
A BILL FOR AN ACT

RELATING TO HAWAII PRODUCTS.

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

1 SECTION 1. Section 103D-1002, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§103D-1002 Hawaii products. (a) A purchasing agency
4 shall review all specifications in a bid or proposal for
5 purchase of Hawaii products where these products are available.

6 (b) All invitations for bids and requests for proposals
7 shall:

8 (1) Include a description of the products that are listed
9 in the Hawaii products list established pursuant to
10 this section, which may be used to complete the scope
11 of work specified in the invitation for bids or
12 request for proposals; or

13 (2) Allow as part of the offer, self-certification that
14 the Hawaii products qualify for preference;

15 provided that the offer may be evaluated along with any other
16 published criteria in the solicitation, including but not

17 limited to considerations such as specific nutritional content



1 or its equivalent, timing of delivery, quality or freshness, and
2 past performance, if applicable.

3 All Hawaii products in any bid or request for proposal
4 shall be made available for inspection, or additional
5 information may be requested to verify that the Hawaii product
6 meets the minimum specifications.

7 (c) All persons submitting bids or proposals to claim a
8 Hawaii products preference shall designate in their bids which
9 individual product and its price is to be supplied as a Hawaii
10 product.

11 (d) Where a bid or proposal contains both Hawaii and non-
12 Hawaii products, then for the purpose of selecting the lowest
13 bid or purchase price only, the price or bid offered for a
14 Hawaii product item shall be decreased by subtracting ten per
15 cent for class I Hawaii product items bid or offered, or fifteen
16 per cent for class II Hawaii product items bid or offered. The
17 lowest total bid or proposal, taking the preference into
18 consideration, shall be awarded the contract unless the bid or
19 offer provides for additional award criteria. The contract
20 amount of any contract awarded, however, shall be the amount of
21 the bid or price offered, exclusive of the preferences.



1 (e) Upon receipt and approval of application for Hawaii
2 products preference, the administrator shall include within the
3 Hawaii products list, the names of producers and manufacturers
4 in the State who are authorized to supply locally manufactured
5 soil enhancement products to state agencies under subsection
6 (k). The administrator of the state procurement office shall
7 maintain and distribute copies of the list to the purchasing
8 agencies of the various governmental agencies.

9 (f) Any person not on the Hawaii products list desiring a
10 preference pursuant to this section shall certify the Hawaii
11 product when submitting a response to a solicitation; provided
12 that the person certifies under penalty of sanctions that the
13 offered Hawaii products meet the requirements for the
14 preference.

15 The procurement officer may request additional information
16 deemed necessary to qualify a product and shall have sole
17 discretion in determining qualification for the preference.

18 Any offeror whose product is deemed not qualified for the
19 preference may appeal by filing a written request for
20 reexamination of facts to the procurement officer. Upon
21 determining that the offeror is qualified for the preference,



1 the procurement officer shall notify the administrator and the
2 administrator shall place the offeror on the Hawaii products
3 list.

4 (g) Solicitations shall contain a provision notifying
5 offerors who request application of the preference that in the
6 event of any change that materially alters the offeror's ability
7 to supply Hawaii products, the offeror shall immediately notify
8 the chief procurement officer in writing and the parties shall
9 enter into discussions for the purposes of revising the contract
10 or terminating the contract for convenience.

11 (h) Nothing in this section shall limit, restrict, or
12 preclude a Hawaii product from any preferences, set-asides, or
13 criteria that may be applied under section 103D-906, and this
14 section shall operate instead to mutually enhance the purpose of
15 this section and section 103D-906.

16 (i) This section shall not apply [~~whenever its~~] when at
17 least one of the following conditions is met:

18 (1) Its application will disqualify any governmental
19 agency from receiving federal funds or aid[-]; or

20 (2) The solicitation is for public works construction.



1 (j) Any purchase made or any contract awarded or executed
2 in violation of this section shall be void and no payment shall
3 be made by any purchasing agency on account of the purchase or
4 contract.

5 (k) For the purposes of this section, "soil enhancement
6 product" means any nonchemical soil preparation, conditioner, or
7 compost mixture designed to supplement aeration or add organic,
8 green waste, or decaying matter to the soil; provided that the
9 term does not include any plant fertilizer intended to stimulate
10 or induce plant growth through chemical means. All state
11 agencies shall include in their solicitations, when required,
12 the soil enhancement products identified on the Hawaii products
13 list pursuant to subsection (e).

14 (l) The department of accounting and general services
15 shall notify, in writing, all vendors of construction products
16 who are registered on the Hawaii Products List with the state
17 procurement office of any amendments to section 103D-1002,
18 including effective dates and dates of repeal."

19 SECTION 2. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings
21 that were begun before its effective date.



1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on January 1, 2050.



Report Title:

Hawaii Products Preference; Construction Procurements

Description:

Exempts construction procurements from the Hawaii products preference in section 103D-1002, Hawaii Revised Statutes. (SD1)

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

