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# A BILL FOR AN ACT

RELATING TO THE STATE OF HAWAII.

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

1           SECTION 1. The purpose of this Act is to facilitate the  
2 use of funds awarded pursuant to the American Recovery and  
3 Reinvestment Act of 2009, P.L. 111-5, by increasing the small  
4 purchase thresholds for the procurement of goods and services.  
5 This Act also establishes additional reporting requirements for  
6 the procurement of goods and services under this Act, as well as  
7 authorizes the legislative federal economic stimulus program  
8 oversight commission to monitor the amended procurement  
9 practices. Additionally, this Act removes the requirement that  
10 a sealed bid include a list of the nature and scope of the work  
11 to be performed by each subcontractor and joint contractor.

12           SECTION 2. Act 150, Session Laws of Hawaii 2009, is  
13 amended as follows:

14           1. By adding two new sections to read:

15           "SECTION 4A. (a) Notwithstanding any provision of law to  
16 the contrary, including chapter 103D, Hawaii Revised Statutes,  
17 procurements of \$750,000 or less for goods and services shall be

1 treated as small purchases under section 103D-305, Hawaii  
2 Revised Statutes.

3 (b) Notwithstanding any provision of law to the contrary,  
4 including chapter 103D, Hawaii Revised Statutes, construction  
5 contracts of less than \$750,000 shall be treated as small  
6 purchases under section 103D-305, Hawaii Revised Statutes;  
7 provided that each construction contract shall require a  
8 performance bond to be secured and delivered to the purchasing  
9 agency that is in a form prescribed by the rules of the policy  
10 board, executed by a surety company authorized to do business in  
11 this State, or otherwise secured in a manner satisfactory to the  
12 purchasing agency, in an amount equal to one hundred per cent of  
13 the price specified in the contract.

14 (c) All contracts entered into, or commencement of any  
15 established procedure prior to entering into a contract,  
16 including a bid solicitation, under statutes or portions of  
17 statutes affected by this Act, shall continue to be honored  
18 until their termination. The provisions of this Act shall not  
19 be applied so as to impair any contract existing as of the  
20 effective date of this Act or to otherwise violate the  
21 provisions of either the Hawaii constitution or the United  
22 States Constitution.

1       (d) The names of all vendors, contractors, or service  
2 providers, a brief description of the contract, and the amount  
3 of each contract awarded shall be submitted to the legislative  
4 federal economic stimulus program oversight commission in a  
5 monthly report regarding every contract with a total value of  
6 \$25,000 or more awarded under the increased small purchase  
7 dollar ceilings pursuant to this Act or pursuant to a suspension  
8 of any statute, rule, or order in the exercise of the governor's  
9 powers.

10       SECTION 4B. If any provision of this Act, or the  
11 application thereof to any person or circumstance is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of this Act which can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable."

16       2. By amending section 6 to read:

17       "SECTION 6. (a) There is established a legislative  
18 federal economic stimulus program oversight commission, to be  
19 comprised of eleven members, as follows:

20       (1) Six voting members:

21       (A) One member of the senate, to be appointed by the  
22                president of the senate;

1 (B) One member of the house of representatives to be  
2 appointed by the speaker of the house of  
3 representatives; and

4 (C) Four members of the public, representing citizens  
5 and local government, one each to be appointed by  
6 the president of the senate, speaker of the house  
7 of representatives, senate minority leader, and  
8 house of representatives minority leader; and

9 (2) Five non-voting members, one each appointed by:

10 (A) Each member of Hawaii's congressional delegation;  
11 and

12 (B) The governor.

13 The voting members of the commission shall elect the  
14 chairperson of the commission.

15 (b) Legislative staff offices as determined by the  
16 president of the senate and the speaker of the house of  
17 representatives shall provide administrative assistance to the  
18 commission.

19 (c) In providing oversight of the distribution of any  
20 federal economic stimulus program funds and the implementation  
21 of program expenditures, the commission may:

- 1 (1) Evaluate the coordination of federal stimulus funded  
2 programs within the State;
- 3 (2) Determine if criteria developed for setting priorities  
4 are being followed;
- 5 (3) Determine the adequacy of public notice and  
6 opportunity for public comment and input;
- 7 (4) Evaluate the transparency of the bidding and the  
8 contracting process;
- 9 (5) Evaluate the integrity of the distribution and  
10 expenditure of federal stimulus funded programs;
- 11 (6) Determine the extent to which duplication and waste is  
12 prevented; ~~and~~
- 13 (7) Monitor contracts awarded pursuant to the small  
14 purchase exemption established under this Act; and
- 15 ~~(7)~~ (8) Undertake any other tasks or efforts to ensure  
16 the integrity and fairness of the distribution and  
17 expenditure of all funds and implementation of all  
18 programs.
- 19 (d) Executive branch agencies shall provide information on  
20 the receipt and expenditure of federal economic stimulus program  
21 funds upon request of the commission.

1 (e) The commission may request specific audit services  
2 from the state auditor.

3 (f) For the purposes of this section, "commission" means  
4 the legislative federal economic stimulus program oversight  
5 commission."

6 SECTION 3. Section 103D-302, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8 "(b) An invitation for bids shall be issued, and shall  
9 include a purchase description and all contractual terms and  
10 conditions applicable to the procurement. If the invitation for  
11 bids is for construction, it shall specify that all bids include  
12 the name of each person or firm to be engaged by the bidder as a  
13 joint contractor or subcontractor in the performance of the  
14 contract [~~and the nature and scope of the work to be performed~~  
15 ~~by each~~]. Construction bids that do not comply with this  
16 requirement may be accepted if acceptance is in the best  
17 interest of the State and the value of the work to be performed  
18 by the joint contractor or subcontractor is equal to or less  
19 than one per cent of the total bid amount."

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

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

**Report Title:**

Procurement; Small Purchase Exception; Legislative Federal Economic Stimulus Program Oversight Commission

**Description:**

Increases the small purchase procurement exception dollar ceiling temporarily. Authorizes the legislative federal economic stimulus program oversight commission to monitor contracts awarded under the procurement exception. Amends requirements for the competitive sealed bids process. (SD1 Proposed)

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