

JAN 24 2018

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-102, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Notwithstanding subsection (a), this chapter shall
4 not apply to contracts by governmental bodies:

5 (1) Solicited or entered into before July 1, 1994, unless
6 the parties agree to its application to a contract
7 solicited or entered into prior to July 1, 1994;

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

9 (A) For grants as defined in section 42F-101, made by
10 the State in accordance with standards provided
11 by law as required by article VII, section 4, of
12 the state constitution; or by the counties
13 pursuant to their respective charters or
14 ordinances;

15 (B) To make payments to or on behalf of public
16 officers and employees for salaries, fringe
17 benefits, professional fees, or reimbursements;



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- 1 (C) To satisfy obligations that the State is required
- 2 to pay by law, including paying fees, permanent
- 3 settlements, subsidies, or other claims, making
- 4 refunds, and returning funds held by the State as
- 5 trustee, custodian, or bailee;
- 6 (D) For entitlement programs, including public
- 7 assistance, unemployment, and workers'
- 8 compensation programs, established by state or
- 9 federal law;
- 10 (E) For dues and fees of organizations of which the
- 11 State or its officers and employees are members,
- 12 including the National Association of Governors,
- 13 the National Association of State and County
- 14 Governments, and the Multi-State Tax Commission;
- 15 (F) For deposit, investment, or safekeeping,
- 16 including expenses related to their deposit,
- 17 investment, or safekeeping;
- 18 (G) To governmental bodies of the State;
- 19 (H) As loans, under loan programs administered by a
- 20 governmental body; and



- 1 (I) For contracts awarded in accordance with chapter
- 2 103F;
- 3 (3) To procure goods, services, or construction from a
- 4 governmental body other than the University of Hawaii
- 5 bookstores, from the federal government, or from
- 6 another state or its political subdivision;
- 7 (4) To procure the following goods or services which are
- 8 available from multiple sources but for which
- 9 procurement by competitive means is either not
- 10 practicable or not advantageous to the State:
- 11 (A) Services of expert witnesses for potential and
- 12 actual litigation of legal matters involving the
- 13 State, its agencies, and its officers and
- 14 employees, including administrative quasi-
- 15 judicial proceedings;
- 16 (B) Works of art for museum or public display;
- 17 (C) Research and reference materials including books,
- 18 maps, periodicals, and pamphlets, which are
- 19 published in print, video, audio, magnetic, or
- 20 electronic form;



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- 1 (D) Meats and foodstuffs for the Kalaupapa
2 settlement;
- 3 (E) Opponents for athletic contests;
- 4 (F) Utility services whose rates or prices are fixed
5 by regulatory processes or agencies;
- 6 (G) Performances, including entertainment, speeches,
7 and cultural and artistic presentations;
- 8 (H) Goods and services for commercial resale by the
9 State;
- 10 (I) Services of printers, rating agencies, support
11 facilities, fiscal and paying agents, and
12 registrars for the issuance and sale of the
13 State's or counties' bonds;
- 14 (J) Services of attorneys employed or retained to
15 advise, represent, or provide any other legal
16 service to the State or any of its agencies, on
17 matters arising under laws of another state or
18 foreign country, or in an action brought in
19 another state, federal, or foreign jurisdiction,
20 when substantially all legal services are
21 expected to be performed outside this State;



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- 1 (K) Financing agreements under chapter 37D; and
- 2 (L) Any other goods or services which the policy
- 3 board determines by rules or the chief
- 4 procurement officer determines in writing is
- 5 available from multiple sources but for which
- 6 procurement by competitive means is either not
- 7 practicable or not advantageous to the State; and
- 8 (5) Which are specific procurements expressly exempt from
- 9 any or all of the requirements of this chapter by:
 - 10 (A) References in state or federal law to provisions
 - 11 of this chapter or a section of this chapter, or
 - 12 references to a particular requirement of this
 - 13 chapter; and
 - 14 (B) Trade agreements, including the Uruguay Round
 - 15 General Agreement on Tariffs and Trade (GATT)
 - 16 which require certain non-construction and non-
 - 17 software development procurements by the
 - 18 comptroller to be conducted in accordance with
 - 19 its terms[-]i
- 20 provided that any government body entering into a contract to
- 21 which this chapter does not apply pursuant to this subsection



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1 shall report that contract to the state procurement office and
2 legislature."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

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

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Report Title:

Procurement Code; Exempt Contracts; Government Bodies; Reporting Requirement; State Procurement Office

Description:

Requires any government body that enters into a contract that is exempt from the state procurement code pursuant to section 103D-102(b), Hawaii Revised Statutes, such as a contract for procurement of services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies, on matters arising under the laws of another state or foreign country, or in an action brought in another state, federal, or foreign jurisdiction, when substantially all legal services are expected to be performed outside this State, and when procurement by competitive means would be impractical or not advantageous to the State, to report that contract to the State Procurement Office and Legislature.

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

