

JAN 27 2021

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. During challenging economic times, it is
2 necessary for the State to investigate and employ new and
3 innovative ways of maintaining and improving state services and
4 infrastructure, while ensuring the prudent and cost-effective
5 expenditure of public moneys.

6 The purpose of this Act is to authorize the administrator
7 of the state procurement office to develop and administer a
8 procurement automation system across the executive branch and
9 state agencies.

10 The following shall be incorporated in order to fulfill the
11 above purpose:

12 (1) Authorize the administrator of the state procurement
13 office to develop and administer a procurement
14 automation system and authorize the administrator of
15 the state procurement to charge and collect an
16 administrative fee to cover system costs;

- 1 (2) Establish a procurement automation system special
2 fund; and
- 3 (3) Authorize the administrator of the state procurement
4 office to establish procedures for issuing the final
5 decision on any procurement practice, procurement
6 policy and procedures, and compliance investigation
7 conducted by the state procurement office, pursuant to
8 section 103D-206, Hawaii Revised Statutes.

9 The state procurement office is responsible for the
10 solicitation, award, and administration of hundreds of
11 individual multi-agency contracts and agreements, processing
12 alternate procurement requests submitted by customer agencies,
13 advising customer agencies on procurement-related matters, and
14 providing statewide procurement training to the State's
15 decentralized procurement staff.

16 The statewide, multi-agency contracts administered by the
17 state procurement office staff take advantage of the State's
18 aggregated purchasing power to leverage better pricing and value
19 for not only State of Hawaii executive branch agencies, but also
20 legislative and judicial branch agencies, the University of
21 Hawaii, the department of education, and the counties.

22 In fiscal year 2018-2019, these contracts saved the State
23 of Hawaii and its political subdivisions approximately

1 \$19,000,000 in goods and services, plus savings in personnel,
2 purchasing, and subject matter expert hours, compared to what
3 these agencies would have likely paid without these contracts in
4 place.

5 A significant and growing number of statewide purchasing
6 offices in other states, such as Utah, Virginia, Missouri,
7 Washington, New Mexico, Texas, and Minnesota, operate using a
8 self-funded model derived from a small percentage administrative
9 fee included as part of statewide contracts.

10 Research shows that administrative fees range from 0.75 per
11 cent to 2 per cent.

12 Based on the state procurement office's past contract usage
13 and the funding needed to implement and operate the statewide
14 automation project, the state procurement office proposes the
15 implementation of less than a one per cent (1%) administrative
16 fee beginning in fiscal year 2021-2022. This fee will be
17 implemented in large statewide cooperative agreements and will
18 be used to pay for management of the automation system to
19 include but not limited to implementation, legacy transition,
20 maintenance, system training, and system configuration.

21 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
22 amended by adding to part II a new section to be appropriately
23 designated and to read as follows:

1 "§103D- State procurement automation system special
2 fund; administrative fee. (a) There shall be established in
3 the state treasury the state procurement automation system
4 special fund for the project management of the procurement
5 automation system.

6 (b) All revenues collected by the state procurement office
7 shall be deposited in the state procurement automation system
8 special fund and expended by the state procurement administrator
9 to fund the project management of the procurement automation
10 system to achieve the state procurement mission for digital
11 transformation and streamlining."

12 SECTION 3. Section 103D-206, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§103D-206 Additional duties of the administrator of the**
15 **procurement office.** In addition to the duties referred to in
16 section 103D-205, the administrator shall:

17 (1) Perform periodic review of the procurement practices
18 and procedures of all governmental bodies, in
19 collaboration with the state procurement policy board,
20 for compliance with the procurement code[+] and
21 establish procedures for final review decision on
22 procurement practices, policy and compliance
23 investigations, except that such procedures shall not

1 apply to the protest process as set forth in sections
2 103D-701 and 103D-709 and provided that the
3 administrator shall submit an annual report of these
4 reviews along with final resolution of reviews, and
5 other statistical data to the procurement policy board
6 on a quarterly basis;

7 (2) Assist, advise, and guide governmental bodies in
8 matters relating to procurement;

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

22 (4) Develop and administer a statewide procurement
23 orientation and training program;

1 (5) Develop, distribute, and maintain a procurement manual
2 for all state procurement officials; [~~and~~]

3 (6) Develop, distribute, and maintain a procurement guide
4 for vendors wishing to do business with the State and
5 its counties[~~;~~]; and

6 (7) Charge and collect an administrative fee to cover
7 procurement automation system costs."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

[Handwritten Signature]

13

BY REQUEST

Report Title:

State Procurement Automation; Procurement Reviews

Description:

Authorizes the State Procurement Administrator to develop and administer a procurement automation system, authorizes the State Procurement Administrator to charge and collect an administrative fee to cover the costs of the procurement automation system, establishes a procurement automation system special fund, and supports the State Procurement Administrator's final decision on investigations of procurement policy and compliance.

JUSTIFICATION SHEET

SB. NO. 1035

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: Authorize the State Procurement Administrator to develop and administer a procurement automation system, and charge and collect an administrative fee to cover the costs of the procurement automation system; establish a procurement automation system special fund; and support the State Procurement Administrator's final decision on investigations of procurement policy and compliance.

MEANS: Add a new section to part II of chapter 103D, Hawaii Revised Statutes (HRS), and amend section 103D-206, HRS.

JUSTIFICATION: Due to the uncertain economy and expected limits on funding caused by the impact of COVID-19 in Hawaii that are forecasted to continue an additional four years, the State Procurement Office (SPO) is seeking ways to maintain its procurement services with less reliance on general funds. The SPO has evaluated an automated procurement business model used by at least ten other states to cover its own costs. This procurement automation system would be implemented and managed at a working level for all 18 executive branch departments. The proposed automation system would increase the ability of state departments to analyze department spending to make the best decisions, reduce paper, reduce purchasing transaction time, and leverage technologies such as eSign and Cloud space. A special fund consisting of administrative fees collected by the automation system would cover program management costs, including resources and tools.

This bill gives the SPO the authority to

administer a special fund and charge and receive an administrative fee.

Impact on the public: The procurement automation system will increase efficiency and speed up response for user-agencies, thereby realizing a cost-savings of greater than \$1,000,000.

Impact on the department and other agencies:

An eMarketplace would allow agencies to easily procure using statewide and cooperative contracts, hence reducing overall buying time. Automation would be a seamless, professional implementation of business process reengineering and procurement system modules for each department and respective attached agencies. In this eProcurement model, the SPO has the responsibility and incentive to generate enough revenue to cover the costs of the procurement automation system. This incentive will be used to maintain and raise the purchasing power of the automation system and allow for additional statewide contracts to be developed and posted. This will also initiate procurement templates, decreasing the need to repeat the full procurement process for subsequent procurements. Other positive impacts include faster access to government goods and services; digital and transparent spend data; improved, user-friendly procurement templates; SPO response to and guidance for complex procurements; and faster and enhanced sharing of information by agencies.

Currently, section 103D-206(1), HRS, requires the State Procurement Administrator to perform periodic reviews of practices and procedures of all governmental bodies for compliance with the procurement code. This bill gives the Administrator the clear authority to establish procedures for final decision on these reviews.

Impact on the public: This bill will provide greater confidence that departments are following the state procurement code, plus

give clear and transparent access to the State Procurement Administrator's investigations and decisions.

Impact on the department and other agencies:

This bill would provide faster turnaround by improving burdensome or broken procurement processes and policies for the department. These reviews by the State Procurement Administrator would reveal gaps and weaknesses in procurement training and would allow the SPO to mend those gaps through training. This bill would allow more transparency into government procurement and promote integrity in agencies' procurement actions. This bill would also acknowledge that the final review will be conducted by the Administrator.

GENERAL FUND: \$0.

OTHER FUNDS: Special Funds (from fees).

PPBS PROGRAM DESIGNATION:

OTHER AFFECTED AGENCIES: All state agencies.

EFFECTIVE DATE: Upon approval.