

JAN 24 2024

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Chapter 103D, Hawaii Revised Statutes, is
2 amended by adding to part III a new section to be appropriately
3 designated and to read as follows:

4 "§103D- Alternative procurements. (a) A procuring
5 agency may select an alternative procurement method when the
6 alternative procurement method is made part of a federal
7 statute, federal regulation, federal special experimental, or
8 demonstration project, or by federal approval of the alternative
9 procurement method.

10 (b) The head of a purchasing agency shall determine in
11 writing that it is neither practicable, nor advantageous to the
12 State to procure using the other methods in section 103D-301
13 before selecting the use of the alternative procurement method.

14 (c) Documentation of the federal statute, federal
15 regulation, federal special experimental, or federal
16 demonstration project, or the federal approval of the
17 alternative procurement method, shall be made part of the
18 contract file."

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1 SECTION 2. Section 103D-301, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§103D-301 Methods of source selection.** Unless otherwise
4 authorized by law, all contracts shall be awarded pursuant to
5 the following sections, as applicable:

- 6 (1) Section 103D-302 (Competitive sealed bids);
7 (2) Section 103D-303 (Competitive sealed proposals);
8 (3) Section 103D-304 (Professional services procurement);
9 (4) Section 103D-305 (Small purchases);
10 (5) Section 103D-306 (Sole source procurement); [~~and~~]
11 (6) Section 103D-307 (Emergency procurements) [-]; and
12 (7) Section 103D- (Alternative procurements)."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



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BY REQUEST

S.B. NO. 3185

Report Title:

Methods of Source Selection; Alternative Procurement; and Government Services

Description:

Amends section 103D-301, HRS, methods of source selection, to add the alternative procurement method. Amends chapter 103D, HRS, to add to part III a new section allowing an alternative procurement method when the federal government provides for or approves the alternative procurement method, and the head of the purchasing agency makes a written determination that it is neither practicable nor advantageous to use the existing statutory procurement methods.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To add the alternative procurement method as a source selection for contract formation, but the alternative procurement method may be used only after the head of the purchasing agency determines in writing that it is neither practicable nor advantageous to the State to use any of the methods of procurement in section 103D-302, 103D-303, 103D-304, 103D-305, 103D-306, or 103D-307, Hawaii Revised Statutes (HRS).

Furthermore, the alternative procurement method shall be used only when federal statute, federal regulation, or federal special experimental or demonstration project guidance, or other similar federal procurement guidance allows for the use of the alternative procurement method.

MEANS: Add a new section to part III of chapter 103D, HRS, and amend section 103D-301, HRS.

JUSTIFICATION: Provide measures for improving contracting practices and promoting quality and innovation in goods and services and construction that have the potential to reduce the life cycle cost of such projects, while at the same time, maintain product quality to provide some degree of administrative flexibility.

Alternative methods provide options for unique, complex, or schedule-critical projects. An agency that uses an alternative method is afforded flexibility in evaluating proposals and in contract negotiations, which can result in substantial cost savings and other substantial benefits to the State.

Impact on the public: This bill promotes an innovative procurement method and a new project delivery system within the intent of the Procurement Code's competition requirements. An alternative procurement method will allow for timely improvements delivered to the community at a guaranteed price without added costs from change orders.

Impact on the department and other agencies: This bill will allow purchasing agencies to use an innovative procurement method, providing a process improvement to the state procurement requirements. The potential for project awards to be based on best value with limited change orders during contract administration may be realized.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TRN 995.

OTHER AFFECTED
AGENCIES: State Procurement Office.

EFFECTIVE DATE: Upon approval.