
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 procurement
4 step. Currently, the awarding of a contract is subject to
5 prolonged review, thereby preventing government projects from
6 proceeding in a timely manner.

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



1 Accordingly, the purpose of this Act is to require public
2 contracts on bid proposals to be awarded within thirty days of
3 the bid opening date for projects of certain governmental bodies
4 to balance expedited procedures with transparency and
5 accountability.

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

8 "**§103D-102 Application of this chapter.** (a) This chapter
9 shall apply to all procurement contracts made by governmental
10 bodies whether the consideration for the contract is cash,
11 revenues, realizations, receipts, or earnings, any of which the
12 State receives or is owed; in-kind benefits; or forbearance;
13 provided that nothing in this chapter or rules adopted hereunder
14 shall prevent any governmental body from complying with the
15 terms and conditions of any other grant, gift, bequest, or
16 cooperative agreement.

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

19 (1) Solicited or entered into before July 1, 1994, unless
20 the parties agree to its application to a contract
21 solicited or entered into prior to July 1, 1994;

22 (2) To disburse funds, irrespective of their source:



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

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



- 1 employees, including administrative quasi-
- 2 judicial proceedings;
- 3 (B) Works of art for museum or public display;
- 4 (C) Research and reference materials including books,
- 5 maps, periodicals, and pamphlets, which are
- 6 published in print, video, audio, magnetic, or
- 7 electronic form;
- 8 (D) Meats and foodstuffs for the Kalaupapa
- 9 settlement;
- 10 (E) Opponents for athletic contests;
- 11 (F) Utility services whose rates or prices are fixed
- 12 by regulatory processes or agencies;
- 13 (G) Performances, including entertainment, speeches,
- 14 and cultural and artistic presentations;
- 15 (H) Goods and services for commercial resale by the
- 16 State;
- 17 (I) Services of printers, rating agencies, support
- 18 facilities, fiscal and paying agents, and
- 19 registrars for the issuance and sale of the
- 20 State's or counties' bonds;
- 21 (J) Services of attorneys employed or retained to
- 22 advise, represent, or provide any other legal



1 service to the State or any of its agencies, on
2 matters arising under laws of another state or
3 foreign country, or in an action brought in
4 another state, federal, or foreign jurisdiction,
5 when substantially all legal services are
6 expected to be performed outside this State;
7 (K) Financing agreements under chapter 37D; and
8 (L) Any other goods or services which the policy
9 board determines by rules or the chief
10 procurement officer determines in writing is
11 available from multiple sources but for which
12 procurement by competitive means is either not
13 practicable or not advantageous to the State; and
14 (5) Which are specific procurements expressly exempt from
15 any or all of the requirements of this chapter by:
16 (A) References in state or federal law to provisions
17 of this chapter or a section of this chapter, or
18 references to a particular requirement of this
19 chapter; and
20 (B) Trade agreements, including the Uruguay Round
21 General Agreement on Tariffs and Trade (GATT)
22 which require certain non-construction and non-

1 software development procurements by the
2 comptroller to be conducted in accordance with
3 its terms.

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

6 (1) Any regional system board of the Hawaii health systems
7 corporation; or

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

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

17 (e) Notwithstanding any other law or rule relating to
18 procurement to the contrary, contracts shall be awarded no later
19 than thirty days of the bid opening day to projects of the
20 department of Hawaiian home lands, department of transportation,
21 county boards of water supply, county departments of housing,



1 planning, and permitting, and county departments of
2 transportation."

3 SECTION 3. New statutory material is underscored.

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

5

INTRODUCED BY:



By Request

JAN 10 2014



H.B. NO. 1590

Report Title:

Procurement; Time Limitation for the Awarding of Bids;
Construction Industry Task Force

Description:

Requires public contracts on bid proposals to be awarded within thirty days of the bid opening date for projects of certain governmental bodies.

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