

JAN 20 2023

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-308, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§103D-308 Cancellation of invitations for bids or
4 requests for proposals~~[-]~~; rejection of bids or proposals;
5 written approval of the administrator of the state procurement
6 office required. (a) An invitation for bids, a request for
7 proposals, or other solicitation may be canceled, or any or all
8 bids or proposals may be rejected in whole or in part as may be
9 specified in the solicitation~~[, when it is in]~~; provided that
10 the cancellation or rejection is:

11 (1) In the best interests of the governmental body that
12 issued the invitation, request, or other solicitation,
13 in accordance with rules adopted by the policy board~~[-~~
14 The]; and

15 (2) Approved in writing by the administrator of the state
16 procurement office.



1 (b) Written documentation setting forth the reasons
2 [therefor] for the governmental body's determination that the
3 cancellation or rejection is in the best interest of the
4 governmental body and the written approval of the administrator
5 of the state procurement office issued pursuant to paragraph
6 (a) (2) shall be made part of the contract file and be publicly
7 posted[-] for a minimum of ten business days[-] on a purchasing
8 agency's website, government electronic notification system, or
9 by any other means the procurement officer deems effective for
10 publicizing the cancellation notice."

11 SECTION 2. Section 103D-707, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§103D-707 Remedies after [an] award[-] of contract;
14 written approval by the administrator of the state procurement
15 office required. (a) If after an award[-] of a contract, it is
16 determined that [a] the award or solicitation therefor [~~or award~~
17 ~~of a contract~~] is or has been made in violation of law, then:

18 (1) If the person awarded the contract has not acted
19 fraudulently or in bad faith:

20 (A) The contract may be ratified and affirmed, or
21 modified; provided that it is determined that



1 doing so is in the best interests of the State;
2 or

3 (B) The contract may be terminated and the person
4 awarded the contract shall be compensated for the
5 actual expenses, other than attorney's fees,
6 reasonably incurred under the contract, plus a
7 reasonable profit, with such expenses and profit
8 calculated not for the entire term of the
9 contract but only to the point of termination; or

10 (2) If the person awarded the contract has acted
11 fraudulently or in bad faith:

12 (A) The contract may be declared null and void; or

13 (B) The contract may be ratified and affirmed, or
14 modified, if the action is in the best interests
15 of the State, without prejudice to the State's
16 rights to such damages as may be appropriate.

17 (b) If the award of the contract was made in violation of
18 law[7] and the award is rescinded and the contract, if executed,
19 is terminated or declared null and void, then:

20 (1) For solicitations issued pursuant to section 103D-302,
21 the contract may be awarded to the next lowest



1 responsive and responsible bidder; provided that all
 2 prices remain the same as originally bid; or
 3 (2) For solicitations issued pursuant to section 103D-303,
 4 the contract may be awarded to the next responsive and
 5 responsible offeror whose proposal is determined in
 6 writing to be the next most advantageous, taking into
 7 consideration the evaluation factors set forth in the
 8 solicitation; provided that all prices remain the same
 9 as originally offered.

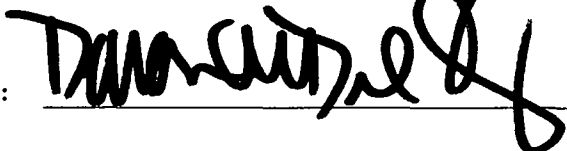
10 (c) No remedial action in this section shall be taken
 11 unless the action is approved in writing by the administrator of
 12 the state procurement office."

13 SECTION 3. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

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

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

19

INTRODUCED BY: 

S.B. NO. 387

Report Title:

Hawaii Public Procurement Code; Cancellation of Solicitations; Rejection of Bids or Proposals; Post-Award Remedies; Written Approval from Administrator of the State Procurement Office

Description:

Requires governmental bodies to obtain written approval from the Administrator of the State Procurement Office to cancel invitations for bids, requests for proposals, or other solicitations, or reject bids or proposals. Prohibits post-award remedial actions to be taken unless approved in writing by the Administrator of the State Procurement Office.

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

