

STATE PROCUREMENT OFFICE
LEGAL AND CONTRACTUAL REMEDIES
(PROTEST)

HRS Chapter 103D, PART VII
HAR Chapter 3-126

HRS 103D-701 Authority to resolve protested solicitations and awards.

Written **PROTEST**** submitted to the Procurement Officer (PO) within **five working days** after aggrieved person knows or should have known the facts.

HAR §3-126-5 Stay of Procurement.

No further action shall be taken until protest settled; unless the Chief Procurement Officer (CPO) determines award of the contract is necessary to protect substantial interests of the State. (If written substantial interest determination for award without delay was made by CPO, attach copy to Form SPO-043)

Protest **SUSTAINED**:
Remedies pursuant to HAR Chapter 3-126, Subchapter 4. Determination that solicitation or award violates law. PO shall report on form SPO-043, *Report on Procurement Protest* to SPO.

Decision/Action by PO on protest, to **SUSTAIN** or **DENY**.

****For HRS §103D-302 or §103D-303:**

- within **five working days** after the posting of award or if requested, **five working days** after the PO's debriefing has been completed. Executive Dept agencies post notice of award at <http://hawaii.gov/spo2/source/>
- protest based on content of solicitation is submitted prior to offer due date.

Protest **DENIED**:
Protestor, within **seven calendar days** of PO's written determination, may:
(a) File appeal with DCCA, Office of Administrative Hearings (OAH); and
(b) Inform PO he is filing an appeal with DCCA.

PO shall report on form SPO-043, *Report on Procurement Protest* to SPO.

DCCA, OAH: HRS §103D-709, Administrative proceedings for review.

- (a) Hearing shall commence within **twenty-one calendar days** of receipt of request; hearings officer shall issue written decision no later than **forty-five days** from receipt of request.
- (b) Contracts estimated less than \$1M & protest amount greater than \$10K, cash or protest bond required: (1) \$1000 for contracts estimated less than \$500K, (2) \$2000 for contracts estimated \$500K to less than \$1M.
- (c) Contracts estimated \$1M or more & protest amount equal to but not less than 10%, of estimated contract value, cash or protest bond required: (1) ½% of estimated contract value, but (2) not to exceed \$10K.

Circuit Court: HRS §103D-710, Judicial review.

- (a) Request judicial review within **ten calendar days** after issuance of OAH's written decision.
- (b) No later than **thirty days** from filing, court may affirm, remand, reverse, or modify the decision or issue a court order on administrative findings, conclusions, and decisions. Court shall lose jurisdiction after **thirtieth day** if not resolved; hearings officer's decision prevails.
- (c) Any party aggrieved by decision may appeal decision.