
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 the State is in need
2 of increased transparency and accountability in government
3 contracts, and there is currently neither a method for statewide
4 data collection, nor clear authority of the centralized state
5 procurement office to mandate collection for proper reporting
6 and analysis of important metrics of procurement across the
7 various procurement jurisdictions across the State.

8 The purpose of this Act is to improve the State's
9 procurement process with increased transparency and
10 accountability by strengthening the centralized state
11 procurement office's oversight of all government contracts in
12 the State for information collection and retrieval processes
13 necessary for policy guidance, training, legislative reporting,
14 and general oversight of procurement across the State by:

15 (1) Mandating that the state procurement office establish
16 a statewide procurement database for data collection
17 that shall receive meaningful data on all state



1 procurements from all government entities and that is
2 accessible by all government entities;

3 (2) Clarifying the centralized role and authority of the
4 state procurement office across the State's
5 procurement jurisdictions to receive contracting
6 information for data collection, review, and policy
7 analysis; and

8 (3) Mandating statewide procurement oversight and
9 legislative reporting from the state procurement
10 office.

11 SECTION 2. Section 103D-107, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~103D-107~~]~~ **Compliance audit unit; establishment and**
14 **purpose.** (a) There is established a compliance audit unit
15 within the [~~office of the auditor.~~] state procurement office.

16 The purpose of this unit shall be to:

17 (1) Periodically review and audit procurement practices
18 within government to ensure compliance with this
19 chapter and all applicable rules; and

20 (2) Advocate competition, fairness, and accountability in
21 the procurement process.



1 Reports made by this unit shall be a matter of public record.
2 This unit shall utilize as part of the review process, a review
3 of records and activities specifically for trends and patterns
4 of occurrence.

5 (b) The office of the auditor shall periodically audit the
6 compliance audit unit, to ensure compliance with this chapter."

7 SECTION 3. Section 103D-108, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§103D-108 Compliance audit unit; duties and**
10 **responsibilities.** The compliance audit unit shall:

- 11 (1) Review and assess applicable innovations in
12 procurement methods or processes in other governmental
13 jurisdictions or as described in national or regional
14 publications;
- 15 (2) Review current or proposed statutes and rules to
16 determine whether they promote fairness, efficiency,
17 and accountability in the procurement process;
- 18 (3) Review selected contracts awarded pursuant to section
19 103D-304;
- 20 (4) Conduct studies, research, and analyses, and make
21 reports and recommendations with respect to existing



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- 1 and new methods of procurement and other matters
- 2 within the jurisdiction of the policy board;
- 3 (5) Establish and maintain a procurement library;
- 4 (6) Establish and maintain a database of meaningful
- 5 statewide procurement contract data; provided that all
- 6 data on the database shall be made accessible to each
- 7 governmental entity and selective non-confidential
- 8 data may be made accessible to the general public to
- 9 further transparency and accountability, as determined
- 10 appropriate by the administrator;
- 11 ~~[(6)]~~ (7) Report to the appropriate agency and the chief
- 12 procurement officer stating the areas of noncompliance
- 13 and recommendations for remedial action; and
- 14 ~~[(7)]~~ (8) ~~[Be present at]~~ Participate in legislative
- 15 hearings and policy board meetings to present the
- 16 findings of the unit."

17 SECTION 4. Section 103D-109, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "~~[(1)]~~**\$103D-109**~~[(1)]~~ **Compliance audit unit; government**
 20 **officers and employees to cooperate.** The officers and employees
 21 of the State and of each county shall cooperate with this unit



1 and furnish to them such information related to procurement
2 activities as may be called for in connection with the
3 information gathering and research activities of this unit[-],
4 including by reporting contract data pursuant to requirements
5 and procedures established by the administrator, for inclusion
6 in the database established under subsection 103D-108(6). The
7 information shall be provided in a timely manner pursuant to
8 procedures established by the administrator and shall be free of
9 charge."

10 SECTION 5. Section 103D-205, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) For their respective jurisdictions and unless
13 otherwise specifically provided in this chapter, each chief
14 procurement officer shall serve as the central procurement
15 officer for the officer's respective jurisdiction and:

- 16 (1) Procure or supervise the procurement of all goods,
17 services, and construction;
- 18 (2) Exercise general supervision and control over all
19 inventories of goods;
- 20 (3) Sell, trade, or otherwise dispose of surplus goods;



- 1 (4) Establish and maintain programs for the inspection,
2 testing, and acceptance of goods, services, and
3 construction;
- 4 (5) Coordinate with the administrator regarding
5 procurement policies, opportunities for statewide
6 innovation implementation, and concerns;
- 7 (6) Report procurement contract data pursuant to
8 requirements established by the administrator, in the
9 form and manner prescribed by the state procurement
10 office[~~+~~], for inclusion in the database established
11 under subsection 103D-108(6); and
- 12 (7) Assist and cooperate with the administrator regarding
13 any compliance review by the administrator pursuant to
14 section 103D-206."

15 SECTION 6. Section 103D-206, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§103D-206 Additional duties of the administrator of the**
18 **procurement office.** In addition to the duties referred to in
19 section 103D-205, the administrator shall:

- 20 (1) Perform periodic review of the procurement practices
21 and procedures of all governmental bodies, in



1 collaboration with the state procurement policy board,
2 for compliance with the procurement code;

3 (2) Assist, advise, and guide governmental bodies in
4 matters relating to procurement~~[?]~~, including
5 development and coordination of policies for
6 procurement innovation, transparency, and
7 accountability;

8 (3) Determine corrective actions; provided that if a
9 procurement officer under the jurisdiction of the
10 administrator of the state procurement office or a
11 chief procurement officer of any of the other state
12 entities under section 103D-203, fails to comply with
13 any determination rendered by the administrator within
14 thirty days from the date of the issuance of the
15 determination, or longer if permitted by the
16 administrator upon request by the procurement officer
17 or a chief procurement officer, the procurement
18 officer or chief procurement officer shall be subject
19 to an administrative fine under section 103D-106, for
20 every day of noncompliance;



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- 1 (4) Develop and administer a statewide procurement
- 2 orientation and training program;
- 3 (5) Develop, distribute, and maintain a procurement manual
- 4 for all state procurement officials; [~~and~~]
- 5 (6) Develop, distribute, and maintain a procurement guide
- 6 for vendors wishing to do business with the State and
- 7 its counties[~~-~~]; and
- 8 (7) Coordinate and serve as a liaison to the policy board
- 9 and chief procurement officers on policy matters,
- 10 including reporting of procurement metrics across the
- 11 State for all rulemaking and legislative initiatives
- 12 relating to procurement policy."

13 SECTION 7. Section 103D-207, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "[~~§~~103D-207[~~]~~] **Centralization of procurement authority.**

16 Except as otherwise provided in sections 103D-208, 103D-209, and
 17 103D-210, all rights, powers, duties, and authority relating to
 18 the procurement of goods, services, and construction, and the
 19 management, control, warehousing, sale, and disposal of goods,
 20 services, and construction now vested in, or exercised by, the
 21 governmental bodies of the State and counties are hereby



1 transferred to the respective chief procurement officers[-], who
2 shall coordinate with the administrator for statewide data
3 collection, training, and policy initiatives."

4 SECTION 8. Section 103D-212, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~§~~103D-212~~§~~] **Collection of data concerning public**
7 **procurement.** The chief procurement officer and the heads of all
8 purchasing agencies shall cooperate in the preparation of
9 statistical data concerning the procurement, usage, and
10 disposition of all goods, services, and construction, and employ
11 such trained personnel as may be necessary to carry out this
12 function. All using agencies shall furnish such reports as the
13 chief procurement officer and state procurement office may
14 require concerning usage, needs, and stocks on hand, and the
15 chief procurement officer or state procurement office may
16 prescribe forms to be used by the using agencies in
17 requisitioning, ordering, and reporting of goods, services, and
18 construction."

19 SECTION 9. Section 103D-326, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~+~~\$103D-326~~+~~ **Fiscal responsibility.** (a) Every
2 contract modification, change order, or contract price
3 adjustment under a contract shall be subject to prior written
4 certification by the appropriate fiscal officer for funding the
5 project or the contract, as to the effect of the contract
6 modification, change order, or adjustment in contract price on
7 the total project budget or the total contract budget. In the
8 event that the certification of the fiscal officer discloses a
9 resulting increase in the total project budget or the total
10 contract budget, the procurement officer shall not execute or
11 make such contract modification, change order, or adjustment in
12 contract price unless sufficient funds are available therefor,
13 or the scope of the project or contract is adjusted so as to
14 permit the degree of completion that is feasible within the
15 total project budget or total contract budget as it existed
16 prior to the contract modification, change order, or adjustment
17 in contract price under consideration; provided, that with
18 respect to the validity, as to the contractor, of any executed
19 contract modification, change order, or adjustment in contract
20 price which the contractor has reasonably relied upon, it shall
21 be presumed that there has been compliance with this section.



1 (b) Any contract modification, change order, or adjustment
2 in contract price that would result in the lesser of either:
3 (1) A fifty per cent increase of the initial contract
4 price; or
5 (2) An increase in excess of \$1,000,000 above the initial
6 contract price,
7 shall be submitted with associative cost and pricing analysis to
8 the chief procurement officer for approval, then shall be
9 submitted to the administrator for notification."

10 SECTION 10. Section 103D-809, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~103D-809~~]~~ **Review of procurement requirements.** The
13 ~~[chief procurement officer may]~~ administrator shall collect
14 information concerning the type, cost, quality, and quantity of
15 commonly used goods, services, or construction being procured or
16 used by state public procurement units~~[-]~~, in coordination with
17 the chief procurement officer. The chief procurement officer
18 may also collect and report this information from local public
19 procurement units. The ~~[chief procurement officer may]~~ state
20 procurement office shall make available all such available
21 information to any public procurement unit upon request."



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1 SECTION 11. This Act does not affect the rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 12. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$ or so
6 much thereof as may be necessary for fiscal year 2022-2023 for
7 the state procurement office to establish the statewide
8 procurement database and establish necessary positions pursuant
9 to this Act.

10 The sum appropriated shall be expended by the state
11 procurement office for the purposes of this Act.

12 SECTION 13. All appropriations, records, equipment,
13 machines, files, supplies, contracts, books, papers, documents,
14 maps, and other personal property heretofore made, used,
15 acquired, or held by the office of the auditor relating to the
16 functions transferred to the state procurement agency by
17 section 2 of this Act shall be transferred with the functions to
18 which they relate.

19 SECTION 14. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



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1 SECTION 15. This Act shall take effect upon its approval;
2 provided that section 12 of this Act shall take effect on
3 July 1, 2022.

4

INTRODUCED BY:



JAN 25 2021



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Report Title:

Procurement; State Procurement Office; Database; Oversight

Description:

Transfers the procurement compliance audit unit from the office of the auditor to the state procurement office. Requires the state procurement office to establish a database of all government procurement contracts, accessible to each governmental entity. Requires state procurement office oversight of procurement information. Appropriates funds to establish the database and for related positions.

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

