
A BILL FOR AN ACT

RELATING TO THE PROCUREMENT CODE.

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

1 SECTION 1. Section 103D-1010, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The purchasing agency shall:

4 (1) Receive and review proposals submitted by qualified
5 community rehabilitation programs to provide goods or
6 services and determine if they are suitable for
7 purchase by the agency; and

8 (2) Negotiate the conditions and terms for the purchase,
9 including the price of the offer, between the agency
10 and the qualified community rehabilitation program;
11 provided that the price of the offer shall not exceed
12 the fair market price and there is assurance that the
13 qualified community rehabilitation program proposal is
14 in compliance with all administrative rules related to
15 purchasing [~~and~~

16 ~~(3) Ensure that any goods or service purchased from a~~
17 ~~qualified community rehabilitation program shall not~~



1 ~~be placed on the Hawaii products list under section~~
2 ~~103D-1002]."~~

3 SECTION 2. Section 304A-2273, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established the community college conference
6 center revolving fund for conference center programs conducted
7 by the various community colleges. All fees, charges, and other
8 moneys collected in conjunction with the conference center
9 program of each community college shall be deposited in separate
10 accounts within the revolving fund. The chancellor of each
11 community college or a designee is authorized to expend funds
12 from the appropriate account in the revolving fund for all costs
13 associated with conducting conferences, seminars, and courses by
14 the conference center program, including but not limited to
15 expenses for honoraria, hotel and room rentals, food and
16 refreshment, printing and mailing, airfare and per diem, leis,
17 rental of audiovisual equipment, and conference supplies and
18 materials, without regard to [~~section 103D-1002 and~~] any
19 competitive bidding requirements pursuant to state procurement
20 requirements."



1 SECTION 3. Section 103D-1002, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§103D-1002 Hawaii products. (a) A purchasing agency~~
4 ~~shall review all specifications in a bid or proposal for~~
5 ~~purchase of Hawaii products where these products are available.~~

6 ~~(b) All invitations for bids and requests for proposals~~
7 ~~shall:~~

8 ~~(1) Include a description of the products that are listed~~
9 ~~in the Hawaii products list established pursuant to~~
10 ~~this section, which may be used to complete the scope~~
11 ~~of work specified in the invitation for bids or~~
12 ~~request for proposals; or~~

13 ~~(2) Allow as part of the offer, self-certification that~~
14 ~~the Hawaii products qualify for preference;~~
15 ~~provided that the offer may be evaluated along with any other~~
16 ~~published criteria in the solicitation, including but not~~
17 ~~limited to considerations such as specific nutritional content~~
18 ~~or its equivalent, timing of delivery, quality or freshness, and~~
19 ~~past performance, if applicable.~~

20 ~~All Hawaii products in any bid or request for proposal~~
21 ~~shall be made available for inspection, or additional~~



1 information may be requested to verify that the Hawaii product
2 meets the minimum specifications.

3 ~~(c) All persons submitting bids or proposals to claim a~~
4 ~~Hawaii products preference shall designate in their bids which~~
5 ~~individual product and its price is to be supplied as a Hawaii~~
6 ~~product.~~

7 ~~(d) Where a bid or proposal contains both Hawaii and non-~~
8 ~~Hawaii products, then for the purpose of selecting the lowest~~
9 ~~bid or purchase price only, the price or bid offered for a~~
10 ~~Hawaii product item shall be decreased by subtracting ten per~~
11 ~~cent for class I Hawaii product items bid or offered, or fifteen~~
12 ~~per cent for class II Hawaii product items bid or offered. The~~
13 ~~lowest total bid or proposal, taking the preference into~~
14 ~~consideration, shall be awarded the contract unless the bid or~~
15 ~~offer provides for additional award criteria. The contract~~
16 ~~amount of any contract awarded, however, shall be the amount of~~
17 ~~the bid or price offered, exclusive of the preferences.~~

18 ~~(e) Upon receipt and approval of application for Hawaii~~
19 ~~products preference, the administrator shall include within the~~
20 ~~Hawaii products list, the names of producers and manufacturers~~
21 ~~in the State who are authorized to supply locally manufactured~~



1 ~~soil enhancement products to state agencies under subsection~~
2 ~~(k). The administrator of the state procurement office shall~~
3 ~~maintain and distribute copies of the list to the purchasing~~
4 ~~agencies of the various governmental agencies.~~

5 ~~(f) Any person not on the Hawaii products list desiring a~~
6 ~~preference pursuant to this section shall certify the Hawaii~~
7 ~~product when submitting a response to a solicitation, provided~~
8 ~~that the person certifies under penalty of sanctions that the~~
9 ~~offered Hawaii products meet the requirements for the~~
10 ~~preference.~~

11 ~~The procurement officer may request additional information~~
12 ~~deemed necessary to qualify a product and shall have sole~~
13 ~~discretion in determining qualification for the preference.~~

14 ~~Any offeror whose product is deemed not qualified for the~~
15 ~~preference may appeal by filing a written request for~~
16 ~~reexamination of facts to the procurement officer. Upon~~
17 ~~determining that the offeror is qualified for the preference,~~
18 ~~the procurement officer shall notify the administrator and the~~
19 ~~administrator shall place the offeror on the Hawaii products~~
20 ~~list.~~



1 ~~(g) Solicitations shall contain a provision notifying~~
2 ~~offerers who request application of the preference that in the~~
3 ~~event of any change that materially alters the offerer's ability~~
4 ~~to supply Hawaii products, the offerer shall immediately notify~~
5 ~~the chief procurement officer in writing and the parties shall~~
6 ~~enter into discussions for the purposes of revising the contract~~
7 ~~or terminating the contract for convenience.~~

8 ~~(h) Nothing in this section shall limit, restrict, or~~
9 ~~preclude a Hawaii product from any preferences, set asides, or~~
10 ~~criteria that may be applied under section 103D-906, and this~~
11 ~~section shall operate instead to mutually enhance the purpose of~~
12 ~~this section and section 103D-906.~~

13 ~~(i) This section shall not apply whenever its application~~
14 ~~will disqualify any governmental agency from receiving federal~~
15 ~~funds or aid.~~

16 ~~(j) Any purchase made or any contract awarded or executed~~
17 ~~in violation of this section shall be void and no payment shall~~
18 ~~be made by any purchasing agency on account of the purchase or~~
19 ~~contract.~~

20 ~~(k) For the purposes of this section, "soil enhancement~~
21 ~~product" means any nonchemical soil preparation, conditioner, or~~



1 ~~compost mixture designed to supplement aeration or add organic,~~
2 ~~green waste, or decaying matter to the soil; provided that the~~
3 ~~term does not include any plant fertilizer intended to stimulate~~
4 ~~or induce plant growth through chemical means. All state~~
5 ~~agencies shall include in their solicitations, when required,~~
6 ~~the soil enhancement products identified on the Hawaii products~~
7 ~~list pursuant to subsection (c)."]~~

8 SECTION 4. Section 103D-1002.5, Hawaii Revised Statutes,
9 is repealed.

10 [~~["§103D-1002.5] Failure to adequately verify, deliver, or~~
11 ~~supply Hawaii products. If the administrator or procurement~~
12 ~~officer who has awarded a contract under section 103D-1002,~~
13 ~~finds that in the performance of that contract there has been a~~
14 ~~failure to comply with section 103D-1002, the contract shall be~~
15 ~~voidable and the findings shall be referred for debarment or~~
16 ~~suspension proceedings under section 103D-702."]~~

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



H.B. NO. 2745

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

2

b/r
INTRODUCED BY: _____
JAN 27 2016



H.B. NO. 2745

Report Title:

Procurement Code; Hawaii Products Preference

Description:

Repeals the Hawaii products preference from the procurement code.

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