
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

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PART I

SECTION 1. Section 103D-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) The comptroller;
- (2) A county employee with significant high-level procurement experience; and
- (3) [~~Five~~] Four persons who shall not otherwise be full-time employees of the State or any county; provided that at least one member shall be a certified professional in the field of procurement, at least one member shall have significant high-level, federal procurement experience, and at least [~~two members~~] one member shall have significant experience in the field of health and human services.



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

16 SECTION 2. Section 103D-312, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§103D-312 Fair and reasonable pricing policy; cost or**
19 **pricing data.** (a) A procurement officer shall purchase goods,
20 services, and construction from responsible sources at fair and
21 reasonable prices. A procurement officer shall make a written



1 determination whether a price is fair and reasonable for each
2 contracting action, including change orders and contract
3 modifications that adjust prices.

4 (b) In ~~[establishing]~~ determining whether ~~[a price]~~ the
5 amount of the contracting action is fair and reasonable, the
6 procurement ~~[officer]~~ agency shall obtain[-

7 ~~(1) Certified cost or pricing data for every contract to~~
8 ~~which subsection (c) applies; and~~

9 ~~(2) Other]~~ the data ~~[as]~~ necessary to perform a cost or
10 price analysis ~~[of the data and]~~ to determine that the
11 amount of the contracting action is a fair and
12 reasonable price ~~[, regardless of whether subsection~~
13 ~~(c) applies to the contract]~~.

14 ~~[(b) The policy board may adopt rules, pursuant to chapter~~
15 ~~91, to establish an order of preference in the type of data~~
16 ~~required under subsection (a) (2).~~

17 ~~(c) A contractor, except as provided in subsection (e),~~
18 ~~shall submit cost or pricing data and shall certify that, to the~~
19 ~~best of the contractor's knowledge and belief, the cost or~~
20 ~~pricing data submitted is accurate, complete, and current as of~~
21 ~~a mutually determined specified date before the date of:~~



- 1 ~~(1) The pricing of any contract awarded by competitive~~
2 ~~sealed proposals or pursuant to the sole source~~
3 ~~procurement authority, where the total contract amount~~
4 ~~is expected to exceed an amount established by rules~~
5 ~~adopted by the policy board, or~~
- 6 ~~(2) The pricing of any change order or contract~~
7 ~~modification that is expected to exceed an amount~~
8 ~~established by rules adopted by the policy board. The~~
9 ~~requirement of this paragraph shall apply regardless~~
10 ~~of whether the original contract award did not require~~
11 ~~certified cost and pricing data.~~
- 12 ~~(d) Any contract, change order, or contract modification~~
13 ~~under which a certificate is required shall contain a provision~~
14 ~~that the price to the State, including profit or fee, shall be~~
15 ~~adjusted to exclude any significant sums by which the State~~
16 ~~finds that the price was increased because the contractor~~
17 ~~furnished cost or pricing data that was inaccurate, incomplete,~~
18 ~~or not current as of the date agreed upon between the parties.~~
- 19 ~~(e) The requirements of this section, except for the~~
20 ~~requirements of [subsection] (c) (2), shall not apply to original~~
21 ~~contract awards.~~



- 1 ~~(1) Where the original contract price is based on adequate~~
- 2 ~~price competition,~~
- 3 ~~(2) Where the original contract price is based on~~
- 4 ~~established catalog prices or market prices,~~
- 5 ~~(3) Where the original contract prices are set by law or~~
- 6 ~~rule; or~~
- 7 ~~(4) Where it is determined in writing in accordance with~~
- 8 ~~rules adopted by the policy board that the~~
- 9 ~~requirements of this section may be waived, and the~~
- 10 ~~reasons for the waiver are stated in writing; provided~~
- 11 ~~that the requirements for price and costing data~~
- 12 ~~required under subsection (a) (2) shall not be waived~~
- 13 ~~without the approval of the chief procurement officer,~~
- 14 ~~provided further that the chief procurement officer~~
- 15 ~~shall not delegate this authority.] "~~

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

18 " ~~[§103F-404]~~ **Treatment purchase of services.** (a)
 19 Treatment services may be purchased in accordance with this
 20 section if ~~[either or both of]~~ the following circumstances are
 21 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 (1) The need for treatment services is unanticipated and
12 arises from time to time;
13 (2) The required services are for a one-time purchase for
14 not more than \$100,000 and no longer than one year;
15 (3) The services are industry standard services, that is,
16 the services are generally accepted practices by the
17 industry or profession; and
18 (4) The award of a contract is based on demonstrated
19 competence and qualification for the type of service
20 required and at fair and reasonable prices.



1 (b) ~~[At a minimum, before the beginning of each fiscal~~
2 ~~year, the administrator shall publish a notice describing the~~
3 ~~types of treatment services that may be needed throughout the~~
4 ~~year on a periodic basis and inviting providers engaged in~~
5 ~~providing these treatment services to submit current statements~~
6 ~~of qualification and expressions of interest to the office. The~~
7 ~~chief procurement officer may specify a uniform format for~~
8 ~~statements of qualifications.] The head of the purchasing~~
9 ~~agency, or a designee, shall, at a minimum, publish a notice~~
10 ~~describing the types of treatment services that may be needed~~
11 ~~throughout the fiscal year on an as-needed basis and inviting~~
12 ~~providers engaged in providing these treatment services to~~
13 ~~submit current statements of qualification and expressions of~~
14 ~~interest to the purchasing agency. Providers may amend these~~
15 ~~statements by filing an amended or new statement prior to the~~
16 ~~date designated for submission.~~

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



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

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

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



1 agency, if any. If negotiations fail, upon written notice of an
2 impasse to the provider selected under subsection (d), the head
3 of the purchasing agency shall choose another provider from the
4 list of qualified providers, and conduct further negotiations.
5 Negotiations shall be conducted confidentially.

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

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

13 "[~~+~~§103F-405~~+~~] **Small purchases.** Purchases of health and
14 human services of less than [~~\$25,000~~] \$100,000 are small
15 purchases, and shall be made in accordance with [~~section 103D-~~
16 ~~305 and~~] rules adopted by the policy board to implement [~~that~~
17 this section."

18 SECTION 5. Section 103F-202, Hawaii Revised Statutes, is
19 repealed.

20 [~~§103F-202] ~~Community council.~~ (a) ~~There is~~
21 ~~established a community council on purchase of health and human~~~~



1 ~~services. The community council shall be comprised of no more~~
2 ~~than nine voting members, and one non voting, ex officio member~~
3 ~~of the interagency committee on purchase of health or human~~
4 ~~services designated by the majority of the members of the~~
5 ~~committee. There shall be a member from each county, except the~~
6 ~~county of Kalawao, and up to five members interested in health,~~
7 ~~human services, employment, or the provision of services to~~
8 ~~children and youth.~~

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

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

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

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



1 metrics. The siloed approach in which state-funded services
2 currently are financed and purchased leads to:

- 3 (1) Increased administrative burden on service providers
4 and any relevant state funding agencies;
- 5 (2) Disparate and inequitable reimbursement rates paid for
6 similar services;
- 7 (3) Dissimilar contract terms regarding payment,
8 evaluation processes, and quality assurance metrics;
9 and
- 10 (4) Duplication and waste of resources.

11 The inconsistencies in procuring social services,
12 especially those for behavioral health care payers and
13 homelessness services, often result in patients receiving
14 uncoordinated care across a variety of services from public
15 providers, contracted providers, and other private providers.
16 This irregularity also perpetuates the disparity in monitoring
17 outcomes and results of services purchased by the State.

18 The legislature further finds that the consumers and
19 patients of state behavioral health services should have an
20 improved quality of behavioral health care. Act 90, Session
21 Laws of Hawaii 2019, established the involuntary hospitalization



1 task force to evaluate current behavioral health care and
2 related systems, including existing resources, systems gaps, and
3 identification of action steps. Act 263, Session Laws of Hawaii
4 2019, established a working group within the department of
5 health to evaluate current behavioral health care and related
6 systems and identify steps that may be taken to promote
7 effective integration to more effectively respond to and
8 coordinate care for persons experiencing substance abuse,
9 behavioral health conditions, and homelessness.

10 Both the involuntary hospitalization task force and working
11 group submitted reports of its findings and recommendations,
12 including any proposed legislation, to the legislature prior to
13 the convening of the regular session of 2020. Since then, the
14 behavioral health services administration within the department
15 of health has made strides in implementing the recommendations
16 and closing service gaps, as proved by the expansion of the
17 Hawaii coordinated access resource entry system (CARES) and the
18 recent implementation of stabilization beds for sub-acute care.
19 However, there is still much work to be done for the State to
20 realize the goal of a comprehensive, coordinated care system for
21 behavioral health and homelessness services.



1 The legislature recognizes that it can promote greater
2 coordination and enhance recent advancements by enacting
3 legislation that formalizes the multi-sectoral coordination of
4 purchasing services for behavioral health and homelessness
5 services at optimal value and impact. Given the current
6 economic situation facing the State, it is in the State's best
7 interest to do so. Accordingly, the purpose of this part is to:

8 (1) Establish a state payor committee to be co-chaired by
9 the director of health and the director of human
10 services or their designees to:

11 (A) Implement a unified framework for tracking,
12 coordinating, and guiding the purchase of
13 behavioral health and homelessness services that
14 strives for integrated performance records and
15 reimbursement rates; and

16 (B) Make recommendations to all payers who use state
17 resources to procure behavioral health and
18 homelessness service in order to reduce
19 duplication and assure payers remain informed of
20 each other's efforts;



1 (2) Require that, beginning July 1, 2021, all state
2 procurement contracts for services relating to
3 behavioral health, substance abuse, or homelessness
4 services be reported to the state payor committee
5 prior to further approval, initiation, continuation,
6 or renewal; and

7 (3) Require nongovernmental entities that contract for
8 services relating to behavioral health, substance
9 abuse, and homelessness services to disclose, at the
10 request of any state funding agency, the source of
11 other federal, state, or county level funding received
12 for the purposes of performing any behavioral health,
13 substance abuse, or homelessness services.

14 SECTION 7. (a) There is established a state payor
15 committee within the behavioral health services administration
16 of the department of health, which shall consist of the
17 following members or their designees:

- 18 (1) Director of the department of health;
19 (2) Director of the department of human services;
20 (3) State procurement officer; and



1 (4) Representatives from all the executive programs that
2 award procurement contracts for services relating to
3 behavioral health, substance abuse, or homelessness
4 services; provided that these representatives be
5 designated by the heads of their respective programs.

6 (b) The committee shall establish and adopt:

7 (1) A uniform baseline framework for performance metrics
8 and evaluation standards; and

9 (2) Coordinated reimbursement rates
10 for all state procurement contracts for services relating to
11 behavioral health, substance abuse, and homelessness services.

12 SECTION 8. All community or private entities that contract
13 for services relating to behavioral health, substance abuse, or
14 homelessness services shall disclose, at the request of any
15 state funding agency, the source of other federal, state, or
16 county level funding received for the purposes of performing any
17 of these services.

18 SECTION 9. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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



Report Title:

Procurement; Community Council; Behavioral Health Services;
State Payor Committee; State Procurement Code

Description:

Repeals the establishment of the Community Council on Purchase of Health and Human Services. Amends various sections of the State Procurement Code. Establishes the State Payor Committee within the Department of Health to: (1) Implement a unified framework for tracking, coordinating, and guiding the purchase of behavioral health and homelessness services; and (2) Make recommendations to all payers who use state resources to procure behavioral health and homelessness service. Requires that the contracts be reported to the State Payor Committee prior to approval, initiation, continuation, or renewal beginning 7/1/21. 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. (SD1)

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

