

JAN 22 2021

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that during challenging
2 economic times, it is necessary for the State to investigate and
3 employ new and innovative ways of maintaining and improving
4 state services and infrastructure, while ensuring the prudent
5 and cost-effective expenditure of public moneys. Accordingly,
6 the process of the acquisition of goods and services must have
7 the flexibility to accommodate circumstances when full
8 competition is not necessary to address a unique need, such as
9 private-public partnerships and developing a flexible local food
10 purchasing structure.

11 The purpose of this Act is to:

- 12 (1) Provide the State with greater flexibility in the
13 procurement of certain goods and services; and
14 (2) Improve the State's responsiveness in addressing
15 unique or unusual needs or situations for the benefit
16 of the people of this State,



1 while maintaining the accountability and transparency afforded
2 by the Hawaii public procurement code.

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

6 "§103D- Special procurement. (a) Contracts for goods
7 and services may be awarded, absent full competition, using a
8 special procurement process in accordance with this section and
9 procedures set forth in rules adopted by the procurement policy
10 board. The special procurement process authorized by this
11 section shall be used only when the chief procurement officer
12 determines in writing that it is advantageous to the State to
13 use the special procurement process to address new or unique
14 requirements of the State; or procure new technologies, or
15 public-private partnerships to achieve best value.

16 (b) Prior to issuing the notice required under subsection
17 (c), the head of a purchasing agency shall prepare a procurement
18 plan developed in accordance with this section and rules
19 established by the procurement policy board. The purpose of the
20 procurement plan is to document the process to be used and why
21 the special procurement process is more advantageous to the



1 State than other procurement methods. The plan shall be
2 submitted to the attorney general or corporation counsel for
3 review to ensure compliance with applicable laws.

4 (c) Notice of a solicitation under the special procurement
5 process shall be given in the same manner as provided in section
6 103D-302(c).

7 (d) The head of the purchasing agency or a designee shall
8 post on the agency's website, public notice of contracts awarded
9 under this section. Such public notice shall be posted within
10 seven days of the contract award and shall remain on the website
11 for at least one year. Information posted shall include but not
12 be limited to:

13 (1) The name of the person or organization receiving the
14 award;

15 (2) The dollar amount of the contract; and

16 (3) The name of the head of the purchasing agency or
17 designee making the selection.

18 A written determination of the basis for the special
19 procurement and for the selection of the particular contractor
20 shall be included by the head of the purchasing agency in the
21 contract file, and a report shall be submitted to the state



1 procurement office and made available publicly by the chief
2 procurement officer at least annually. The state procurement
3 office shall submit a report of any special procurement reports
4 received from a chief procurement officer to the legislature no
5 later than twenty days prior to the convening of each regular
6 session."

7 SECTION 3. Section 103D-301, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§103D-301 **Methods of source selection.** Unless otherwise
10 authorized by law, all contracts shall be awarded pursuant to
11 the following sections, as applicable:

- 12 (1) Section 103D-302 (Competitive sealed bids);
- 13 (2) Section 103D-303 (Competitive sealed proposals);
- 14 (3) Section 103D-304 (Professional services procurement);
- 15 (4) Section 103D-305 (Small purchases);
- 16 (5) Section 103D-306 (Sole source procurement); [~~and~~]
- 17 (6) Section 103D-307 (Emergency procurements) [~~-~~]; and
- 18 (7) Section 103D- (Special procurements)."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4

INTRODUCED BY: _____



S.B. NO. 789

Report Title:

Procurement Code; Special Procurement

Description:

Establishes a special procurement process for the procurement of goods and services. Requires the procurement policy board to establish procedures for use of the special procurement process by rules. Requires the head of a purchasing agency to prepare a procurement plan and submit the plan to the Attorney General or corporation counsel. Requires the head of a purchasing agency to electronically post, for at least one year, public notice of special procurement contracts within seven days of the contract award.

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

