

ACT 45

H.B. NO. 978

A Bill for an Act Relating to Purchases of Health and Human Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend the procurement laws relating to the purchase of health and human services to promote procurement efficiency, program success, and government accountability. This Act increases the efficiency of short-term treatment purchase of services and changes the small purchase threshold for health and human services.

SECTION 2. Section 103F-404, Hawaii Revised Statutes, is amended to read as follows:

~~“[§103F-404]~~ **Treatment purchase of services.** (a) Treatment services may be purchased in accordance with this section if ~~[either or both of]~~ the following circumstances ~~[are applicable]:~~

- ~~(1) Such services may become necessary from time to time, but cannot be anticipated accurately on an annual or biennial basis; and~~
- ~~(2) When deferring treatment until solicitation, provider selection, and contract formation can be completed, the problem needing treatment would be rendered worse than at the time of diagnosis or assessment.~~

~~Contracts for treatment services shall be awarded on the basis of demonstrated competence and qualification for the type of service required, and at fair and reasonable prices.] apply:~~

- ~~(1) The need for treatment services is unanticipated and arises from time to time;~~
- ~~(2) The required treatment services are for a one-time purchase of no more than \$100,000 and last no longer than one year;~~
- ~~(3) The treatment services are generally accepted practices by the industry or profession; and~~
- ~~(4) The award of a contract is based on demonstrated competence and qualification for the type of treatment service required and at fair and reasonable prices.~~

~~(b) [At a minimum, before the beginning of each fiscal year, the administrator] The head of the purchasing agency or the purchasing agency's designee shall, at a minimum, publish a notice describing the types of treatment services that may be needed throughout the fiscal year on [a periodic] an as-needed basis and inviting providers engaged in providing these treatment services to submit current statements of qualification and expressions of interest to the [office. The chief procurement officer may specify a uniform format for statements of quali-~~

fications.] purchasing agency. Providers may amend these statements by filing an amended or new statement prior to the date designated for submission.

(c) The ~~[administrator]~~ head of the purchasing agency or the purchasing agency's designee shall form an initial review committee for each profession, consisting of a minimum of three employees from a state agency or agencies with sufficient education, training, and licenses or credentials to evaluate the statements of qualifications ~~[which]~~ that the [administrator] head of the purchasing agency or the purchasing agency's designee receives in response to the notice published pursuant to subsection (b). The committee shall review and evaluate the submissions and other pertinent information, including references and reports, and prepare a list of qualified providers to provide treatment services during the fiscal year. Providers included on the list of qualified treatment providers may amend their statements of qualifications as necessary or appropriate. Providers shall immediately inform the ~~[administrator]~~ head of the purchasing agency of any changes in information furnished ~~[which]~~ that would disqualify the provider from being considered for a contract award.

(d) When the need to purchase treatment services arises, the head of a purchasing agency shall select the provider most qualified to provide the needed treatment services from the list of qualified providers.

(e) The head of the purchasing agency~~;~~ or ~~[a]~~ the purchasing agency's designee~~;~~ shall negotiate a contract, including a rate of compensation ~~[which]~~ that is fair and reasonable, established in writing, and based upon the estimated value, scope, nature, and complexity of the treatment services to be rendered, or use the rate established by the [administrator,] head of the purchasing agency, if any. If negotiations fail, upon written notice of an impasse to the provider selected under subsection (d), the head of the purchasing agency shall choose another provider from the list of qualified providers, and conduct further negotiations. Negotiations shall be conducted confidentially.

(f) Contracts for treatment services in excess of \$100,000 or that last for more than one year shall ~~[be procured using section 103F-402, competitive purchase of services, unless a waiver of this subsection is approved by the chief procurement officer.]~~ utilize an alternative applicable method of procurement pursuant to section 103F-401."

SECTION 3. Section 103F-405, Hawaii Revised Statutes, is amended to read as follows:

~~“[§103F-405]]~~ **Small purchases.** Purchases of health and human services ~~[of less than \$25,000]~~ for an amount less than the threshold established in section 103D-305(a) for goods and services are small purchases, and shall be made in accordance with [section 103D-305 and] rules adopted by the policy board ~~[to implement that section].”~~

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

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

(Approved June 1, 2023.)