
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Chapter 103F, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:
4 "§103F- Fair and reasonable pricing policy; cost or
5 pricing data. (a) For each contracting action under this
6 chapter, including any change orders or contract modifications
7 that increase the original contract amount, the purchasing
8 agency shall make a written determination that the amount of the
9 contracting action is fair and reasonable.
10 (b) In determining whether the amount of the contracting
11 action is fair and reasonable, the purchasing agency shall
12 obtain the data necessary to perform a cost or price analysis to
13 determine that the amount of the contracting action is a fair
14 and reasonable price."
15 SECTION 2. Section 103D-201, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:



1 "(b) The policy board shall consist of [~~seven~~] six
2 members. Notwithstanding the limitations of section 78-4, the
3 members of the board shall include:

4 (1) The comptroller;

5 (2) A county employee with significant high-level
6 procurement experience; and

7 (3) [~~Five~~] Four persons who shall not otherwise be full-
8 time employees of the State or any county; provided
9 that at least one member shall be a [~~certified~~]
10 professional in the field of procurement, at least one
11 member shall have significant high-level, federal
12 procurement experience, and at least [~~two members~~] one
13 member shall have significant experience in the field
14 of health and human services.

15 Each appointed member shall have demonstrated sufficient
16 business or professional experience to discharge the functions
17 of the policy board. The initial and subsequent members of the
18 policy board, other than the comptroller, shall be appointed by
19 the governor from a list of [~~three~~] two individuals for each
20 vacant position, submitted by a nominating committee composed of
21 [~~four~~] three individuals chosen as follows: [~~two persons~~] one



1 person appointed by the governor; one person appointed by the
2 president of the senate; and one person appointed by the speaker
3 of the house. Except as provided in this section, the selection
4 and terms of the policy board members shall be subject to the
5 requirements of section 26-34. No member of the policy board
6 shall act concurrently as a chief procurement officer. The
7 members of the policy board shall devote such time to their
8 duties as may be necessary for the proper discharge thereof."

9 SECTION 3. Section 103F-404, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~§~~103F-404~~]~~ **Treatment purchase of services.** (a)
12 Treatment services may be purchased in accordance with this
13 section if [~~either or both of~~] the following circumstances are
14 applicable:

15 [~~(1) Such services may become necessary from time to time,~~
16 ~~but cannot be anticipated accurately on an annual or~~
17 ~~biennial basis; and~~
18 ~~(2) When deferring treatment until solicitation, provider~~
19 ~~selection, and contract formation can be completed,~~
20 ~~the problem needing treatment would be rendered worse~~
21 ~~than at the time of diagnosis or assessment.~~



1 ~~Contracts for treatment services shall be awarded on the basis~~
2 ~~of demonstrated competence and qualification for the type of~~
3 ~~service required, and at fair and reasonable prices.~~

4 ~~(b) At a minimum, before the beginning of each fiscal~~
5 ~~year, the administrator shall publish a notice describing the~~
6 ~~types of treatment services that may be needed throughout the~~
7 ~~year on a periodic basis and inviting providers engaged in~~
8 ~~providing these treatment services to submit current statements~~
9 ~~of qualification and expressions of interest to the office. The~~
10 ~~chief procurement officer may specify a uniform format for~~
11 ~~statements of qualifications.]~~

12 (1) The need for treatment services is unanticipated and
13 arises from time to time;

14 (2) The required services are for a one-time purchase for
15 not more than \$100,000 and no longer than one year;

16 (3) The services are industry standard services and are
17 generally accepted practices by the industry or
18 profession; and

19 (4) The award of a contract is based on demonstrated
20 competence and qualification for the type of service
21 required and at fair and reasonable prices.



1 (b) The head of the purchasing agency, or a designee,
2 shall, at a minimum, publish a notice describing the types of
3 treatment services that may be needed throughout the fiscal year
4 on an as-needed basis and invite providers engaged in providing
5 these treatment services to submit current statements of
6 qualification and expressions of interest to the purchasing
7 agency. Providers may amend these statements by filing an
8 amended or new statement prior to the date designated for
9 submission.

10 (c) The [~~administrator~~] head of the purchasing agency
11 shall form an initial review committee for each profession,
12 consisting of a minimum of three employees from a state agency
13 or agencies with sufficient education, training, and licenses or
14 credentials to evaluate the statements of qualifications which
15 the [~~administrator~~] head of the purchasing agency receives in
16 response to the notice published pursuant to subsection (b).
17 The committee shall review and evaluate the submissions and
18 other pertinent information, including references and reports,
19 and prepare a list of qualified providers to provide treatment
20 services during the fiscal year. Providers included on the list
21 of qualified treatment providers may amend their statements of



1 qualifications as necessary or appropriate. Providers shall
2 immediately inform the [~~administrator~~] head of the purchasing
3 agency of any changes in information furnished [~~which~~] that
4 would disqualify the provider from being considered for a
5 contract award.

6 (d) When the need to purchase treatment arises, the head
7 of a purchasing agency shall select the provider most qualified
8 to provide the needed treatment from the list of qualified
9 providers.

10 (e) The head of the purchasing agency, or a designee,
11 shall negotiate a contract, including a rate of compensation
12 [~~which~~] that is fair and reasonable, established in writing, and
13 based upon the estimated value, scope, nature, and complexity of
14 the treatment services to be rendered, or use the rate
15 established by the [~~administrator,~~] head of the purchasing
16 agency, if any. If negotiations fail, upon written notice of an
17 impasse to the provider selected under subsection (d), the head
18 of the purchasing agency shall choose another provider from the
19 list of qualified providers, and conduct further negotiations.
20 Negotiations shall be conducted confidentially.



1 (f) Contracts for treatment services in excess of \$100,000
2 or that last for more than one year shall ~~[be procured using~~
3 ~~section 103F-402, competitive purchase of services, unless a~~
4 ~~waiver of this subsection is approved by the chief procurement~~
5 ~~officer.] utilize an applicable method of procurement."~~

6 SECTION 4. Section 103F-405, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~§~~103F-405~~] Small purchases.~~ Purchases of health and
9 human services of less than [~~\$25,000~~] \$100,000 are small
10 purchases, and shall be made in accordance with [~~section 103D-~~
11 ~~305 and~~] rules adopted by the policy board to implement [~~that~~
12 this section."

13 SECTION 5. Section 103F-202, Hawaii Revised Statutes, is
14 repealed.

15 "~~[§103F-202] Community council.~~ (a) ~~There is~~
16 ~~established a community council on purchase of health and human~~
17 ~~services. The community council shall be comprised of no more~~
18 ~~than nine voting members, and one non-voting, ex-officio member~~
19 ~~of the interagency committee on purchase of health or human~~
20 ~~services designated by the majority of the members of the~~
21 ~~committee. There shall be a member from each county, except the~~



1 ~~county of Kalawao, and up to five members interested in health,~~
2 ~~human services, employment, or the provision of services to~~
3 ~~children and youth.~~

4 ~~(b) Voting members shall be appointed by the governor and~~
5 ~~serve for four years. Each voting member shall serve until the~~
6 ~~member's successor is appointed. Section 26-34 shall apply~~
7 ~~insofar as it relates to the number of terms and consecutive~~
8 ~~number of years a member may serve on the council.~~

9 ~~(c) Members shall serve without compensation, but shall be~~
10 ~~reimbursed for actual expenses, including travel expenses,~~
11 ~~necessary for the performance of their duties.~~

12 ~~(d) The community council shall advise the administrator~~
13 ~~about or assist the administrator in:~~

- 14 ~~(1) Market or business conditions facing providers;~~
15 ~~(2) Securing input from providers to facilitate agency~~
16 ~~decision-making to assess needs, plan, budget, and~~
17 ~~purchase health and human services;~~
18 ~~(3) Facilitating provider participation in the process~~
19 ~~used by state agencies to plan for and purchase health~~
20 ~~and human services;~~



- 1 ~~(4) Establishing schedules for planning and purchasing~~
- 2 ~~health and human services in relation to the annual~~
- 3 ~~and biennial budget cycles;~~
- 4 ~~(5) Developing criteria to evaluate proposals to provide~~
- 5 ~~health and human services, and for restrictive~~
- 6 ~~purchases under section 103F-403; and~~
- 7 ~~(6) The needs of purchasing agencies and providers for~~
- 8 ~~education and training to improve planning for or~~
- 9 ~~purchasing of health and human services."]~~

10 SECTION 6. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2112.



Report Title:

Procurement; Purchase of Health and Human Services; Procurement Policy Board; Treatment Services; Community Council

Description:

Requires purchasing agencies to make a written determination that the amount of a contracting action for purchases of health and human services is fair and reasonable. Amends the selection process and composition of the procurement policy board. Amends the circumstances for when treatment services may be purchased and the procedure to purchase such services. Increases the small purchase threshold. Repeals the establishment of the community council on purchase of health and human services. Effective 7/1/2112. (HD1)

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