

JAN 22 2010

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that in this period of
2 high economic turmoil, procedural changes are necessary to
3 enable the State to achieve a quick recovery and to provide
4 effective economic stimulation. The legislature further finds
5 that changes to the State's lengthy procurement process would
6 allow state agencies to expedite the implementation or expansion
7 of programs, services, and benefits that are instrumental to the
8 economic success of the State.

9 The purpose of this Act is to limit the amount of time
10 within which the appropriate authority determines whether a
11 sufficient appropriation exists and certifies contracts for
12 projects of the department of education, the University of
13 Hawaii, the Hawaii housing finance and development corporation,
14 and the Hawaii public housing authority, within sixty days of
15 award of the contract; thereby expediting the implementation of
16 valuable programs and services provided by these agencies. In
17 doing so, however, it is also the purpose of this Act to strike



1 a balance between expedited procedures and necessary
2 accountability and transparency.

3 SECTION 2. Section 103D-309, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§103D-309 Contract not binding unless funds available.

6 (a) Contracts awarded pursuant to section 103D-302, 103D-303,
7 or 103D-306, shall neither be binding nor have any force and
8 effect of law unless the comptroller, the director of finance of
9 a county, or the respective chief financial officers of the
10 department of education, the judiciary, or the legislative
11 branches of the State or county, as the case may be, endorses
12 thereon a certificate that there is an appropriation or balance
13 of an appropriation over and above all outstanding contracts,
14 sufficient to cover the amount required by the contract;
15 provided that if the contract is a multi-term contract, the
16 comptroller, director of finance, or chief financial officer
17 shall only be required to certify that there is an appropriation
18 or balance of an appropriation over and above all outstanding
19 contracts, that is sufficient to cover the amount required to be
20 paid under the contract during the fiscal year or remaining
21 portion of the fiscal year of each term of the multi-year
22 contract; provided further that the administrator of the state



1 procurement office shall attest in writing to any recommendation
2 or solicitations. This section shall not apply to any contract
3 under which the total amount to be paid to the contractor cannot
4 be accurately estimated at the time the contract is to be
5 awarded, or to any contract for which consideration is in kind
6 or forbearance, or to any contract awarded pursuant to section
7 103D-306 that is a one-time payment through a purchase order.

8 (b) In any contract involving not only state or county
9 funds but supplemental funds from the federal government, this
10 section shall be applicable only to that portion of the contract
11 price as is payable out of state or county funds. As to the
12 portion of the contract price as is expressed in the contract to
13 be payable out of federal funds, the contract shall be construed
14 to be an agreement to pay the portion to the contractor, only
15 out of federal funds to be received from the federal government.
16 This subsection shall be liberally construed so as not to hinder
17 or impede the State in contracting for any project involving
18 financial aid from the federal government.

19 (c) For contracts awarded pursuant to sections 103D-302 to
20 103D-306 for projects of the department of education, the
21 University of Hawaii, the Hawaii housing finance and development
22 corporation, and the Hawaii public housing authority, if the



1 comptroller, the director of finance of a county, or the
2 respective chief financial officer of the department of
3 education, the judiciary, or the legislative branches of the
4 State or county, as the case may be, determines that there is an
5 appropriation sufficient to cover the amount required to be paid
6 under the contract, pursuant to subsection (a), the appropriate
7 authority shall certify the contract within sixty days of the
8 contract being awarded. Upon certification, the contract shall
9 be binding and have the force and effect of law."

10 SECTION 3. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Procurement; UH; DOE; HHFDC; HPHA; Contract Final; Sixty Days

Description:

Requires the appropriate authority to determine whether a sufficient appropriation exists and certify contracts for projects of the department of education, the University of Hawaii, the Hawaii housing finance and development corporation, and the Hawaii public housing authority within sixty days of award of the contract.

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