

JAN 24 2018

A BILL FOR AN ACT

RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII.

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

1 SECTION 1. The legislature finds that Act 87, Session Laws
2 of Hawaii 2013, was enacted to: (1) remove the university
3 president's full authority to act as chief procurement officer
4 for the university for all procurement contracts under chapter
5 103D, Hawaii Revised Statutes, (2) transfer authority to the
6 administrator of the state procurement office to act as chief
7 procurement officer with respect to university construction
8 contracts and university professional services contracts
9 relating to construction, and (3) address concerns about the
10 prudent and transparent management of public funds appropriated
11 by the legislature and expended by the university for
12 construction. Since its enactment, Act 87 has resulted in a
13 bifurcated procurement system at the university wherein a
14 different set of rules and procedures applies depending on
15 whether the procurement involves construction or construction
16 related professional services for university construction
17 projects. Requirements for construction or professional
18 services furnished by licensees under chapter 464, Hawaii

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1 Revised Statutes, must comply with the Hawaii public procurement
2 code and procedures governing state executive branch agencies,
3 while requirements for goods and services must comply with the
4 Hawaii public procurement code and university executive and
5 administrative procedures governing university transactions.

6 In January 2016, the state procurement office issued its
7 report to the legislature as required under Act 87, which
8 documents the extensive oversight, reviews, and coordination
9 between the university and the state procurement office on
10 procurements involving construction and professional services
11 related to construction. The conclusion of the state
12 procurement office in the report was that "based on SPO's review
13 of 102 UH construction solicitations, UH's Administrative
14 Procedures, and 14 post-award Site Visits, SPO finds that UH is
15 conducting construction procurements in a compliant, efficient
16 and transparent manner." In the report, the state procurement
17 office further set forth minimal recommendations for improvement
18 and mentioned several university specific procedures as "best-
19 practices."

20 The purpose of this Act is to reinstate and restore full
21 authority to the university president to act as the university's
22 chief procurement officer for all procurement contracts under
23 chapter 103D, Hawaii Revised Statutes.

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SECTION 2. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chief procurement officer for each of the following state entities shall be:

(1) The judiciary--the administrative director of the courts;

(2) The senate--the president of the senate;

(3) The house of representatives--the speaker of the house of representatives;

(4) The office of Hawaiian affairs--the chairperson of the board;

(5) The University of Hawaii--the president of the University of Hawaii; ~~[provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;]~~

(6) The department of education, excluding the Hawaii public library system--the superintendent of education;

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(7) The Hawaii health systems corporation--the chief executive officer of the Hawaii health systems corporation; and

(8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them--the administrator of the state procurement office of the department of accounting and general services."

SECTION 3. Section 304A-2672, Hawaii Revised Statutes, is amended to read as follows:

"§304A-2672 Powers of the board. Notwithstanding any law to the contrary, the board may:

(1) Designate as a university project, any undertaking, improvement, or facility on any one or more of the areas in one or more of the educational institutions under the jurisdiction of the board;

(2) Construct and maintain university projects, including a university project included or to be in a university system; ~~[provided that all procurements for professional services furnished by licensees under chapter 464 for construction projects shall be coordinated with the department of accounting and general services on behalf of the board; provided further that the department of accounting and general~~

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~~services shall not be responsible for procurements
determined by both the University of Hawaii and the
department of accounting and general services to be
professional services furnished by licensees under
chapter 464 for repair and maintenance;]~~

- (3) Combine two or more university projects into a university system on one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the system;
- (4) Combine two or more university projects, university systems, or university projects and university systems into a network, on any one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the network;
- (5) Prescribe and collect rents, fees, and charges for the use of or services furnished by any university project and the facilities thereof, and pledge any appropriation to any university project and the facilities thereof that in aggregate, produces revenue of the university at least sufficient to comply with section 304A-2681;
- (6) With the approval of the governor, issue revenue bonds under this subpart in such principal amount as may be

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1 authorized by the legislature from time to time to
2 finance in whole or in part the cost of construction
3 or the cost of maintenance of any university project,
4 including funding reserves therefor;

5 (7) Pledge to the punctual payment of revenue bonds and
6 interest thereon, all or any part of the revenue of
7 the university, including any appropriation, in an
8 amount sufficient to pay the revenue bonds and
9 interest as the same become due and to create and
10 maintain reasonable reserves therefor;

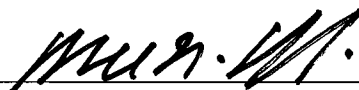
11 (8) Establish a loan program or a commercial paper program
12 upon terms and conditions that the board may
13 determine; and

14 (9) Advance moneys of the university, not otherwise
15 required, and do any and all other lawful acts as may
16 be necessary, convenient, or desirable, for carrying
17 into execution and administering this subpart."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken.

20 SECTION 5. This Act, upon its approval, shall take effect
21 on July 1, 2018.

22
23 INTRODUCED BY: _____



24 BY REQUEST

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Report Title:

University of Hawaii; Procurement

Description:

Reinstate the President of the University of Hawaii as the chief procurement officer for contracts for construction and construction related professional services furnished by licensees under chapter 464, Hawaii Revised Statutes.

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

DEPARTMENT: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING PROCUREMENT FOR THE UNIVERSITY OF HAWAII.

PURPOSE: This bill would reinstate the President of the University of Hawaii as the chief procurement officer for contracts for construction and construction related professional services furnished by licensees under chapter 464, Hawaii Revised Statutes (HRS).

MEANS: Amend sections 103D-203(a) and 304A-2672, HRS.

JUSTIFICATION: This bill would restore the authority of the University of Hawaii President to act as Chief Procurement Officer for the University of Hawaii (University) for all procurement contracts under chapter 103D, HRS. Act 87, Session Laws of Hawaii (SLH) 2013, transferred the University's authority for the procurement of construction and construction related professional services to the Administrator of the State Procurement Office (SPO). This has resulted in a bifurcated procurement system at the University wherein a different set of rules and procedures applies depending on whether the procurement involves construction and construction related professional services for University construction projects. The procurement of construction or construction related professional services furnished by licensees under chapter 464, HRS, must comply with the State of Hawaii procurement code and procedures governing State executive branch agencies. In contrast, for all other procurements, including procurements for goods and services, the University must comply with the State of

Hawaii procurement code and University executive and administrative procedures governing University transactions.

Act 87, SLH 2013, was enacted to address legislative concerns about the prudent and transparent management of public funds appropriated by the Legislature and expended by the University for construction. In January 2016, the SPO issued its report to the Legislature required under Act 87, SLH 2013. That report documents the extensive oversight, reviews, and coordination between the University and the SPO on procurements for construction and construction related professional services. The conclusion to the report stated:

"Based on SPO's review of 102 UH construction solicitations, UH's Administrative Procedures, and 14 post-award Site Visits, SPO finds that UH is conducting construction procurements in a compliant, efficient and transparent manner."

The report sets forth minimal recommendations for improvement and, in fact, lauded several University-specific procedures as "best-practices." Based on the SPO's findings, we believe that the University has proven that it is conducting its construction procurements in compliance with the State procurement code and in an efficient and transparent manner. As such, the University is seeking to reinstate the University President's full authority to act as the Chief Procurement Officer for all University procurements, including the procurement of construction and construction related professional services.

Impact on the public: There should be minimal impact to the public due to this change. In fact, there is potential for a positive impact on both the construction and architectural and engineering communities

since this legislation will place all contracting activities by the University under the control of a single, chief procurement officer as opposed to the bifurcated system currently in place. The University is subject to the State Procurement Code and in 2012 our University-level administrative procedures were revised to align with these requirements. Thus, like any other non-exempt State entity, the University must engage in procurements in accordance with the code.

Impact on the department and other agencies:
This change will result in a positive impact on University departments and agencies by streamlining all procurement activities. Under the current law all procurements for construction and architectural and engineering services must comply with a set of internal procedures that differs from the University administrative procedures. As a result, departments and agencies are faced with the burden of operating in two different systems with differing sets of forms and templates associated with chief procurement officer approval actions. Aggregating all chief procurement officer functions for the University under a sole chief procurement officer will ease the administrative burden not only on the University but also on the State Procurement Office.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: UOH-900.

OTHER AFFECTED
AGENCIES: Department of Accounting and General
Services, State Procurement Office.

EFFECTIVE DATE: July 1, 2018.