
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that the delivery and
2 award of public works construction projects can be hindered by
3 bid challenges resulting in a lapse in funding and other
4 procurement issues. Many times there are communications from a
5 bidder indicating flaws or technical discrepancies in a low-
6 bidder's proposal before a determination has been made that the
7 low bidder is the responsible and responsive bidder. Several
8 recent informal inquires and bid challenges related to
9 subcontractor listing and licensing issues have caused major
10 delays and cost increases for public works construction
11 projects.

12 The legislature further finds that due to the large number
13 of licenses available, it has become increasingly difficult for
14 general contractors to verify whether a subcontractor has the
15 proper license to perform the type of work that the
16 subcontractor has been contracted to perform. Ensuring that
17 subcontractors meet all of the necessary requirements to perform
18 contracted work on State and county projects will address



1 licensing concerns and greatly minimize bid challenges
2 pertaining to the verification of subcontractor qualifications
3 and licensing.

4 The purpose of this Act is to authorize procurement
5 officers to consider a previously licensed and listed
6 subcontractor's license as valid; provided that certain
7 conditions are satisfied, and require the bidding contractor to
8 submit the name of each joint contractor and subcontractor and
9 their respective scopes of work to a contracting agency no later
10 than two hours after the closing of bidding.

11 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Ministerial act" means an act that does not involve
15 judgment or discretion and is required based on established
16 criteria or a set of adopted requirements as established by
17 law."

18 SECTION 3. Section 103D-302, Hawaii Revised Statutes, is
19 amended as follows:

20 1. By amending subsection (b) to read:



1 "(b) An invitation for bids shall be issued, and shall
2 include a purchase description and all contractual terms and
3 conditions applicable to the procurement. If the invitation for
4 bids is for construction, it shall specify that all bids include
5 the name of each person or firm to be engaged by the bidder as a
6 joint contractor or subcontractor in the performance of the
7 contract and the nature and scope of the work to be performed by
8 each[-]; provided that the bidder shall have two hours after the
9 closing of the bids to provide the name of each person or firm
10 to be engaged by the bidder as a joint contractor or
11 subcontractor in the performance of the contract and the nature
12 and scope of the work to be performed by each; provided further
13 that the bids shall be opened pursuant to subsection (d) only
14 after the close of the two hour period. Construction bids that
15 do not comply with this requirement may be accepted if
16 acceptance is in the best interest of the State and the value of
17 the work to be performed by the joint contractor or
18 subcontractor is equal to or less than one per cent of the total
19 bid amount."

20 2. By amending subsection (g) to read:



1 "(g) Correction or withdrawal of inadvertently erroneous
2 bids before or after award, or cancellation of invitations for
3 bids, awards, or contracts based on such bid mistakes, shall be
4 permitted in accordance with rules adopted by the policy board.
5 After bid opening no changes in bid prices or other provisions
6 of bids prejudicial to the interest of the public or to fair
7 competition shall be permitted[-]; provided that the procurement
8 officer may consider a previously licensed and listed
9 subcontractor's license as valid if the subcontractor's license
10 at bid time has been suspended or forfeited due to action taken
11 pursuant to subsections 444-11.1(b), 444-15, or 444-21 and rules
12 of the contractors license board associated therewith, and the
13 subcontractor's license is restored prior to the award.

14 Except as otherwise provided by rule, all decisions to
15 permit the correction or withdrawal of bids, or to cancel awards
16 or contracts based on bid mistakes, shall be supported by a
17 written determination made by the chief procurement officer or
18 head of a purchasing agency."

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

21 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Procurement Officers; Competitive Sealed Bidding;
Subcontractors; Licensing

Description:

Provides that a bidding contractor shall provide the name of each joint contractor or subcontractor and the nature or scope of that entity's work no later than two hours after the closing of bidding. Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. (SD2)

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