
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 increase
2 transparency and accountability in state contracts by requiring
3 procurement officers to obtain and consider all available,
4 recent, and relevant performance by a contractor as part of the
5 due diligence requirement for contractor responsibility
6 determination prior to awarding a contract under Hawaii's
7 procurement code.

8 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding a new definition to be appropriately
11 inserted and to read:

12 "Past performance" means all available, recent, and
13 relevant performance by a contractor on state, federal, or
14 private contracts to be considered for purposes of a
15 responsibility determination for a particular solicitation."

16 2. By amending the definition of "responsible bidder or
17 offeror" to read:



1 "Responsible bidder or offeror" means a person who has the
2 capability in all respects to perform fully the contract
3 requirements, and the integrity and reliability ~~[which]~~ that
4 will assure good faith performance~~[-]~~, pursuant to the
5 responsibility determination standards adopted by the policy
6 board."

7 SECTION 3. Section 103D-310, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Whether or not an intention to bid is required, the
10 procurement officer shall ~~[determine]~~ make a determination of
11 responsibility for any prospective offeror, pursuant to rules
12 adopted by the policy board, including whether the prospective
13 offeror has the financial ability, resources, skills,
14 capability, and business integrity necessary to perform the
15 work. For ~~[this]~~ the purpose~~[-, the]~~ of responsibility

16 determination, the procurement officer shall possess or obtain
17 available information sufficient to be satisfied that a
18 prospective offeror meets the applicable standards set forth by
19 the policy board. The procurement officer shall consider all
20 available recent and relevant past performance of the offeror as
21 it applies to a responsibility determination for the current



1 solicitation. The officer, in the officer's discretion, may
2 also require any prospective offeror to submit answers, under
3 oath, to questions contained in a standard form of questionnaire
4 to be prepared by the policy board. Whenever it appears from
5 answers to the questionnaire or otherwise, that the prospective
6 offeror is not fully qualified and able to perform the intended
7 work, a written determination of nonresponsibility of an offeror
8 shall be made by the head of the purchasing agency, in
9 accordance with rules adopted by the policy board. The
10 unreasonable failure of an offeror to promptly supply
11 information in connection with an inquiry with respect to
12 responsibility may be grounds for a determination of
13 nonresponsibility with respect to such offeror. The decision of
14 the head of the purchasing agency shall be final unless the
15 offeror applies for administrative review pursuant to section
16 103D-709."

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

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:



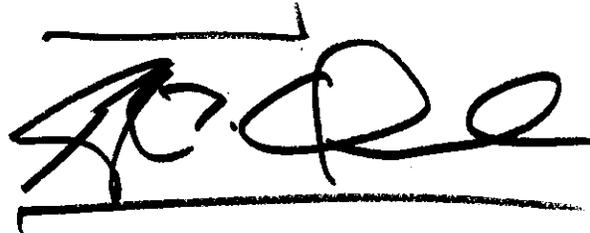












JAN 28 2015



H.B. NO. 1292

Report Title:

Procurement Code; Responsibility Determination; Past Performance

Description:

Includes all available relevant and past performance information considerations by the procurement officer prior to bids being awarded under the state procurement code.

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