

JAN 26 2022

A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

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

SECTION 1. Section 103D-310, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Whether or not an intention to bid is required, the procurement officer shall determine whether the prospective offeror has the financial ability, resources, skills, capability, and business integrity necessary to perform the work. For the purpose of making a responsibility determination, the procurement officer shall possess or obtain available information, including past performance, sufficient to be satisfied that a prospective offeror meets the applicable standards. ~~[The]~~ If the officer, in the officer's discretion, [may require] requires additional information, the officer shall require any prospective offeror to submit answers, under oath, to questions contained in a standard form of questionnaire to be prepared by the policy board. The officer shall not limit competition by restricting offeror qualifications. Whenever it appears from answers to the questionnaire or otherwise, that the



1 prospective offeror is not fully qualified and able to perform
2 the intended work, a written determination of nonresponsibility
3 of an offeror shall be made by the head of the purchasing
4 agency, in accordance with rules adopted by the policy board.
5 An offeror's failure to possess prior experience, by itself,
6 shall not be a basis for a determination of nonresponsibility.
7 The unreasonable failure of an offeror to promptly supply
8 information in connection with an inquiry with respect to
9 responsibility may be grounds for a determination of
10 nonresponsibility with respect to such offeror. The decision of
11 the head of the purchasing agency shall be final unless the
12 offeror applies for administrative review pursuant to section
13 103D-709."

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 Statutory material to be repealed is bracketed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

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

INTRODUCED BY:

Sen. Mercado



Report Title:

Government Contracts; Procurement Code; Qualifications

Description:

Prohibits determinations of nonresponsibility, under the Hawaii Public Procurement Code, based solely on the failure to possess prior experience.

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