
A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

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

1 SECTION 1. The legislature finds that there is confusion
2 as to when a party is aggrieved during the procurement process.
3 The legislature has been made aware that agencies are denying
4 protests on the basis that bidders are not considered aggrieved
5 because an award has not been made. Those same agencies are
6 also denying protests because the bidder did not protest five
7 days after bid opening, when the bidder knew or should have
8 known that they were aggrieved.

9 The legislature further finds that procurement protest
10 reviews can be lengthy, causing project delays and increasing
11 project costs that are borne by the State's taxpayers. Thus, it
12 is imperative that deadlines for parties to submit protests be
13 clearly delineated.

14 The purpose of this Act is to clearly define when parties
15 are to submit protests based on:

- 16 (1) The content of the solicitation;
17 (2) An award or eventual award; or



1 (3) All other protests.

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

4 "(a) Any actual or prospective bidder, offeror, or
5 contractor who is aggrieved in connection with the solicitation
6 or award of a contract may protest to the chief procurement
7 officer or a designee as specified in the solicitation. [~~Except~~
8 ~~as provided in sections 103D-303 and 103D-304, a~~] A protest
9 based upon the content of the solicitation shall be submitted in
10 writing within five working days after:

11 (1) [the aggrieved person knows or should have known of
12 the facts giving rise thereto; provided that a] The
13 due date for the request for additional information
14 relating to the content of the solicitation, if none
15 was submitted; or

16 (2) Response of all timely submitted requests for
17 additional information relating to the content of the
18 solicitation, if requests for additional information
19 relating to the content of the solicitation were
20 timely submitted and no later than prior to the
21 receipt of offers.



1 A protest of an award [~~or proposed award~~] shall [~~in any~~
2 ~~event~~] be submitted in writing within five working days after
3 the posting of award of the contract under section 103D-302 or
4 103D-303, if no request for debriefing has been made, as
5 applicable[; ~~provided further that no protest based upon the~~
6 ~~content of the solicitation shall be considered unless it is~~
7 ~~submitted in writing prior to the date set for the receipt of~~
8 ~~offers~~]. All other protests shall be submitted in writing
9 within five working days after the aggrieved person knows or
10 should have known of the facts giving rise thereto, except as
11 provided in sections 103D-303 and 103D-304."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

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

17 SECTION 5. This Act shall take effect on June 30, 3000.



H.B. NO. 816 H.D. 1

Report Title:

Government Contracts; Procurement; Protests

Description:

Clarifies the deadline for submitting written protests that are based on the content of a solicitation. Effective 6/30/3000.
(HD1)

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