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# A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC PROCUREMENT CODE.

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

1           SECTION 1. Section 103D-310, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§103D-310 Responsibility of offerors.** (a) Unless the  
4 policy board, by rules, specifies otherwise, before submitting  
5 an offer, a prospective offeror, not less than ten calendar days  
6 prior to the day designated for opening offers, shall give  
7 written notice of the intention to submit an offer to the  
8 procurement officer responsible for that particular procurement.

9           (b) Whether or not an intention to bid is required, the  
10 procurement officer shall determine whether the prospective  
11 offeror has the financial ability, resources, skills,  
12 capability, and business integrity necessary to perform the  
13 work. For this purpose, the officer, in the officer's  
14 discretion, may require any prospective offeror to submit  
15 answers, under oath, to questions contained in a standard form  
16 of questionnaire to be prepared by the policy board. Whenever  
17 it appears from answers to the questionnaire or otherwise, that



1 the prospective offeror is not fully qualified and able to  
2 perform the intended work, a written determination of  
3 nonresponsibility of an offeror shall be made by the head of the  
4 purchasing agency, in accordance with rules adopted by the  
5 policy board. The unreasonable failure of an offeror to  
6 promptly supply information in connection with an inquiry with  
7 respect to responsibility may be grounds for a determination of  
8 no responsibility with respect to such offeror. The decision of  
9 the head of the purchasing agency shall be final unless the  
10 offeror applies for administrative review pursuant to section  
11 103D-709.

12 (c) All offerors, upon award of contract, shall comply  
13 with all laws governing entities doing business in the State,  
14 including chapters 237, 383, 386, 392, and 393. Offerors shall  
15 produce documents to the procuring officer to demonstrate  
16 compliance with this subsection. Any offeror making a false  
17 affirmation or certification under this subsection shall be  
18 suspended from further offerings or awards pursuant to section  
19 103D-702. The procuring officer shall verify compliance with  
20 this subsection for all contracts awarded pursuant to sections  
21 103D-302, 103D-303, 103D-304, and 103D-306; provided that the  
22 attorney general may waive the requirements of this subsection



1 for contracts for legal services if the attorney general  
2 certifies in writing that comparable legal services are not  
3 available in this State.

4 (d) Any false information or misrepresentation knowingly  
5 placed in the bid of the bidder or subcontractor shall be a  
6 basis for not awarding the bid to that bidder or the bidder's  
7 subcontractor. In addition, the chief procurement officer shall  
8 apply the provisions of section 103D-702, provided that the  
9 chief procurement officer shall include a one year mandatory  
10 suspension from consideration of an award.

11 [~~(d)~~] (e) Information furnished by an offeror pursuant to  
12 [~~this section~~] subsections (a), (b), and (c) shall not be  
13 disclosed to any person except to law enforcement agencies as  
14 provided by chapter 92F."

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

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



**Report Title:**

Procurement; False Information; Sanctions

**Description:**

Provides sanctions for false information or misrepresentation submitted by a bidder or a subcontractor of the bidder to obtain a procurement contract. (SD2)

