
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The purpose of this Act is to help procurement
2 officers, before awarding a contract, identify contractors that
3 habitually perform poorly. This will help to ensure that the
4 public receives a completed project that is delivered on time,
5 on budget, and of acceptable quality.

6 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§103D- Inadequate performance database; contractors.

10 (a) The administrator of the state procurement office shall
11 develop and administer a searchable electronic database to
12 record instances of inadequate performance by contractors for
13 public works contracts under chapter 103 and construction
14 procurement contracts under this chapter.

15 (b) The administrator of the state procurement office
16 shall establish criteria for the listing of contractors in the
17 inadequate performance database, which shall include the name
18 and other relevant information of contractors on projects that:



- 1 (1) As a result of the contractor:
- 2 (A) Were over budget;
- 3 (B) Were not completed as scheduled; or
- 4 (C) Involved substandard construction; or
- 5 (2) Involved any other criteria of inadequate performance
- 6 of the contract, as determined by the administrator of
- 7 the state procurement office.
- 8 (c) The inadequate performance database shall be
- 9 accessible to all procurement officers listed in section
- 10 103D-203. The administrator of the state procurement office may
- 11 make the inadequate performance database accessible to the
- 12 public.
- 13 (d) At the completion of any construction contract under
- 14 this chapter, the procurement officer shall review the project
- 15 to determine if the project met any of the criteria in
- 16 subsection (b). If the procurement officer determines that any
- 17 of the criteria in subsection (b) have been met, the procurement
- 18 officer shall audit the contractor's performance of the
- 19 contract. The contractor shall have the opportunity to respond
- 20 to any matter of issue during the audit or before the
- 21 procurement officer's final determination. If, after reviewing



1 the audit and the contractor's response, if any, the contracting
2 officer determines that any of the criteria in subsection (b)
3 have been met, the contracting officer shall make a final
4 determination of inadequate performance. The procurement
5 officer shall notify the administrator of the state procurement
6 office of the final determination, and the administrator of the
7 state procurement office shall enter the contractor and any
8 other relevant information in the inadequate performance
9 database.

10 (e) The administrator of the state procurement office
11 shall establish by rule pursuant to chapter 91:

12 (1) Criteria for the removal of a contractor from the
13 inadequate performance database, including the length
14 of time that a contractor may be listed in the
15 database; and

16 (2) Procedures to appeal any final determination by a
17 contracting officer to list a contractor in the
18 inadequate performance database.

19 (f) Before the award of any public works contract under
20 chapter 103 or a construction contract under this chapter, the
21 procuring officer shall consult the inadequate performance



1 database. If a potential awardee appears in the database, the
2 procuring officer may decide to either accept or reject the
3 potential awardee based on the procurement officer's evaluation
4 of the facts contained in the database and any additional
5 information the procurement officer may gather, including an
6 interview with the potential awardee. Any determination to
7 award the contract to the potential awardee or reject the
8 potential awardee's bid shall be made in writing and shall
9 include the reasons for making the determination. A copy of the
10 written determination shall be sent to the administrator of the
11 state procurement office and the accepted or rejected awardee."

12 SECTION 3. Section 103D-206, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§103D-206 **Additional duties of the administrator of the**
15 **procurement office.** In addition to the duties referred to in
16 section 103D-205, the administrator shall:

- 17 (1) Perform periodic review of the procurement practices
18 of all governmental bodies;
- 19 (2) Assist, advise, and guide governmental bodies in
20 matters relating to procurement;



- 1 (3) Determine corrective actions; provided that if a
2 procurement officer under the jurisdiction of the
3 administrator of the state procurement office or a
4 chief procurement officer of any of the other state
5 entities under section 103D-203, fails to comply with
6 any determination rendered by the administrator within
7 thirty days from the date of the issuance of the
8 determination, or longer if permitted by the
9 administrator upon request by the procurement officer
10 or a chief procurement officer, the procurement
11 officer or chief procurement officer shall be subject
12 to an administrative fine under section 103D-106, for
13 every day of noncompliance;
- 14 (4) Develop and administer a statewide procurement
15 orientation and training program;
- 16 (5) Develop, distribute, and maintain a procurement manual
17 for all state procurement officials; [and]
- 18 (6) Develop, distribute, and maintain a procurement guide
19 for vendors wishing to do business with the State and
20 its counties[-]; and



1 (7) Develop and administer an inadequate performance
2 database pursuant to section 103D- ."

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

5 SECTION 5. This Act shall take effect on July 1, 2030.



H.B. NO.

1180
H.D. 1
S.D. 2
Proposed

Report Title:

Procurement; Inadequate Performance; Database

Description:

Requires the state procurement office to establish a database to record inadequate past performance by contractors on public works projects. (HB1180 SD2 PROPOSED)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

