
A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

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

1 SECTION 1. Section 103D-707, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§103D-707 Remedies after an award. (a) If after an
4 award it is determined that a solicitation or award of a
5 contract is in violation of law, then:

6 (1) If the person awarded the contract has not acted
7 fraudulently or in bad faith:

8 (A) The contract may be ratified and affirmed, or
9 modified; provided that it is determined that
10 doing so is in the best interests of the State;
11 or

12 (B) The contract may be terminated and the person
13 awarded the contract shall be compensated for the
14 actual expenses, other than attorney's fees,
15 reasonably incurred under the contract, plus a
16 reasonable profit, with such expenses and profit
17 calculated not for the entire term of the
18 contract but only to the point of termination;



- 1 (2) If the person awarded the contract has acted
2 fraudulently or in bad faith:
3 (A) The contract may be declared null and void; or
4 (B) The contract may be ratified and affirmed, or
5 modified, if the action is in the best interests
6 of the State, without prejudice to the State's
7 rights to such damages as may be appropriate.

8 (b) If the award of the contract was made in violation of
9 law, and the award is rescinded and the contract, if executed,
10 is terminated or declared null and void, then:

11 (1) For solicitations issued pursuant to section 103D-302,
12 the contract may be awarded to the next lowest
13 responsive and responsible bidder; provided that all
14 prices remain the same as originally bid; or

15 (2) For solicitations issued pursuant to section 103D-303,
16 the contract may be awarded to the next responsive and
17 responsible offeror whose proposal is determined in
18 writing to be the next most advantageous, taking into
19 consideration the evaluation factors set forth in the
20 solicitation; provided that all prices remain the same
21 as originally offered."



- 1 SECTION 2. New statutory material is underscored.
- 2 SECTION 3. This Act shall take effect on July 1, 2022.



Report Title:

Government Contracts; Procurement; Office of Administrative Hearings; Protests; Contract Solicitations; Contract Awards

Description:

Authorizes the office of administrative hearings, where it is determined that an award of a contract is in violation of law and the award is rescinded and the contract, if executed, is terminated or declared null and void, to award the government contract to the next lowest bidder or next responsible offeror, if certain conditions are met. (CD1)

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