
A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF EDUCATION.

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

1 SECTION 1. The legislature finds that the department of
2 education is the largest department in the State, with two
3 hundred ninety-five schools and forty-two thousand salaried and
4 part-time employees. As such, the department of education must
5 procure numerous goods, services, and construction to run its
6 operations. The legislature also finds that the Hawaii public
7 procurement code mandates that the department of education
8 comply with procurement laws for its purchases when triggered by
9 certain threshold amounts. Exempting the department of
10 education from certain small purchase procurement requirements
11 will help the department to timely procure necessary goods,
12 services, and construction.

13 The legislature further finds that the electronic
14 procurement system, due to its complicated and onerous nature,
15 places a heavy burden on school administrators seeking to
16 address repair and maintenance backlogs and strains the already
17 limited time and resources of these school administrators.



1 Additionally, with the recent influx of federal funding and
2 various conditions attached to that funding, including the
3 maintenance of effort provisions within the Coronavirus Aid,
4 Relief, and Economic Security Act, the department of education
5 requires greater flexibility to expend federal funds in a timely
6 manner.

7 The purpose of this Act is to:

- 8 (1) Provide, until June 30, 2025, procurement exemptions
- 9 for the department of education in counties having a
- 10 population of less than five hundred thousand; and
- 11 (2) Require the department of education to transition to
- 12 the electronic procurement system maintained by the
- 13 state procurement office no later than June 30, 2025.

14 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
15 amended by adding a new section to part V to be appropriately
16 designated and to read as follows:

17 "§302A- Procurement; educational goods and services;
18 small purchases. (a) Notwithstanding section 103D-305(c) or
19 any other law to the contrary, the department may procure goods
20 and services of less than \$ _____ without using an
21 electronic procurement system; provided that the procurement



1 shall be subject to the rules governing procurements of less
2 than \$ _____ ; provided further that, based on specifications
3 and with adequate reasonable competition, a procurement of:

4 (1) At least \$ _____ but less than \$ _____ shall
5 require at least three quotations; and

6 (2) At least \$ _____ but less than \$ _____ shall
7 require at least three quotations in writing.

8 (b) This section shall only apply for the procurement of
9 goods and services in a county having a population of less than
10 five hundred thousand."

11 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
12 amended by adding a new section to subpart A of part VI to be
13 appropriately designated and to read as follows:

14 "§302A- Procurement; educational construction; small
15 purchases. (a) Notwithstanding section 103D-305(c) or any
16 other law to the contrary, the department may procure
17 construction of less than \$ _____ without using an
18 electronic procurement system; provided that the procurement
19 shall be subject to the rules governing procurements of less
20 than \$ _____ ; provided further that, based on specifications
21 and with adequate reasonable competition, a procurement of:



1 (1) At least \$ _____ but less than \$ _____ shall
2 require at least three quotations; and

3 (2) At least \$ _____ but less than \$ _____ shall
4 require at least three quotations in writing.

5 (b) This section shall only apply for the procurement of
6 construction in a county having a population of less than five
7 hundred thousand."

8 SECTION 4. Section 103D-102, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

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

12 (1) Solicited or entered into before July 1, 1994, unless
13 the parties agree to its application to a contract
14 solicited or entered into prior to July 1, 1994;

15 (2) To disburse funds, irrespective of their source:
16 (A) For grants as defined in section 42F-101, made by
17 the State in accordance with standards provided
18 by law as required by article VII, section 4, of
19 the state constitution; or by the counties
20 pursuant to their respective charters or
21 ordinances;



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



1 (H) As loans, under loan programs administered by a
2 governmental body; and

3 (I) For contracts awarded in accordance with
4 chapter 103F;

5 (3) To procure goods, services, or construction from a
6 governmental body other than the University of Hawaii
7 bookstores, from the federal government, or from
8 another state or its political subdivision;

9 (4) To procure the following goods or services which are
10 available from multiple sources but for which
11 procurement by competitive means is either not
12 practicable or not advantageous to the State:

13 (A) Services of expert witnesses for potential and
14 actual litigation of legal matters involving the
15 State, its agencies, and its officers and
16 employees, including administrative
17 quasi-judicial proceedings;

18 (B) Works of art for museum or public display;

19 (C) Research and reference materials including books,
20 maps, periodicals, and pamphlets, which are



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



1 when substantially all legal services are
2 expected to be performed outside this State;
3 (K) Financing agreements under chapter 37D; [~~and~~]
4 (L) Educational materials including textbooks,
5 supplies, implements, tools, machinery,
6 computers, electronic devices, or other goods
7 related to any education, training, or experience
8 required for participation in an educational
9 program; provided that this subparagraph shall
10 apply only for procurements by the department of
11 education in a county with a population of less
12 than five hundred thousand; and
13 [~~(L)~~] (M) Any other goods or services which the policy
14 board determines by rules or the chief
15 procurement officer determines in writing is
16 available from multiple sources but for which
17 procurement by competitive means is either not
18 practicable or not advantageous to the State; and
19 (5) Which are specific procurements expressly exempt from
20 any or all of the requirements of this chapter by:



1 (A) References in state or federal law to provisions
2 of this chapter or a section of this chapter, or
3 references to a particular requirement of this
4 chapter; and

5 (B) Trade agreements, including the Uruguay Round
6 General Agreement on Tariffs and Trade (GATT)
7 which require certain non-construction and
8 non-software development procurements by the
9 comptroller to be conducted in accordance with
10 its terms."

11 SECTION 5. No later than June 30, 2025, the department of
12 education shall transition to the electronic procurement system
13 maintained by the state procurement office.

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on June 30, 3000,
17 and, except for section 5, shall be repealed on June 30, 2025;
18 provided that section 103D-102(b), Hawaii Revised Statutes,
19 shall be reenacted in the form in which it read on the day
20 before the effective date of this Act.



Report Title:

DOE; Procurement; Exemptions

Description:

Provides procurement exemptions for the department of education for certain goods, services, and construction. Requires the department of education to transition to the electronic procurement system maintained by the state procurement office no later than 6/30/2025. Effective 6/30/3000. Sunsets 6/30/2025. (HD3)

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