the estimated value of the contract is

14 \$1,000,000 or more[; ~~provided that in no event shall~~

15 ~~the required amount of the cash or protest bond be~~

16 ~~more than \$10,000].~~

17 If the initiating party prevails in the administrative  
18 proceeding, the cash or protest bond shall be returned to that  
19 party. If the initiating party does not prevail in the  
20 administrative proceeding, the cash or protest bond shall be  
21 deposited into the general fund."



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

3 SECTION 5. This Act shall take effect on May 6, 2137.



**Report Title:**

Procurement Protests; Administrative Proceedings for Review

**Description:**

Requires procurement protests to be addressed as expeditiously as possible. Creates time limits to resolve certain procurement protests. Amends the cash or protest bond amount for parties initiating administrative proceedings for review of certain protest decisions. Effective 5/6/2137. (HD3)

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