
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that, while the Hawaii
2 public procurement code promotes fair and equitable treatment,
3 fosters broad-based competition, and increases public
4 confidence, in a few instances, it restricts compliance with
5 legislative intent. The legislature notes that legislative
6 agencies that are preparing studies and reports for the
7 legislature typically have only six to seven months to prepare
8 and print the studies and reports to submit them in a timely
9 manner to the legislature. If an agency finds it necessary to
10 hire a contractor to complete the report, the requirements of
11 the Hawaii public procurement code can delay the start of work
12 on the project, which, in turn, impinges upon the agency's
13 ability to comply timely with the legislature's reporting
14 requirement. A procurement code exemption for these contracts
15 would benefit all legislative agencies that need to submit
16 studies or reports to the legislature. The legislature also
17 recognizes that this exemption is beneficial to the legislature
18 itself. The legislature wants and needs the studies and reports



1 to be completed and submitted in a timely manner. It is
2 therefore appropriate for the legislature to help to achieve
3 this result by removing a barrier to timely completion.

4 The purpose of this Act is to provide an exemption from the
5 Hawaii public procurement code for the services of contractors
6 under contract with a legislative agency to prepare a study or
7 report to be submitted to the legislature.

8 SECTION 2. 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 or subsidies as those terms are
17 defined in section 42F-101, made by [~~the~~]:

18 (i) The State in accordance with standards
19 provided by law as required by article VII,
20 section 4, of the State Constitution; [~~or by~~
21 ~~the~~]



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



- 1 (G) To governmental bodies of the State;
- 2 (H) As loans, under loan programs administered by a
3 governmental body; and
- 4 (I) For contracts awarded in accordance with chapter
5 103F~~[7]~~;
- 6 (3) To procure goods, services, or construction from a
7 governmental body other than the University of Hawaii
8 bookstores, from the federal government, or from
9 another state or its political subdivision;
- 10 (4) To procure the following goods or services [~~which~~]
11 that are available from multiple sources but for which
12 procurement by competitive means is either not
13 practicable or not advantageous to the State:
- 14 (A) Services of expert witnesses for potential and
15 actual litigation of legal matters involving the
16 State, its agencies, and its officers and
17 employees, including administrative quasi-
18 judicial proceedings;
- 19 (B) Works of art for museum or public display;
- 20 (C) Research and reference materials, including
21 books, maps, periodicals, and pamphlets [~~7~~ which]



- 1 that are published in print, video, audio,
2 magnetic, or 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[7] 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) Any other goods or services [~~which~~] that the
5 policy board determines by rules or the chief
6 procurement officer determines in writing is
7 available from multiple sources but for which
8 procurement by competitive means is either not
9 practicable or not advantageous to the State;
10 [~~and~~]
11 (5) [~~Which~~] For services of contractors contracted by a
12 legislative agency for the purpose of preparing a
13 study or report for submission to the legislature; and
14 (6) That are specific procurements expressly exempt from
15 any or all of the requirements of this chapter by:
16 (A) References in state or federal law to provisions
17 of this chapter or a section of this chapter, or
18 references to a particular requirement of this
19 chapter; and
20 (B) Trade agreements, including the Uruguay Round
21 General Agreement on Tariffs and Trade (GATT)
22 [~~which~~] that require certain non-construction and



1 non-software development procurements by the
 2 comptroller to be conducted in accordance with
 3 its terms."

4 SECTION 3. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.
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INTRODUCED BY:

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Report Title:

Procurement Code; Legislative Agencies

Description:

Provides a procurement exemption for contracted services with a legislative agency to prepare studies or reports for legislative submittal.

