HOUSE OF REPRESENTATIVES TWENTY-FIFTH LEGISLATURE, 2010 STATE OF HAWAII H.B. NO. ²¹³³ H.D. 1

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1		PART I
2	SECTI	ON 1. Chapter 103D, Hawaii Revised Statutes, is
3	amended by	adding a new section to part III to be appropriately
4	designated	and to read as follows:
5	" <u>§103</u>	D- Contract awards; contract formation.
6	Notwithsta	nding any other law to the contrary, in any contract
7	<u>to be awar</u>	ded under section 103D-302, 103D-303, 103D-304, 103D-
8	<u>305, 103D-</u>	306, or 103D-307:
9	(1)	The award shall be made within forty-five days of the
10		initial request for proposals but in no case later
11		than fifteen days after the deadline for proposals;
12	(2)	A contract shall be deemed effective ten days after
13		the notice of the award;
14	(3)	The solicitation, offer, bid, or proposal and the
15		notice of award shall constitute the entire contract
16		and agreement between the governmental body and the
17		contractor; and



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1	(4) A subsequent written and executed contract document			
2	shall not be required."			
3	PART II			
4	SECTION 2. The legislature finds that the Western States			
5	Contracting Alliance (WSCA) was formed in October 1993, by state			
6	purchasing directors from fifteen western states. The primary			
7	purpose of creating WSCA was to establish the means by which			
8	participating states may join together in cooperative multi-			
9	state contracting to achieve cost-effective and efficient			
10	acquisition of quality products and services. WSCA uses a			
11	cooperative, competitive model to capture the best pricing			
12	possible for the volume of purchases being made. However, once			
13	a brand determination has been made, and WSCA has been chosen as			
14	the contracting vehicle, there is no incentive for the chosen			
15	manufacturer to offer any additional discounts below the pre-			
16	negotiated WSCA price.			

17 The legislature further finds that WSCA does allow for the 18 extension of this competitive environment at the individual 19 order level by allowing each contract holder to designate 20 multiple resellers (servicing subcontractors) to quote and sell 21 products under their respective WSCA contract within any particular participating state. The use of reseller agents 22



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1 expands the discounting possibilities by pitting two or more 2 resellers against each other in a competitive environment; in 3 most cases ensuring additional discounts are offered by the 4 resellers to secure the task order award. Additionally, as 5 these selected reseller agents are usually local firms, WSCA 6 customers receive better service than if working directly with a 7 manufacturer that has little or no local presence. The majority 8 of states with WSCA agreements use reseller agents.

9 In the past, Hawaii used reseller agents, but currently the 10 state procurement office does not allow reseller agents to 11 participate under the WSCA contracts. This change has a greater 12 impact on the Hawaii economy than probably any other region, 13 particularly Hawaii's small business community. The use of 14 reseller agents will benefit Hawaii's economy with reduced 15 acquisition costs through increased task orders, reduced 16 shipping charges for deliveries from local resellers, increased 17 hiring of local sales support, and increased tax revenue for 18 Hawaii.

19 The purpose of this part is to implement recommendations of 20 the technology caucus work group by requiring the state 21 procurement office to authorize reseller agreements in

22 multi-state contracting agreements.



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1	SECTION 3. Chapter 103D, Hawaii Revised Statutes, is		
2	amended by adding a new section to be appropriately designated		
3	and to read as follows:		
4	" <u>§103D-</u> Reseller agreements. The state procurement		
5	office shall authorize reseller agreements as part of any multi-		
6	state contracting agreement."		
7	PART III		
8	SECTION 4. Section 103D-906, Hawaii Revised Statutes, is		
9	amended to read as follows:		
10	"[]]§103D-906[]] Preference for <u>Hawaii</u> small businesses[;		
11	set asides; use as subcontractors]. (a) The policy board shall		
12	adopt rules to promote the growth and development of <u>Hawaii</u>		
13 .	small businesses that shall include [+		
14	(1) Set asides for small businesses in appropriate		
15	classifications of requirements suitable to		
16	performance by small businesses; and		
17	(2) Criteria designed to encourage the use of small		
18	businesses as subcontractors on large contracts.]		
19	a five per cent price preference.		
20	(b) As used in this section "Hawaii small business" means		
21	a small business as defined in section 103D-901, having:		



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1	(1) Its principal place of business or ancillary		
2	headquarters located within the state; and		
3	(2) Not less than thirty-five per cent of its employees		
4	residing within the state."		
5	PART IV		
6	SECTION 5. If any provision of this Act, or the		
7	application thereof to any person or circumstance is held		
8	invalid, the invalidity does not affect other provisions or		
9	applications of the Act, which can be given effect without the		
10	invalid provision or application, and to this end the provisions		
11	of this Act are severable.		
12	SECTION 6. Statutory material to be repealed is bracketed		
13	and stricken. New statutory material is underscored.		
14	SECTION 7. This Act shall take effect upon its approval.		



Report Title: Procurement

Description:

Amends the Hawaii public procurement code to set time limits or awards in the request for proposal process, make public contracts effective as of the notice of the award, specify that the solicitation, offer, bid, or proposal and the award notice constitute the entire contract, and provide that a subsequent written and executed contract is not required. Requires the State Procurement Office to authorize reseller agreements in multi-state contracting agreements. Requires the Procurement Policy Board to adopt rules to promote Hawaii businesses. (HB2133 HD1)

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

