

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 a
10 public notice for procurement for the department of education,
11 the University of Hawaii, the Hawaii housing finance and
12 development corporation, or the Hawaii public housing authority
13 is required to be made available statewide; thereby expediting
14 the implementation of valuable programs and services provided by
15 these agencies. In doing so, however, it is also the purpose of
16 this Act to strike a balance between expedited procedures and
17 necessary accountability and transparency.



1 SECTION 2. Section 103D-302, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Adequate public notice of the invitation for bids
4 shall be given a reasonable time before the date set forth in
5 the invitation for the opening of bids. The policy board shall
6 adopt rules which specify:

- 7 (1) The form that the notice is to take;
- 8 (2) What constitutes a reasonable interim between
9 publication and bid opening; and
- 10 (3) How notice may be published, including publication in
11 a newspaper of general circulation, notice by mail to
12 all persons on any applicable bidders mailing list,
13 publication by any public or private telecommunication
14 information network, or any other method of
15 publication it deems to be effective[-];

16 provided that a public notice for procurement under this section
17 for the department of education, the University of Hawaii, the
18 Hawaii housing finance and development corporation, or the
19 Hawaii public housing authority shall be made available
20 statewide either in a written publication or an electronic
21 format for a period not to exceed fifteen days."



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

3 "(b) At a minimum, before the beginning of each fiscal
4 year, the head of each purchasing agency shall publish a notice
5 inviting persons engaged in providing professional services
6 which the agency anticipates needing in the next fiscal year, to
7 submit current statements of qualifications and expressions of
8 interest to the agency. Additional notices shall be given if:

- 9 (1) The response to the initial notice is inadequate;
- 10 (2) The response to the initial notice does not result in
11 adequate representation of available sources;
- 12 (3) New needs for professional services arise; or
- 13 (4) Rules adopted by the policy board so specify.

14 A public notice for procurement under this section for the
15 department of education, the University of Hawaii, the Hawaii
16 housing finance and development corporation, or the Hawaii
17 public housing authority shall be given in the same manner as
18 provided in section 103D-302(c). The chief procurement officer
19 may specify a uniform format for statements of qualifications.
20 Persons may amend these statements by filing a new statement
21 prior to the date designated for submission."



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

3 **"§103D-305 Small purchases; prohibition against parceling.**

4 (a) Procurements of less than \$100,000 for goods or services,
5 or \$250,000 for construction shall be made in accordance with
6 procedures set forth in rules adopted by the policy board that
7 are designed to ensure administrative simplicity and as much
8 competition as is practicable; provided that multiple
9 expenditures shall not be created at the inception of a
10 transaction or project so as to evade the requirements of this
11 chapter; and provided further that procurement requirements
12 shall not be artificially divided or parceled so as to
13 constitute a small purchase under this section.

14 (b) Procurements of greater than \$50,000 for construction
15 under subsection (a) shall require security by a performance
16 bond delivered to the purchasing agency that is:

- 17 (1) In a form prescribed by the rules of the policy board;
18 (2) Executed by a surety company authorized to do business
19 in this State; and
20 (3) In an amount equal to one hundred per cent of the
21 price specified in the contract,



1 or shall otherwise be secured by a performance bond in a manner
2 satisfactory to the purchasing agency.

3 (c) Procurements of \$25,000 to less than \$100,000 shall be
4 made in accordance with small purchase procedures; provided that
5 small purchase procurements through an electronic system shall
6 be required after the policy board has adopted rules for
7 electronic procurement and provided training to the affected
8 agency.

9 (d) Notwithstanding any law or rule to the contrary, a
10 public notice for procurement under this section for the
11 department of education, the University of Hawaii, the Hawaii
12 housing finance and development corporation, or the Hawaii
13 public housing authority shall be given in the same manner as
14 provided in section 103D-302(c)."

15 SECTION 5. Section 103D-306, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) A contract may be awarded for goods, services, or
18 construction without competition when [~~the~~]:

19 (1) The head of a purchasing agency determines in writing
20 that there is only one source for the required good,
21 service, or construction[~~the~~];



1 (2) The determination is reviewed and approved by the
2 chief procurement officer [~~the~~];
3 (3) The written determination is posted in the manner
4 described in rules adopted by the policy board [~~the~~];
5 provided that a written determination for sole source
6 procurement for the department of education, the
7 University of Hawaii, the Hawaii housing finance and
8 development corporation, or the Hawaii public housing
9 authority shall be posted either in a written
10 publication or an electronic format throughout the
11 State for a period not to exceed fifteen days; and
12 [~~no~~]

13 (4) No objection is outstanding.

14 The written determination, any objection, and a written summary
15 of the disposition of any objection shall be included in the
16 contract file."

17 SECTION 6. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19



1 SECTION 7. This Act shall take effect upon its approval.

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Report Title:

Procurement; Public Notice; DOE; UH; HHFDC; HPHA; Fifteen Days

Description:

Limits the amount of time a public notice or written determination for procurement for the department of education, the University of Hawaii, the Hawaii housing finance and development corporation, or the Hawaii public housing authority is required to be made available statewide.

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