
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 PART I

2 SECTION 1. Chapter 103F, Hawaii Revised Statutes, is
3 amended by adding a new section to part IV to be appropriately
4 designated and to read as follows:

5 "§103F- Fair and reasonable pricing policy; cost or
6 pricing data. (a) For each contracting action under this
7 chapter, including any change orders or contract modifications
8 that increase the original contract amount, the purchasing
9 agency shall make a written determination that the amount of the
10 contracting action is fair and reasonable.

11 (b) In determining whether the amount of the contracting
12 action is fair and reasonable, the purchasing agency shall
13 obtain the data necessary to perform a cost or price analysis to
14 determine that the amount of the contracting action is a fair
15 and reasonable price."

16 SECTION 2. Section 103D-201, Hawaii Revised Statutes, is
17 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 (1) The need for treatment services is unanticipated and
5 arises from time to time;

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

8 (3) The services are industry standard services generally
9 accepted by the industry or profession; and

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

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



1 types of treatment services that may be needed throughout the
2 fiscal year on an as-needed basis and inviting providers engaged
3 in providing these treatment services to submit current
4 statements of qualification and expressions of interest to the
5 purchasing agency. Providers may amend these statements by
6 filing an amended or new statement prior to the date designated
7 for submission.

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



1 agency of any changes in information furnished [~~which~~] that
2 would disqualify the provider from being considered for a
3 contract award.

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

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

19 (f) Contracts for treatment services in excess of \$100,000
20 or that last for more than one year shall [~~be procured using~~
21 ~~section 103F-402, competitive purchase of services, unless a~~



1 ~~waiver of this subsection is approved by the chief procurement~~
2 ~~officer.] utilize an applicable method of procurement."~~

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

5 "~~[§]103F-405[§]~~ **Small purchases.** Purchases of health and
6 human services of less than ~~[\$25,000]~~ \$100,000 are small
7 purchases, and shall be made in accordance with
8 ~~[section 103D-305 and]~~ rules adopted by the policy board to
9 implement ~~[that]~~ this section."

10 SECTION 5. Section 103F-202, Hawaii Revised Statutes, is
11 repealed.

12 "~~[§103F-202] **Community council.** (a) There is~~
13 ~~established a community council on purchase of health and human~~
14 ~~services. The community council shall be comprised of no more~~
15 ~~than nine voting members, and one non-voting, ex-officio member~~
16 ~~of the interagency committee on purchase of health or human~~
17 ~~services designated by the majority of the members of the~~
18 ~~committee. There shall be a member from each county, except the~~
19 ~~county of Kalawao, and up to five members interested in health,~~
20 ~~human services, employment, or the provision of services to~~
21 ~~children and youth.~~



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

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

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

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



- 1 ~~(5) Developing criteria to evaluate proposals to provide~~
- 2 ~~health and human services, and for restrictive~~
- 3 ~~purchases under section 103F-403; and~~
- 4 ~~(6) The needs of purchasing agencies and providers for~~
- 5 ~~education and training to improve planning for or~~
- 6 ~~purchasing of health and human services."]~~

PART II

8 SECTION 6. The legislature finds that long-standing and

9 growing community problems, such as homelessness, can be

10 addressed more effectively through greater integration, lower

11 fragmentation of payment models, and standard performance

12 metrics. The siloed approach in which state-funded services

13 currently are financed and purchased leads to:

- 14 (1) Increased administrative burden on service providers
- 15 and any relevant state funding agencies;
- 16 (2) Disparate and inequitable reimbursement rates paid for
- 17 similar services;
- 18 (3) Dissimilar contract terms regarding payment,
- 19 evaluation processes, and quality assurance metrics;
- 20 and
- 21 (4) Duplication and waste of resources.



1 The inconsistencies in procuring social services,
2 especially those for behavioral health care payers and
3 homelessness services, often result in patients receiving
4 uncoordinated care across a variety of services from public
5 providers, contracted providers, and other private providers.
6 This irregularity also perpetuates the disparity in monitoring
7 outcomes and results of services purchased by the State.

8 The legislature further finds that the consumers and
9 patients of state behavioral health services should have an
10 improved quality of behavioral health care. Act 90, Session
11 Laws of Hawaii 2019, established the involuntary hospitalization
12 task force to evaluate current behavioral health care and
13 related systems, including existing resources, systems gaps, and
14 identification of action steps. Act 263, Session Laws of Hawaii
15 2019, established a working group within the department of
16 health to evaluate current behavioral health care and related
17 systems and identify steps that may be taken to promote
18 effective integration to more effectively respond to and
19 coordinate care for persons experiencing substance abuse,
20 behavioral health conditions, and homelessness.



1 Both the involuntary hospitalization task force and working
2 group submitted reports to the legislature prior to the
3 convening of the regular session of 2020. Since then, the
4 behavioral health services administration within the department
5 of health has made strides in implementing the recommendations
6 and closing service gaps, as proved by the expansion of the
7 Hawaii coordinated access resource entry system and the recent
8 implementation of stabilization beds for sub-acute care.
9 However, there is still much work to be done for the State to
10 realize the goal of a comprehensive, coordinated care system for
11 behavioral health and homelessness services.

12 The legislature recognizes that it can promote greater
13 coordination and enhance recent advancements by enacting
14 legislation that formalizes the multi-sectoral coordination of
15 purchasing services for behavioral health, substance abuse, and
16 homelessness services at optimal value and impact. Given the
17 current economic situation facing the State, it is in the
18 State's best interest to do so.

19 Accordingly, the purpose of this part is to:

- 20 (1) Establish a state payor committee to establish and
21 adopt a unified baseline framework for performance



1 metrics, evaluation standards, and coordinated
2 reimbursement rates relating to behavioral health,
3 substance abuse, and homelessness services; and
4 (2) Require nongovernmental entities that contract for
5 services relating to behavioral health, substance
6 abuse, and homelessness services to disclose, at the
7 request of any state funding agency, the source of
8 other federal, state, or county level funding received
9 for the purposes of performing any of these services.

10 SECTION 7. (a) There is established a state payor
11 committee within the behavioral health services administration
12 of the department of health that shall consist of the following
13 members or their designees:

- 14 (1) The director of health;
15 (2) The director of human services;
16 (3) The chief procurement officer; and
17 (4) Representatives from all executive programs that award
18 procurement contracts for services relating to
19 behavioral health, substance abuse, or homelessness
20 services; provided that these representatives be
21 designated by the heads of their respective programs.



1 (b) The committee shall establish and adopt a uniform
2 baseline framework for performance metrics, evaluation
3 standards, and coordinated reimbursement rates for all state
4 procurement contracts for services relating to behavioral
5 health, substance abuse, and homelessness services.

6 SECTION 8. All community or private entities that contract
7 for services relating to behavioral health, substance abuse, or
8 homelessness services shall disclose, at the request of any
9 state funding agency, the source of other federal, state, or
10 county level funding received for the purposes of performing any
11 of these services.

12 PART III

13 SECTION 9. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Procurement; Purchase of Health and Human Services; Procurement Policy Board; Community Council; Behavioral Health Services; State Payor Committee

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. Establishes the state payor committee within the department of health to implement a unified framework for tracking, coordinating, and guiding the purchase of behavioral health, substance abuse, and homelessness services. Requires nongovernmental entities that contract for services relating to behavioral health, substance abuse, or homelessness services to disclose any sources of funding to perform such services. Effective 7/1/2050. (HD1)

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

