
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 to read as follows:

3 "**§103D-102 Application of this chapter.** (a) This chapter
4 shall apply to all procurement contracts made by governmental
5 bodies whether the consideration for the contract is cash,
6 revenues, realizations, receipts, or earnings, any of which the
7 State receives or is owed; in-kind benefits; or forbearance;
8 provided that nothing in this chapter or rules adopted hereunder
9 shall prevent any governmental body from complying with the
10 terms and conditions of any other grant, gift, bequest, or
11 cooperative agreement.

12 (b) Notwithstanding any provision to the contrary in this
13 chapter, any moneys received by, on behalf of, or for the
14 benefit of a government body pursuant to a solicitation of funds
15 by the government body to cover the costs and expenses of a
16 state sponsored enterprise, including trips and other endeavors
17 to generate business opportunities and goodwill for the state,



1 shall be deposited into the general fund and disbursed pursuant
2 to legislative appropriation.

3 [~~b~~] (c) Notwithstanding subsection (a), this chapter
4 shall 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 or subsidies as those terms are
10 defined in section 42F-101, made by the State in
11 accordance with standards provided by law as
12 required by article VII, section 4, of the State
13 Constitution; or by the counties pursuant to
14 their respective charters or 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;

18 (C) To satisfy obligations that the State is required
19 to pay by law, including paying fees, permanent
20 settlements, subsidies, or other claims, making
21 refunds, and returning funds held by the State as
22 trustee, custodian, or bailee;



- 1 (D) For entitlement programs, including public
- 2 assistance, unemployment, and workers'
- 3 compensation programs, established by state or
- 4 federal law;
- 5 (E) For dues and fees of organizations of which the
- 6 State or its officers and employees are members,
- 7 including the National Association of Governors,
- 8 the National Association of State and County
- 9 Governments, and the Multi-State Tax Commission;
- 10 (F) For deposit, investment, or safekeeping,
- 11 including expenses related to their deposit,
- 12 investment, or safekeeping;
- 13 (G) To governmental bodies of the State;
- 14 (H) As loans, under loan programs administered by a
- 15 governmental body; and
- 16 (I) For contracts awarded in accordance with chapter
- 17 103F.
- 18 (3) To procure goods, services, or construction from a
- 19 governmental body other than the University of Hawaii
- 20 bookstores, from the federal government, or from
- 21 another state or its political subdivision;



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

5 (A) Services of expert witnesses for potential and
6 actual litigation of legal matters involving the
7 State, its agencies, and its officers and
8 employees, including administrative quasi-
9 judicial proceedings;

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

11 (C) Research and reference materials including books,
12 maps, periodicals, and pamphlets, which are
13 published in print, video, audio, magnetic, or
14 electronic form;

15 (D) Meats and foodstuffs for the Kalaupapa
16 settlement;

17 (E) Opponents for athletic contests;

18 (F) Utility services whose rates or prices are fixed
19 by regulatory processes or agencies;

20 (G) Performances, including entertainment, speeches,
21 and cultural and artistic presentations;



- 1 (H) Goods and services for commercial resale by the
- 2 State;
- 3 (I) Services of printers, rating agencies, support
- 4 facilities, fiscal and paying agents, and
- 5 registrars for the issuance and sale of the
- 6 State's or counties' bonds;
- 7 (J) Services of attorneys employed or retained to
- 8 advise, represent, or provide any other legal
- 9 service to the State or any of its agencies, on
- 10 matters arising under laws of another state or
- 11 foreign country, or in an action brought in
- 12 another state, federal, or foreign jurisdiction,
- 13 when substantially all legal services are
- 14 expected to be performed outside this State;
- 15 (K) Financing agreements under chapter 37D; and
- 16 (L) Any other goods or services which the policy
- 17 board determines by rules or the chief
- 18 procurement officer determines in writing is
- 19 available from multiple sources but for which
- 20 procurement by competitive means is either not
- 21 practicable or not advantageous to the State; and



1 (5) Which are specific procurements expressly exempt from
2 any or all of the requirements of this chapter by:

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

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

13 [~~(c)~~] (d) Governmental bodies making procurements which are
14 exempt from this chapter are nevertheless encouraged to adopt
15 and use provisions of this chapter and its implementing rules as
16 appropriate; provided that the use of one or more provisions
17 shall not constitute a waiver of the exemption conferred and
18 subject the procurement or the governmental body to any other
19 provision of this chapter."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "R. A. De...", written over a horizontal line.

JAN 23 2007



Report Title:

Solicitation of Funds; Disposition

Description:

Provides that any moneys received by, on behalf of, or for the benefit of a government body pursuant to a solicitation of funds by the government body to cover the costs and expenses of a state sponsored enterprise, including trips and other endeavors to generate business opportunities and goodwill for the state, shall be deposited into the general fund and disbursed pursuant to legislative appropriation.

