
A BILL FOR AN ACT

RELATING TO ESTABLISHING AN ELECTRONIC PROCUREMENT DATABASE.

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

1 SECTION 1. The legislature finds that the State is in need
2 of increased transparency and accountability in government
3 contracts, and there is currently neither a method for statewide
4 data collection, nor clear authority of the centralized state
5 procurement office to mandate collection for proper reporting
6 and analysis of important metrics of procurement across the
7 various procurement jurisdictions across the State.

8 The purpose of this Act is to improve the State's
9 procurement process with increased transparency and
10 accountability by strengthening the centralized state
11 procurement office's oversight of all government contracts in
12 the State for information collection and retrieval processes
13 necessary for policy guidance, training, legislative reporting,
14 and general oversight of procurement across the State by:

15 (1) Mandating that the state procurement office establish
16 a statewide procurement database for data collection
17 that shall receive meaningful data on all state



1 procurements from all government entities and that is
2 accessible by all government entities;

3 (2) Clarifying the centralized role and authority of the
4 state procurement office across the State's
5 procurement jurisdictions to receive contracting
6 information for data collection, review, and policy
7 analysis; and

8 (3) Mandating statewide procurement oversight and
9 legislative reporting from the state procurement
10 office.

11 SECTION 2. Section 103D-107, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§103D-107[+] **Compliance audit unit; establishment and**
14 **purpose.** (a) There is established a compliance audit unit
15 within the [~~office of the auditor.~~] state procurement office.

16 The purpose of this unit shall be to:

17 (1) Periodically review and audit procurement practices
18 within government to ensure compliance with this
19 chapter and all applicable rules; and

20 (2) Advocate competition, fairness, and accountability in
21 the procurement process.



1 Reports made by this unit shall be a matter of public record.
2 This unit shall utilize as part of the review process, a review
3 of records and activities specifically for trends and patterns
4 of occurrence.

5 (b) The office of the auditor shall periodically audit the
6 compliance audit unit, to ensure compliance with this chapter."

7 SECTION 3. Section 103D-108, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§103D-108 **Compliance audit unit; duties and**
10 **responsibilities.** The compliance audit unit shall:

11 (1) Review and assess applicable innovations in
12 procurement methods or processes in other governmental
13 jurisdictions or as described in national or regional
14 publications;

15 (2) Review current or proposed statutes and rules to
16 determine whether they promote fairness, efficiency,
17 and accountability in the procurement process;

18 (3) Review selected contracts awarded pursuant to section
19 103D-304;

20 (4) Conduct studies, research, and analyses, and make
21 reports and recommendations with respect to existing



1 and new methods of procurement and other matters
 2 within the jurisdiction of the policy board;
 3 (5) Establish and maintain a procurement library;
 4 (6) Establish and maintain an electronic database of
 5 meaningful statewide procurement contract data;
 6 provided that all data on the database shall be made
 7 accessible to each governmental entity and selective
 8 non-confidential data may be made accessible to the
 9 general public to further transparency and
 10 accountability, as determined appropriate by the
 11 administrator;

12 ~~[(6)]~~ (7) Report to the appropriate agency and the chief
 13 procurement officer stating the areas of noncompliance
 14 and recommendations for remedial action; and

15 ~~[(7)]~~ (8) ~~[Be present at]~~ Participate in legislative
 16 hearings and policy board meetings to present the
 17 findings of the unit."

18 SECTION 4. Section 103D-109, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 " ~~[(1)]~~ §103D-109 ~~[(1)]~~ Compliance audit unit; government
 21 officers and employees to cooperate. The officers and employees



1 of the State and of each county shall cooperate with this unit
 2 and furnish to them such information related to procurement
 3 activities as may be called for in connection with the
 4 information gathering and research activities of this unit[-],
 5 including by reporting contract data pursuant to requirements
 6 and procedures established by the administrator, for inclusion
 7 in the database established under subsection 103D-108(6). The
 8 information shall be provided in a timely manner pursuant to
 9 procedures established by the administrator and shall be free of
 10 charge."

11 SECTION 5. Section 103D-205, Hawaii Revised Statutes, is
 12 amended by amending subsection (a) to read as follows:

13 "§103D-205 Authority and duties of the chief procurement
 14 officer. (a) For their respective jurisdictions and unless
 15 otherwise specifically provided in this chapter, each chief
 16 procurement officer shall serve as the central procurement
 17 officer for the officer's respective jurisdiction and:

- 18 (1) Procure or supervise the procurement of all goods,
 19 services, and construction;
- 20 (2) Exercise general supervision and control over all
 21 inventories of goods;



- 1 (3) Sell, trade, or otherwise dispose of surplus goods;
- 2 (4) Establish and maintain programs for the inspection,
- 3 testing, and acceptance of goods, services, and
- 4 construction;
- 5 (5) Coordinate with the administrator regarding
- 6 procurement policies, opportunities for statewide
- 7 innovation implementation, and concerns;
- 8 (6) Report procurement contract data pursuant to
- 9 requirements established by the administrator, in the
- 10 form and manner prescribed by the state procurement
- 11 office[+], for inclusion in the database established
- 12 under subsection 103D-108(6); and
- 13 (7) Assist and cooperate with the administrator regarding
- 14 any compliance review by the administrator pursuant to
- 15 section 103D-206."

16 SECTION 6. Section 103D-206, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§103D-206 Additional duties of the administrator of the**
19 **procurement office.** In addition to the duties referred to in
20 section 103D-205, the administrator shall:



- 1 (1) Perform periodic review of the procurement practices
2 and procedures of all governmental bodies, in
3 collaboration with the state procurement policy board,
4 for compliance with the procurement code;
- 5 (2) Assist, advise, and guide governmental bodies in
6 matters relating to procurement [↗], including
7 development and coordination of policies for
8 procurement innovation, transparency, and
9 accountability;
- 10 (3) Determine corrective actions; provided that if a
11 procurement officer under the jurisdiction of the
12 administrator of the state procurement office or a
13 chief procurement officer of any of the other state
14 entities under section 103D-203, fails to comply with
15 any determination rendered by the administrator within
16 thirty days from the date of the issuance of the
17 determination, or longer if permitted by the
18 administrator upon request by the procurement officer
19 or a chief procurement officer, the procurement
20 officer or chief procurement officer shall be subject



1 to an administrative fine under section 103D-106, for
2 every day of noncompliance;

3 (4) Develop and administer a statewide procurement
4 orientation and training program;

5 (5) Develop, distribute, and maintain a procurement manual
6 for all state procurement officials; ~~and~~

7 (6) Develop, distribute, and maintain a procurement guide
8 for vendors wishing to do business with the State and
9 its counties[-]; and

10 (7) Coordinate and serve as a liaison to the policy board
11 and chief procurement officers on policy matters,
12 including reporting of procurement metrics across the
13 State for all rulemaking and legislative initiatives
14 relating to procurement policy."

15 SECTION 7. Section 103D-207, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§103D-207[+] **Centralization of procurement authority.**

18 Except as otherwise provided in sections 103D-208, 103D-209, and
19 103D-210, all rights, powers, duties, and authority relating to
20 the procurement of goods, services, and construction, and the
21 management, control, warehousing, sale, and disposal of goods,



1 services, and construction now vested in, or exercised by, the
2 governmental bodies of the State and counties are hereby
3 transferred to the respective chief procurement officers[-], who
4 shall coordinate with the administrator for statewide data
5 collection, training, and policy initiatives."

6 SECTION 8. Section 103D-212, Hawaii Revised Statutes, is
7 amended to read as follows:

8 " [+]§103D-212[+] **Collection of data concerning public**
9 **procurement.** The chief procurement officer and the heads of all
10 purchasing agencies shall cooperate in the preparation of
11 statistical data concerning the procurement, usage, and
12 disposition of all goods, services, and construction, and employ
13 such trained personnel as may be necessary to carry out this
14 function. All using agencies shall furnish such reports as the
15 chief procurement officer and state procurement office may
16 require concerning usage, needs, and stocks on hand, and the
17 chief procurement officer or state procurement office may
18 prescribe forms to be used by the using agencies in
19 requisitioning, ordering, and reporting of goods, services, and
20 construction."



1 SECTION 9. Section 103D-326, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~103D-326~~§~~] **Fiscal responsibility.** (a) Every
4 contract modification, change order, or contract price
5 adjustment under a contract shall be subject to prior written
6 certification by the appropriate fiscal officer for funding the
7 project or the contract, as to the effect of the contract
8 modification, change order, or adjustment in contract price on
9 the total project budget or the total contract budget. In the
10 event that the certification of the fiscal officer discloses a
11 resulting increase in the total project budget or the total
12 contract budget, the procurement officer shall not execute or
13 make such contract modification, change order, or adjustment in
14 contract price unless sufficient funds are available therefor,
15 or the scope of the project or contract is adjusted so as to
16 permit the degree of completion that is feasible within the
17 total project budget or total contract budget as it existed
18 prior to the contract modification, change order, or adjustment
19 in contract price under consideration; provided, that with
20 respect to the validity, as to the contractor, of any executed
21 contract modification, change order, or adjustment in contract



1 price which the contractor has reasonably relied upon, it shall
2 be presumed that there has been compliance with this section.

3 (b) Any contract modification, change order, or adjustment
4 in contract price that would result in the lesser of either:

5 (1) A fifty per cent increase of the initial contract
6 price, or

7 (2) An increase in excess of \$1,000,000 above the initial
8 contract price,

9 shall be submitted with associative cost and pricing analysis to
10 the chief procurement officer for approval, then shall be
11 submitted to the administrator for notification."

12 SECTION 10. Section 103D-809, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[+]§103D-809[+] **Review of procurement requirements.** The
15 [~~chief procurement officer may~~] administrator shall collect
16 information concerning the type, cost, quality, and quantity of
17 commonly used goods, services, or construction being procured or
18 used by state public procurement units[~~-~~], in coordination with
19 the chief procurement officer. The chief procurement officer
20 may also collect and report this information from local public
21 procurement units. The [~~chief procurement officer may~~] state



1 procurement office shall make available all such available
2 information to any public procurement unit upon request."

3 SECTION 11. This Act does not affect the rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 12. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2016-2017 and the
9 same sum or so much thereof as may be necessary for fiscal year
10 2017-2018 for the state procurement office to establish the
11 statewide electronic procurement database and establish
12 necessary positions pursuant to this Act.

13 SECTION 13. All appropriations, records, equipment,
14 machines, files, supplies, contracts, books, papers, documents,
15 maps, and other personal property heretofore made, used,
16 acquired, or held by the office of the auditor relating to the
17 functions transferred to the state procurement agency shall be
18 transferred with the functions to which they relate.

19 The sums appropriated shall be expended by the state
20 procurement office for the purposes of this Act.



H.B. NO. 1168

1 SECTION 14. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 15. This Act shall take effect on July 1, 2017.
4

INTRODUCED BY: *J. M. Metz*

Sen. Aik

[Signature]

[Signature]

JAN 23 2017



H.B. NO. 116B

Report Title:

Procurement; State Procurement Office; Electronic Database; Oversight

Description:

Requires the state procurement office to establish an electronic database of all government procurement contracts, accessible to each governmental entity. Requires state procurement office oversight of procurement information. Appropriates funds to establish the electronic database.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

