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# 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 the 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, through competition as is  
8 practicable under the circumstances, using a special procurement  
9 process in accordance with the detailed written steps in  
10 conducting the procurement, approved by the chief procurement  
11 officer. The special procurement process authorized by this  
12 section shall be used only when the chief procurement officer  
13 determines in writing that it is advantageous to the State to  
14 use the special procurement process to address new or unique  
15 requirements of the State; or procure new technologies, or  
16 public-private partnerships to achieve best value.

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



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

5 (c) Notice of a solicitation under the special procurement  
6 process shall be given in the same manner as provided in section  
7 103D-302(c).

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

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

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

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

19 A written determination of the basis for the special  
20 procurement and for the selection of the particular contractor  
21 shall be included by the head of the purchasing agency in the



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

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

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

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



1           SECTION 4. The procurement policy board shall adopt  
2 administrative rules pursuant to chapter 91 to effectuate  
3 section 2 of this Act by December 31, 2021.

4           SECTION 5. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun before its effective date.

7           SECTION 6. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9           SECTION 7. This Act shall take effect upon its approval.



**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 rules and procedures for the special procurement process by December 31, 2021. 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. (SD1)

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

