
A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that state agencies are
2 interested in using energy savings performance contracting to
3 improve the energy efficiency of their facilities, thereby
4 addressing deferred maintenance and achieving a reduction in a
5 facility's life cycle operating costs. Energy savings
6 performance contracting is an agreement between an agency and a
7 company by which the company, without any initial agency funds,
8 will design, finance, implement, and maintain changes to a
9 facility to increase energy efficiency. The company guarantees
10 that savings will be achieved due to its changes and the agency
11 agrees to pay the company a part of the resulting savings.
12 Thus, wasted energy and operating costs are turned into capital
13 improvements.

14 Despite the advantages of energy savings performance
15 contracts, requests for proposals can take eighteen to sixty
16 months to complete, whereas the negotiated partner approach, by
17 which an agency may negotiate directly with certain vendors to
18 execute a performance contract, exempt from the state



1 procurement code, can bring about energy savings improvements in
2 twelve to eighteen months. The legislature also finds that a
3 negotiated partner pilot program is an appropriate means of
4 determining the ability of the negotiated partner approach to
5 allow agencies to take full advantage of energy savings
6 performance contracts.

7 The purpose of this Act is to establish a two-year pilot
8 program using the negotiated partner approach to execute energy
9 savings performance contracts.

10 SECTION 2. (a) There shall be established in the
11 department of accounting and general services a pilot program
12 using the negotiated partner approach to execute energy savings
13 performance contracts. The pilot program shall:

14 (1) Allow any state agency to negotiate directly with a
15 minimum of three vendors on the list of qualified
16 vendors for a sole-source energy savings performance
17 contract for one building or structure under the
18 agency's jurisdiction, and to choose one vendor based
19 on rules adopted by the agency pursuant to chapter 91,
20 Hawaii Revised Statutes, notwithstanding chapter 103D,
21 Hawaii Revised Statutes; and

22 (2) Operate from July 1, 2012, to June 30, 2014.



1 (b) By December 31, 2012, the department of accounting and
2 general services shall compile a list of qualified vendors
3 eligible to participate in the pilot program under this Act
4 through the issuance of a request for qualifications.

5 (c) Notwithstanding any law to the contrary relating to
6 the award of public contracts, an energy savings performance
7 contract under the pilot program shall do so in accordance with
8 the following provisions:

- 9 (1) The contract shall be signed by June 30, 2013, with
10 the construction of improvements completed by June 30,
11 2014;
- 12 (2) The term of the contract shall not exceed twenty years
13 from the date of completion of the construction of
14 improvements;
- 15 (3) The contract shall provide that the agency ultimately
16 shall receive title to the energy system being
17 financed under the contract; and
- 18 (4) The contract shall provide that total payments shall
19 not exceed total savings and may provide that annual
20 payments shall not exceed annual savings.

21 SECTION 3. Nothing in this Act shall prevent or preclude
22 an agency from soliciting or executing an energy savings



1 performance contract outside of the pilot program pursuant to
2 chapter 103D, Hawaii Revised Statutes.

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



Report Title:

Negotiated Partner Approach Pilot Program; Energy Savings Contracts

Description:

Establishes the negotiated partner approach pilot program for energy savings contracts, which allows agencies to forego requests for proposals and negotiate directly with qualified vendors. Requires the pilot program to be operational from July 1, 2012, to June 30, 2014. (HB2670 HD1)

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