

knowledge of any violation of this Division II of this article or the regulations prior to the award of the contract shall be compensated for costs actually incurred.] ~~AFTER A PROCUREMENT AGENCY AWARDS A CONTRACT, IF THE AGENCY DECIDES THAT ITS SOLICITATION OR AWARD WAS IN VIOLATION OF LAW, THEN UNLESS IT IS DETERMINED TO BE VOIDABLE UNDER THE PROVISIONS OF PARAGRAPH (2).~~

(2) THE BOARD MAY DETERMINE THAT A CONTRACT ENTERED INTO IN VIOLATION OF THIS DIVISION IS MERELY VOIDABLE IF THE BOARD DETERMINES THAT:

(I) ALL PARTIES HAVE ACTED IN GOOD FAITH;

(II) RATIFICATION WOULD NOT UNDERMINE THE PURPOSES OF THIS DIVISION; AND

(III) THE VIOLATION OR SERIES OF VIOLATIONS WAS INSIGNIFICANT OR OTHERWISE DID NOT PREVENT SUBSTANTIAL COMPLIANCE WITH THE PROVISIONS OF THIS DIVISION.

(3) IF A CONTRACT IS VOID UNDER THIS SUBSECTION, THE CONTRACTOR SHALL BE AWARDED COMPENSATION FOR ACTUAL EXPENSES REASONABLY INCURRED UNDER THE CONTRACT, PLUS A REASONABLE PROFIT, IF THE CONTRACTOR:

(I) ACTED IN GOOD FAITH;

(II) DID NOT DIRECTLY CONTRIBUTE TO A VIOLATION OF THIS DIVISION; AND

(III) HAD NO KNOWLEDGE OF ANY SUCH VIOLATION PRIOR TO THE AWARD OF THE CONTRACT.

(4) IF A CONTRACT IS DETERMINED TO BE VOIDABLE UNDER THIS SUBSECTION:

~~(i)~~ (I) IF THE PERSON AWARDED THE CONTRACT CONTRACTOR HAS NOT ACTED FRAUDULENTLY OR IN BAD FAITH IN VIOLATION OF THIS DIVISION:

~~(ii)~~ 1. THE PROCUREMENT AGENCY, WITH THE APPROVAL OF THE BOARD OF CONTRACT APPEALS MAY RATIFY AND AFFIRM THE CONTRACT IF IT DECIDES DETERMINES IN WRITING THAT DOING SO IS IN THE STATE'S BEST INTEREST; OR

~~(iii)~~ 2. THE PROCUREMENT AGENCY, WITH THE APPROVAL OF THE BOARD OF CONTRACT APPEALS, MAY TERMINATE THE CONTRACT, DECLARE THE CONTRACT NULL AND VOID AND AWARD THE PERSON AWARDED THE CONTRACT SHALL BE COMPENSATED CONTRACTOR COMPENSATION FOR ACTUAL EXPENSES REASONABLY INCURRED UNDER THE CONTRACT BEFORE TERMINATION, PLUS A REASONABLE PROFIT; OR

~~(2)~~ (II) IF THE PERSON AWARDED THE CONTRACT CONTRACTOR HAS ACTED FRAUDULENTLY OR IN BAD FAITH IN VIOLATION OF THIS DIVISION: