
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

SECTION 1. Section 103D-701, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the chief procurement officer or a designee as specified in the solicitation. Except as provided in sections 103D-303 and 103D-304, a protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise ~~[thereto,]~~ to the protest; provided that a protest of an award or proposed award shall in any event be submitted in writing within five working days after the posting of award of the contract under section 103D-302 or 103D-303, if no request for debriefing has been made, as applicable; provided further that no protest based upon the content of the solicitation shall be considered unless it is submitted in writing at least



1 twenty-four hours prior to the date and time set for the receipt
2 of offers."

3 2. By amending subsection (c) to read:

4 "(c) The chief procurement officer or a designee shall
5 resolve any protest as expeditiously as possible. If the
6 protest is not resolved by mutual agreement, the chief
7 procurement officer or a designee shall issue a written decision
8 to uphold or deny the protest. The decision shall:

9 (1) State the reasons for the action taken; and

10 (2) Inform the protestor of the protestor's right to an
11 administrative proceeding as provided in this part, if
12 applicable.

13 If the protest of [~~a construction contract or airport~~] any
14 contract that is awarded pursuant to section 103D-302 or
15 103D-303 is not resolved by mutual agreement, the chief
16 procurement officer or a designee shall issue a written decision
17 to uphold or deny the protest within seventy-five calendar days
18 of receipt of the protest; provided that the chief procurement
19 officer or a designee may grant an extension based on written
20 justification of the extenuating circumstances; provided further
21 that the extension shall not exceed forty-five calendar days."



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

"(e) The party initiating a proceeding falling within subsection (d) shall pay to the department of commerce and consumer affairs a cash or protest bond in the amount of one per cent of the estimated value of the contract[-]; provided that the amount of the bond shall not exceed \$_____.

The cash or protest bond shall be returned to that party, minus administrative costs as determined by the office of administrative hearings of the department of commerce and consumer affairs; provided that full forfeiture of the cash or protest bond shall occur if the initiating party does not prevail in the administrative proceeding and ~~[the office of administrative hearings finds that the appeal was frivolous or made in bad faith, in which case]~~ the cash or protest bond shall be deposited into the general fund."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.



1 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Procurement Code; Protests; Bonds

Description:

Sets a time limit for submitting bid protests. Makes the 75-day limit for written decision on protest apply to any contract awarded by competitive sealed bid or competitive sealed proposal. Caps the protest bond amount. Deletes the requirement of an administrative hearing office finding that an appeal is frivolous or in bad faith before the protest bond is forfeited to the State by the non-prevailing party. Effective 7/1/3000. (HD1)

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