
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-102, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Notwithstanding subsection (a), this chapter shall
4 not apply to contracts by governmental bodies:

5 (1) Solicited or entered into before July 1, 1994, unless
6 the parties agree to its application to a contract
7 solicited or entered into prior to July 1, 1994;

8 (2) To disburse funds, irrespective of their source:

9 (A) For grants or subsidies as those terms are
10 defined in section 42F-101, made by the State in
11 accordance with standards provided by law as
12 required by article VII, section 4, of the State
13 Constitution; or by the counties pursuant to
14 their respective charters or ordinances;

15 (B) To make payments to or on behalf of public
16 officers and employees for salaries, fringe
17 benefits, professional fees, or reimbursements;



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- 1 (C) To satisfy obligations that the State is required
2 to pay by law, including paying fees, permanent
3 settlements, subsidies, or other claims, making
4 refunds, and returning funds held by the State as
5 trustee, custodian, or bailee;
- 6 (D) For entitlement programs, including public
7 assistance, unemployment, and workers'
8 compensation programs, established by state or
9 federal law;
- 10 (E) For dues and fees of organizations of which the
11 State or its officers and employees are members,
12 including the National Association of Governors,
13 the National Association of State and County
14 Governments, and the Multi-State Tax Commission;
- 15 (F) For deposit, investment, or safekeeping,
16 including expenses related to their deposit,
17 investment, or safekeeping;
- 18 (G) To governmental bodies of the State;
- 19 (H) As loans, under loan programs administered by a
20 governmental body; and
- 21 (I) For contracts awarded in accordance with chapter
22 103F.



1 (3) To procure goods, services, or construction from a
2 governmental body other than the University of Hawaii
3 bookstores, from the federal government, or from
4 another state or its political subdivision;

5 (4) To procure medical equipment or medical services;

6 ~~[(4)]~~ (5) To procure the following goods or services which
7 are available from multiple sources but for which
8 procurement by competitive means is either not
9 practicable or not advantageous to the State:

10 (A) Services of expert witnesses for potential and
11 actual litigation of legal matters involving the
12 State, its agencies, and its officers and
13 employees, including administrative quasi-
14 judicial proceedings;

15 (B) Works of art for museum or public display;

16 (C) Research and reference materials including books,
17 maps, periodicals, and pamphlets, which are
18 published in print, video, audio, magnetic, or
19 electronic form;

20 (D) Meats and foodstuffs for the Kalaupapa
21 settlement;

22 (E) Opponents for athletic contests;



- 1 (F) Utility services whose rates or prices are fixed
- 2 by regulatory processes or agencies;
- 3 (G) Performances, including entertainment, speeches,
- 4 and cultural and artistic presentations;
- 5 (H) Goods and services for commercial resale by the
- 6 State;
- 7 (I) Services of printers, rating agencies, support
- 8 facilities, fiscal and paying agents, and
- 9 registrars for the issuance and sale of the
- 10 State's or counties' bonds;
- 11 (J) Services of attorneys employed or retained to
- 12 advise, represent, or provide any other legal
- 13 service to the State or any of its agencies, on
- 14 matters arising under laws of another state or
- 15 foreign country, or in an action brought in
- 16 another state, federal, or foreign jurisdiction,
- 17 when substantially all legal services are
- 18 expected to be performed outside this State;
- 19 (K) Financing agreements under chapter 37D; and
- 20 (L) Any other goods or services which the policy
- 21 board determines by rules or the chief
- 22 procurement officer determines in writing is
- 23 available from multiple sources but for which



1 procurement by competitive means is either not
2 practicable or not advantageous to the State; and

3 [~~5~~] (6) Which are specific procurements expressly exempt
4 from any or all of the requirements of this chapter
5 by:

6 (A) References in state or federal law to provisions
7 of this chapter or a section of this chapter, or
8 references to a particular requirement of this
9 chapter; and

10 (B) Trade agreements, including the Uruguay Round
11 General Agreement on Tariffs and Trade (GATT)
12 which require certain non-construction and non-
13 software development procurements by the
14 comptroller to be conducted in accordance with
15 its terms."

16 SECTION 2. Section 103D-203, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The chief procurement officer for each of the
19 following state entities shall be:

20 (1) The judiciary--the administrative director of the
21 courts;

22 (2) The senate--the president of the senate;



1 (3) The house of representatives--the speaker of the house
2 of representatives;

3 (4) The office of Hawaiian affairs--the chairperson of the
4 board;

5 (5) The University of Hawaii--the president of the
6 University of Hawaii;

7 (6) The department of education, excluding the Hawaii
8 public library system--the superintendent of
9 education; [~~and~~]

10 (7) The Hawaii health systems corporation--the chief
11 executive officer of the Hawaii health systems
12 corporation; and

13 [~~(7)~~] (8) The remaining departments of the executive
14 branch of the State and all governmental bodies
15 administratively attached to them--the administrator
16 of the state procurement office of the department of
17 accounting and general services."

18 SECTION 3. Section 103D-304, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Professional services shall be procured in accordance
21 with [~~sections~~] section 103D-302, 103D-303, 103D-305, 103D-306,
22 or 103D-307, or this section; provided that design professional
23 services furnished by licensees under chapter 464 shall be

1 procured pursuant to this section or section 103D-305, 103D-306,
2 or 103D-307. Contracts for professional services shall be
3 awarded on the basis of demonstrated competence and
4 qualification for the type of services required, and at fair and
5 reasonable prices."

6 SECTION 4. Section 103D-305, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§103D-305 Small purchases; prohibition against parceling.**

9 Procurements of less than [~~\$25,000~~] \$100,000 for goods,
10 services, or construction shall be made in accordance with
11 procedures set forth in rules adopted by the policy board that
12 are designed to ensure administrative simplicity and as much
13 competition as is practicable; provided that multiple
14 expenditures shall not be created at the inception of a
15 transaction or project so as to evade the requirements of this
16 chapter; and provided further that procurement requirements
17 shall not be artificially divided or parceled so as to
18 constitute a small purchase under this section."

19 SECTION 5. Section 103D-309, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Contracts awarded pursuant to section 103D-302, 103D-
22 303, or 103D-306, shall neither be binding nor have any force
23 and effect of law unless the comptroller, the director of



1 finance of a county, or the respective chief financial officers
2 of the department of education, the Hawaii health systems
3 corporation, the judiciary, or the legislative branches of the
4 State or county, as the case may be, endorses thereon a
5 certificate that there is an appropriation or balance of an
6 appropriation over and above all outstanding contracts,
7 sufficient to cover the amount required by the contract;
8 provided that if the contract is a multi-term contract, the
9 comptroller, director of finance, or chief financial officer
10 shall only be required to certify that there is an appropriation
11 or balance of an appropriation over and above all outstanding
12 contracts, that is sufficient to cover the amount required to be
13 paid under the contract during the fiscal year or remaining
14 portion of the fiscal year of each term of the multi-year
15 contract; provided further that the administrator of the state
16 procurement office shall attest in writing to any recommendation
17 or solicitations. This section shall not apply to any contract
18 under which the total amount to be paid to the contractor cannot
19 be accurately estimated at the time the contract is to be
20 awarded, or to any contract for which consideration is in kind
21 or forbearance, or to any contract awarded pursuant to section
22 103D-306 that is a one-time payment through a purchase order."



1 SECTION 6. Section 103F-102, Hawaii Revised Statutes, is
2 amended by amending the definitions of "agency" and "purchasing
3 agency" to read as follows:

4 "Agency" means any department, authority, commission,
5 council, board, committee, institution, legislative body,
6 agency, or other establishment or office of the executive,
7 legislative, or judicial branch of the State, and includes the
8 office of Hawaiian affairs[-], but does not include the Hawaii
9 health systems corporation.

10 "Purchasing agency" means a state agency authorized to or
11 responsible for entering into contracts to provide health or
12 human services to the public[-], but does not include the Hawaii
13 health systems corporation."

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect upon its approval.

17

INTRODUCED BY:

Calvin K. Ag
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JAN 25 2006

Report Title:

Hawaii Health Systems Corporation; Procurement

Description:

Amends the Procurement Code to allow more efficiency and flexibility for the Hawaii Health Systems Corporation to purchase health care goods and services.

