

**SB 2914**

**SD-1**

**RELATING TO  
PROCUREMENT**

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# 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;



- 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;



- 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;



- 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[-];
- 20 provided that any governmental body entering into a contract to
- 21 which this chapter does not apply pursuant to this subsection



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 on January 1, 2050.



**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. Effective 1/1/2050. (SD1)

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





**SB 2914**

**SD-1**

**TESTIMONY**

DAVID Y. IGE  
GOVERNOR



SARAH ALLEN  
ADMINISTRATOR  
MARA SMITH  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Tel: (808) 586-0554  
email: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
<http://spo.hawaii.gov>  
Twitter: [@hawaiispo](https://twitter.com/hawaiispo)

TESTIMONY  
OF  
SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE  
  
TO THE HOUSE COMMITTEE  
ON  
LABOR & PUBLIC EMPLOYMENT  
Tuesday, March 20, 2018 10:00 a.m.

SENATE BILL 2914, SD 1  
RELATING TO PROCUREMENT

Chair Johanson, Vice-Chair Holt, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2914, SD 1. The State Procurement Office (SPO) **supports** the intent of this bill which requires any government body that enters into a contract that is exempt from the state procurement code pursuant to HRS § 103D-102(b) to report that contract to the SPO and legislature.

HAR § 3-120-5, Procedures for requesting exemption and amendment, requires the Chief Procurement Officers (CPO) to forward a copy of each exemption request and amendment to the SPO administrator. Despite this rule, response by CPO jurisdictions has been limited. In the past three years, only the Department of Education, City and County of Kauai and City and County of Maui have submitted their exemption / amendments to the SPO.

The SPO recommends that this bill take procurement transparency to a higher and more comprehensive level by requiring all the government agencies to report all contact data including exempt contracts on a single eProcurement and contract management system.

On November 20, 2017, the SPO launched the Hawaii Awards and Notices Data System (HANDS) for the posting of procurement notices for solicitation and awards as well as CPO's approvals, mandatory for the Executive Branch departments/agencies. The current version of HANDS is optional for non-executive jurisdictions for the posting of procurement notices and awards and SPO believes that this bill can create a legislative mandate to require all CPO jurisdictions to transition to HANDS or provide an API bridge. The SPO, through HANDS, will standardize the data entry for all jurisdictions and with this legislation will be able to provide more meaningful and transparent procurement data for the public and this legislative body. HANDS does not have a component for CPO jurisdictions to display their CPO approval

requests and the addition of such would require additional funding and resources. It also has limited search and reporting functions..

If the legislature believes that a more robust state-wide eProcurement and contract management system is needed then the SPO would require an initial appropriation of \$4.5 M to commence such an undertaking. An eProcurement system would, in part, be a statewide database for all executive branch departments thereby providing consistency and transparency across all departments, and with adoption by all CPO jurisdictions, statewide.

The electronic procurement system would initially only be required for executive branch departments/agencies to allow the SPO time to develop policies and procedures to implement this Act. An initial investment of \$4,500,000 is required for an electronic procurement system. Attachment I explains what an eProcurement system is made up of and why it is important, along with our Return on Investment of 160%.

No continuing funds will be required as this system will be procured through a self-funding model that allows the state to leverage buying power to maintain the system, similar to how we already procure for certain goods and services. This creates a very positive return on investment, allows for transparency, consistency and clarity in procurement, as well as accurate spend data analysis to enhance decision-making and improve the effectiveness of the procurement process across the board, ultimately creating valuable cost-savings and successfully performed contracts.

Thank You

# Resounding Gains from eProcurement

State Procurement Office 2018

# What's wrong with what we've got?

## Disparate Front Ends

Confusion for Vendors on where to look for work & where to post for State Buyers

Reduced outreach to Market

Reduced reach to Competition

Increased Overall costs per market (oligopoly/monopoly)

## No Transparency on Spend Analysis

Duplication of effort and redundancy

Failure to leverage economies of scale

No data for decision-making

Increased costs to State Budget

## Inconsistency & Incongruent Processes

Increased procurement processing time per requirement

Increased time spent by State Buyers

Reduced efficiency of procuring personnel

Increased confusion and money spend by vendors to adjust to many inconsistent requirements

# Return on Investment

## Our Gains are 160x what our Costs are!

### DEFINITION of 'Return On Investment - ROI'

A performance measure used to **evaluate the efficiency of an investment** or to compare the efficiency of a number of different investments. To calculate ROI, the benefit (return) of an investment is divided by the cost of the investment; the result is expressed as a percentage or a ratio.

The return on investment formula:

$$\text{ROI} = \frac{\text{Gain from Investment} - \text{Cost of Investment}}{\text{Cost of Investment}}$$

# Gain from the Investment

- ▶ Gains for the Taxpayers -
  - ▶ cost reductions due to leveraging economies of scale,
  - ▶ saves time taxpayers have to wait for services,
  - ▶ greater transparency into the process
- ▶ Gains for the Vendors -
  - ▶ consistency of system and one stop shop will increase competition and make it easier for vendors to bid.
  - ▶ Decrease time between notice of award and notice to proceed.
  - ▶ Business analytics to show the landscape of small business owners.
- ▶ Gains for the Departments -
  - ▶ dashboards with analytics to give Department Heads real-time information on their contracts to enhance oversight/governance and business decision-making.
- ▶ The SIX-STREAM System

# Six Work-streams of eProcurement

Procure- to Pay  
Automation

Catalog  
Establishment

Vendor  
Enablement/  
Management

Sourcing  
Enablement/  
Management

Contract  
Management

Spend Analysis



# Electronic Procurement Work Streams

Work Steams	Functionality
<b>Procure to Pay Automation</b>	<ul style="list-style-type: none"> <li>• Full Requisition to Order, standard &amp; adaptable to organization</li> <li>• Approvals on-line, Mobile app, Enterprise &amp; org-specific rules</li> <li>• eOrders (email, fax, EDI, cXML)</li> <li>• Receiving &amp; Asset Management data</li> <li>• Real-time integration w/Financials, Inventory, Asset, other systems</li> <li>• eInvoice, 3-way match &amp; payment authorization</li> </ul>
<b>Catalog Capability</b>	<ul style="list-style-type: none"> <li>• Hosted &amp; Punchout</li> <li>• Contract – State &amp; Agency; Non-Contract option</li> <li>• Vendor create/maintain tools</li> <li>• Buyer review, approve tools</li> </ul>
<b>Vendor/Supplier Enablement</b>	<ul style="list-style-type: none"> <li>• Self-service Registration</li> <li>• All Finance and Procurement data/information</li> <li>• Real-time integration w/Financials &amp; MBE program</li> </ul>
<b>Sourcing/Bid Management</b>	<ul style="list-style-type: none"> <li>• On-line Sourcing, all types (Formal, Informal, Reverse Auctions)</li> <li>• Automated public posting and vendor notifications (Transparency)</li> <li>• Secure on-line bidding, evaluation &amp; award</li> <li>• Integrated w/ Requisitioning, Catalogs, Ordering &amp; Contract Management</li> </ul>
<b>Contract Management</b>	<ul style="list-style-type: none"> <li>• Contract document authoring (templates, libraries, version control)</li> <li>• Contract administration (Expiration, Renewals, Licenses, Bonds)</li> <li>• Vendor performance management</li> <li>• MBE &amp; Subcontracting Plans and monitoring</li> </ul>
<b>Spend Management</b>	<ul style="list-style-type: none"> <li>• Spend Analytics, Contract use/leakage, Enterprise spend; Vendor &amp; MBE</li> <li>• Ad Hoc reporting &amp; dashboards</li> <li>• Public reports (Transparency)</li> <li>• Integrated Reporting with external systems (e.g. Finance, Inventory)</li> </ul>

# Gains from the Investment

## ▶ The Numbers

▶ A. Increase Accessibility with Cataloging, 10 new catalogs  
= \$11.6M in Gain p.a.

▶ B. Assess Tangible benefits at 2.25% p.a. supported by actual cost savings  
= \$41M in Gain p.a.

▶ C. Total Gains over a 15 year life-cycle, using Present Value of Growing Annuity  
= \$728M Gain over Life

# Cost of the Investment

## ▶ Initial Cost

- ▶ Typical Cost of full eProc system lies between \$2.5 and \$8M, with \$1M-\$1.5M operating costs per annum.
- ▶ The ASK is for **\$4.5M** for setup over 3.5 years, with no continuing maintenance cost requirements.

## ▶ Sustainability Strategy

- ▶ Vendor Fee of 1% on Catalog Awards, Starting mid-Yr 3, with full implementation of all work streams from Yr 5. Vendor fee to cover SAAS license fees, upgrades, service desk etc.
  - ▶ 15 Year Life-cycle Costs: PV of Growing Annuity
- ▶ Total Cost for Initial implementation and 15 year life-cycle

= **\$4.5M over life**

# Initial Return on Investment (ROI)

$$\text{ROI} = \frac{(\text{Gain from Investment} - \text{Cost of Investment})}{\text{Cost of Investment}}$$

▶ ROI =  $\frac{(\text{Gain from Cataloging: } \$11.5\text{M} + \text{Gain from System Benefits } \$41\text{M}) - \$4.5\text{M}}{\$4.5\text{M}}$

= 160%

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**LATE**

**TESTIMONY**