
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 Hawaii's public
2 procurement process is inefficient and antiquated. Procedures
3 require protracted periods of time between each step of the
4 procurement process. Currently, the awarding of a contract is
5 subject to prolonged review, thereby preventing government
6 projects from proceeding in a timely manner. The legislature
7 further finds that new procedures are necessary to promote and
8 expedite construction projects that are subject to an overly
9 long review schedule.

10 In 2009, the legislature adopted senate concurrent
11 resolution no. 132, S.D. 1, which established the construction
12 industry task force (task force) to determine the economic value
13 of the construction industry in Hawaii. As directed in the
14 concurrent resolution, the task force was charged with
15 developing a series of recommendations to stimulate the
16 construction industry and create new jobs in the local
17 construction industry. Unfortunately, to date, many of the task
18 force's recommendations have yet to be enacted by the



1 legislature. The intent of this Act is to enact and implement
2 one of the recommendations of the task force in an effort to
3 support the local construction industry.

4 Accordingly, the purpose of this measure is to require all
5 governmental bodies to finalize all contract certifications with
6 the department of accounting and general services within sixty
7 days of the contract being awarded.

8 SECTION 2. Section 103D-102, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§103D-102 Application of this chapter.** (a) This chapter
11 shall apply to all procurement contracts made by governmental
12 bodies whether the consideration for the contract is cash,
13 revenues, realizations, receipts, or earnings, any of which the
14 State receives or is owed; in-kind benefits; or forbearance;
15 provided that nothing in this chapter or rules adopted hereunder
16 shall prevent any governmental body from complying with the
17 terms and conditions of any other grant, gift, bequest, or
18 cooperative agreement.

19 (b) Notwithstanding subsection (a), this chapter shall not
20 apply to contracts by governmental bodies:



- 1 (1) Solicited or entered into before July 1, 1994, unless
2 the parties agree to its application to a contract
3 solicited or entered into prior to July 1, 1994;
- 4 (2) To disburse funds, irrespective of their source:
- 5 (A) For grants or subsidies as those terms are
6 defined in section 42F-101, made by the State in
7 accordance with standards provided by law as
8 required by article VII, section 4, of the state
9 constitution; or by the counties pursuant to
10 their respective charters or ordinances;
- 11 (B) To make payments to or on behalf of public
12 officers and employees for salaries, fringe
13 benefits, professional fees, or reimbursements;
- 14 (C) To satisfy obligations that the State is required
15 to pay by law, including paying fees, permanent
16 settlements, subsidies, or other claims, making
17 refunds, and returning funds held by the State as
18 trustee, custodian, or bailee;
- 19 (D) For entitlement programs, including public
20 assistance, unemployment, and workers'
21 compensation programs, established by state or
22 federal law;



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- 1 (E) For dues and fees of organizations of which the
2 State or its officers and employees are members,
3 including the National Association of Governors,
4 the National Association of State and County
5 Governments, and the Multi-State Tax Commission;
- 6 (F) For deposit, investment, or safekeeping,
7 including expenses related to their deposit,
8 investment, or safekeeping;
- 9 (G) To governmental bodies of the State;
- 10 (H) As loans, under loan programs administered by a
11 governmental body; and
- 12 (I) For contracts awarded in accordance with chapter
13 103F;
- 14 (3) To procure goods, services, or construction from a
15 governmental body other than the University of Hawaii
16 bookstores, from the federal government, or from
17 another state or its political subdivision;
- 18 (4) To procure the following goods or services which are
19 available from multiple sources but for which
20 procurement by competitive means is either not
21 practicable or not advantageous to the State:



- 1 (A) Services of expert witnesses for potential and
2 actual litigation of legal matters involving the
3 State, its agencies, and its officers and
4 employees, including administrative quasi-
5 judicial proceedings;
- 6 (B) Works of art for museum or public display;
- 7 (C) Research and reference materials including books,
8 maps, periodicals, and pamphlets, which are
9 published in print, video, audio, magnetic, or
10 electronic form;
- 11 (D) Meats and foodstuffs for the Kalaupapa
12 settlement;
- 13 (E) Opponents for athletic contests;
- 14 (F) Utility services whose rates or prices are fixed
15 by regulatory processes or agencies;
- 16 (G) Performances, including entertainment, speeches,
17 and cultural and artistic presentations;
- 18 (H) Goods and services for commercial resale by the
19 State;
- 20 (I) Services of printers, rating agencies, support
21 facilities, fiscal and paying agents, and



- 1 registrars for the issuance and sale of the
- 2 State's or counties' bonds;
- 3 (J) Services of attorneys employed or retained to
- 4 advise, represent, or provide any other legal
- 5 service to the State or any of its agencies, on
- 6 matters arising under laws of another state or
- 7 foreign country, or in an action brought in
- 8 another state, federal, or foreign jurisdiction,
- 9 when substantially all legal services are
- 10 expected to be performed outside this State;
- 11 (K) Financing agreements under chapter 37D; and
- 12 (L) Any other goods or services which the policy
- 13 board determines by rules or the chief
- 14 procurement officer determines in writing is
- 15 available from multiple sources but for which
- 16 procurement by competitive means is either not
- 17 practicable or not advantageous to the State; and
- 18 (5) Which are specific procurements expressly exempt from
- 19 any or all of the requirements of this chapter by:
- 20 (A) References in state or federal law to provisions
- 21 of this chapter or a section of this chapter, or

1 references to a particular requirement of this
2 chapter; and

3 (B) Trade agreements, including the Uruguay Round
4 General Agreement on Tariffs and Trade (GATT)
5 which require certain non-construction and non-
6 software development procurements by the
7 comptroller to be conducted in accordance with
8 its terms.

9 (c) Notwithstanding subsection (a), this chapter shall not
10 apply to contracts made by:

11 (1) Any regional system board of the Hawaii health systems
12 corporation; or

13 (2) The Kaho'olawe island reserve commission, except as
14 provided by section 6K-4.5.

15 (d) Governmental bodies making procurements which are
16 exempt from this chapter are nevertheless encouraged to adopt
17 and use provisions of this chapter and its implementing rules as
18 appropriate; provided that the use of one or more provisions
19 shall not constitute a waiver of the exemption conferred and
20 subject the procurement or the governmental body to any other
21 provision of this chapter.



1 (e) Notwithstanding any law or rule relating to
2 procurement to the contrary, all government bodies shall
3 finalize and certify all contracts for procurement with the
4 department of accounting and general services within sixty days
5 of the contract being awarded."

6 SECTION 3. New statutory material is underscored.

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

8

INTRODUCED BY: _____



By Request

JAN 10 2014



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Report Title:

Procurement; Time Limitation for Contract Certifications;
Construction Industry Task Force

Description:

Requires all governmental bodies to finalize all contract certifications with the department of accounting and general services within sixty days of the contract being awarded.

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