

JAN 25 2023

A BILL FOR AN ACT

RELATING TO PURCHASES OF HEALTH AND HUMAN SERVICES.

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

1 SECTION 1. The purpose of this Act is to amend the
2 procurement laws relating to the purchase of health and human
3 services to promote procurement efficiency, program success, and
4 government accountability. This Act (1) increases the efficiency
5 of short-term treatment purchase of services, and (2) increases
6 the small purchase threshold for health and human services from
7 less than \$25,000 to less than \$100,000.

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

10 " ~~[+]~~ §103F-404 ~~[+]~~ Treatment purchase of services. (a)
11 Treatment services may be purchased in accordance with this
12 section if ~~[either or both of]~~ the following circumstances are
13 applicable:

14 ~~[(1) Such services may become necessary from time to time,~~
15 ~~but cannot be anticipated accurately on an annual or~~
16 ~~biennial basis; and~~
17 ~~(2) When deferring treatment until solicitation, provider~~
18 ~~selection, and contract formation can be completed,~~

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1 ~~the problem needing treatment would be rendered worse~~
2 ~~than at the time of diagnosis or assessment.~~

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

6 (1) The need for treatment services is unanticipated and
7 arises from time to time;

8 (2) The required treatment services are for a one-time
9 purchase for not more than \$100,000 and not longer
10 than one year;

11 (3) The treatment services are generally accepted
12 practices by the industry or profession; and

13 (4) The award of a contract is based on demonstrated
14 competence and qualification for the type of treatment
15 service required and at fair and reasonable prices.

16 (b) ~~[At a minimum, before the beginning of each fiscal~~
17 ~~year, the administrator]~~ The head of the purchasing agency, or
18 the purchasing agency's designee, shall, at a minimum, publish a
19 notice describing the types of treatment services that may be
20 needed throughout the fiscal year on [a periodic] an as-needed
21 basis and inviting providers engaged in providing these
22 treatment services to submit current statements of qualification

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1 and expressions of interest to the [~~office. The chief~~
2 ~~procurement officer may specify a uniform format for statements~~
3 ~~of qualifications.] purchasing agency. Providers may amend
4 these statements by filing an amended or new statement prior to
5 the date designated for submission.~~

6 (c) The [~~administrator]~~ head of the purchasing agency, or
7 the purchasing agency's designee, shall form an initial review
8 committee for each profession, consisting of a minimum of three
9 employees from a state agency or agencies with sufficient
10 education, training, and licenses or credentials to evaluate the
11 statements of qualifications [~~which]~~ that the [~~administrator]~~
12 head of the purchasing agency, or the purchasing agency's
13 designee, receives in response to the notice published pursuant
14 to subsection (b). The committee shall review and evaluate the
15 submissions and other pertinent information, including
16 references and reports, and prepare a list of qualified
17 providers to provide treatment services during the fiscal year.
18 Providers included on the list of qualified treatment providers
19 may amend their statements of qualifications as necessary or
20 appropriate. Providers shall immediately inform the
21 [~~administrator]~~ head of the purchasing agency of any changes in

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1 information furnished [~~which~~] that would disqualify the provider
2 from being considered for a contract award.

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

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

19 (f) Contracts for treatment services in excess of \$100,000
20 or that last for more than one year shall [~~be procured using~~
21 ~~section 103F-402, competitive purchase of services, unless a~~
22 ~~waiver of this subsection is approved by the chief procurement~~

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1 ~~officer.]~~ utilize an alternative applicable method of
2 procurement pursuant to section 103F-401."

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

5 "[~~f~~]§103F-405[~~]~~ **Small purchases.** Purchases of health and
6 human services of less than [~~\$25,000~~] \$100,000 are small
7 purchases, and shall be made in accordance with [~~section 103D-~~
8 ~~305~~~~and~~] rules adopted by the policy board to implement [~~that~~]
9 this section. The threshold amount for goods and services set
10 out in section 103D-305 shall also apply to section 103F-405."

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

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

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INTRODUCED BY:



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BY REQUEST

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Report Title:

Procurement; Treatment Purchase of Services; Small Purchase Threshold

Description:

Authorizes heads of purchasing agencies to issue requests for statements of qualification and to establish lists of qualified providers for treatment purchase of services. Increases the small purchase threshold for health and human services.

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

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DEPARTMENT: Accounting and General Services.

TITLE: A BILL FOR AN ACT RELATING TO PURCHASES OF HEALTH AND HUMAN SERVICES.

PURPOSE: To authorize the head of the purchasing agency, rather than the administrator of the State Procurement Office, to oversee the treatment purchase of services process. This bill also increases the small purchase threshold for health and human services from \$25,000 to \$100,000.

MEANS: Amend sections 103F-404, and 103F-405, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Health and human services are a high priority as residents continue to recover from the adverse health, social, and economic effects of the COVID-19 pandemic. Section 2 of this bill provides purchasing agencies an alternative way to competitively procure for health and human services that: (1) are sporadically used and (2) cannot be anticipated accurately on an annual basis. Treatment Purchase of Services method of procurement is intended to be used on a one-time, short-term basis. It is in the best interest of the State to allow each department to establish its own lists of qualified providers, when applicable.

Section 3 of this bill provides purchasing agencies an expedited way to competitively procure health and human services valued at less than \$100,000. The statute currently states that the small purchase threshold is less than \$25,000, but it should be aligned with section 103D-305, HRS, which is less than \$100,000.

In 2009, the small purchase threshold for chapter 103D, HRS, procurements was raised from \$50,000 to \$100,000 for goods or

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services, and \$250,000 for construction. The small purchase threshold for health and human services remained unchanged at \$25,000.

Impact on the public: Expedited services for specific needs for the public.

Impact on the department and other agencies: Agencies would have the ability to establish and use their own lists of qualified providers as needed, specifically for the provision of health and human services.

Purchasing agencies will have an expedited way to competitively procure health and human services of less than \$100,000, with reduced administrative costs and burden to the State and provider community. This would free up scarce contracting workforce resources to execute complex high-dollar value procurements. Also, increasing the small purchase threshold will align with chapter 103D-305, HRS.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: All agencies procuring health and human services pursuant to chapter 103F, HRS.

EFFECTIVE DATE: Upon approval.