
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~~
13 ~~shall have significant experience in the field of~~
14 ~~health and human services.~~] one member representing
15 either the Hawaii Alliance of Nonprofit Organizations
16 (HANO) or Protecting Hawaii's Ohana, Children, Under-
17 Served, Elderly and Disabled (PHOCUSED), or an
18 organization similar thereto.

19 Each appointed member shall have demonstrated sufficient
20 business or professional experience to discharge the functions
21 of the policy board. The initial and subsequent members of the



1 policy board, other than the comptroller, shall be appointed by
2 the governor from a list of [~~three~~] two individuals for each
3 vacant position, submitted by a nominating committee composed of
4 [~~four~~] three individuals chosen as follows: [~~two persons~~] one
5 person appointed by the governor; one person appointed by the
6 president of the senate; and one person appointed by the speaker
7 of the [~~house.~~] house of representatives. Except as provided in
8 this section, the selection and terms of the policy board
9 members shall be subject to the requirements of section 26-34.
10 No member of the policy board shall act concurrently as a chief
11 procurement officer. The members of the policy board shall
12 devote such time to their duties as may be necessary for the
13 proper discharge thereof."

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

16 "[~~§~~103F-404[~~]~~] **Treatment purchase of services.** (a)
17 Treatment services may be purchased in accordance with this
18 section if [~~either or both of~~] the following circumstances are
19 applicable:



1 ~~[(1) Such services may become necessary from time to time,~~
2 ~~but cannot be anticipated accurately on an annual or~~
3 ~~biennial basis; and~~

4 ~~(2) When deferring treatment until solicitation, provider~~
5 ~~selection, and contract formation can be completed,~~
6 ~~the problem needing treatment would be rendered worse~~
7 ~~than at the time of diagnosis or assessment.~~

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

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

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



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

3 (3) The services are industry standard services and are
4 generally accepted practices by the industry or
5 profession; and

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

9 (b) The head of the purchasing agency, or a designee,
10 shall, at a minimum, publish a notice describing the types of
11 treatment services that may be needed throughout the fiscal year
12 on an as-needed basis and invite providers engaged in providing
13 these treatment services to submit current statements of
14 qualification and expressions of interest to the purchasing
15 agency. Providers may amend these statements by filing an
16 amended or new statement prior to the date designated for
17 submission.

18 (c) The [~~administrator~~] head of the purchasing agency
19 shall form an initial review committee for each profession,
20 consisting of a minimum of three employees from a state agency
21 or agencies with sufficient education, training, and licenses or



1 credentials to evaluate the statements of qualifications which
2 the [~~administrator~~] head of the purchasing agency receives in
3 response to the notice published pursuant to subsection (b).
4 The committee shall review and evaluate the submissions and
5 other pertinent information, including references and reports,
6 and prepare a list of qualified providers to provide treatment
7 services during the fiscal year. Providers included on the list
8 of qualified treatment providers may amend their statements of
9 qualifications as necessary or appropriate. Providers shall
10 immediately inform the [~~administrator~~] head of the purchasing
11 agency of any changes in information furnished [~~which~~] that
12 would disqualify the provider from being considered for a
13 contract award.

14 (d) When the need to purchase treatment services arises,
15 the head of a purchasing agency shall select the provider most
16 qualified to provide the needed treatment from the list of
17 qualified providers.

18 (e) The head of the purchasing agency, or a designee,
19 shall negotiate a contract, including a rate of compensation
20 [~~which~~] that is fair and reasonable, established in writing, and
21 based upon the estimated value, scope, nature, and complexity of



1 the treatment services to be rendered, or use the rate
2 established by the [~~administrator,~~] head of the purchasing
3 agency, if any. If negotiations fail, upon written notice of an
4 impasse to the provider selected under subsection (d), the head
5 of the purchasing agency shall choose another provider from the
6 list of qualified providers, and conduct further negotiations.
7 Negotiations shall be conducted confidentially.

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

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

15 "[~~+~~§103F-405[~~+~~] **Small purchases.** Purchases of health and
16 human services of less than [~~\$25,000~~] \$100,000 are small
17 purchases, and shall be made in accordance with [~~section 103D-~~
18 ~~305 and~~] rules adopted by the policy board to implement [~~that~~]
19 this section."

20 SECTION 5. Section 103F-202, Hawaii Revised Statutes, is
21 repealed.



1 ~~["§103F-202] Community council. (a) There is~~
2 ~~established a community council on purchase of health and human~~
3 ~~services. The community council shall be comprised of no more~~
4 ~~than nine voting members, and one non-voting, ex officio member~~
5 ~~of the interagency committee on purchase of health or human~~
6 ~~services designated by the majority of the members of the~~
7 ~~committee. There shall be a member from each county, except the~~
8 ~~county of Kalawao, and up to five members interested in health,~~
9 ~~human services, employment, or the provision of services to~~
10 ~~children and youth.~~

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

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

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

21 ~~(1) Market or business conditions facing providers;~~



- 1 ~~(2) Securing input from providers to facilitate agency~~
2 ~~decision making to assess needs, plan, budget, and~~
3 ~~purchase health and human services;~~
- 4 ~~(3) Facilitating provider participation in the process~~
5 ~~used by state agencies to plan for and purchase health~~
6 ~~and human services;~~
- 7 ~~(4) Establishing schedules for planning and purchasing~~
8 ~~health and human services in relation to the annual~~
9 ~~and biennial budget cycles;~~
- 10 ~~(5) Developing criteria to evaluate proposals to provide~~
11 ~~health and human services, and for restrictive~~
12 ~~purchases under section 103F-403; and~~
- 13 ~~(6) The needs of purchasing agencies and providers for~~
14 ~~education and training to improve planning for or~~
15 ~~purchasing of health and human services."]~~

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 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. (SD1)

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

