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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 the procurement of  
2 professional services under section 103D-304, Hawaii Revised  
3 Statutes, currently requires a selection committee to rank a  
4 minimum of three persons based on the selection criteria and  
5 send the ranking to the head of the purchasing agency to begin  
6 negotiations. This requirement was upheld in *Asato v.*  
7 *Procurement Policy Board*, 322 P.3d 228 (Haw. S. Ct. 2014).

8           However, the legislature further finds that when an agency  
9 seeks to procure professional services and does not receive the  
10 requisite minimum of three responses, it must continue to re-  
11 solicit, expending additional time and resources to fulfill the  
12 solicitation. An alternate procurement approval process would  
13 increase efficiency and facilitate the procurement of  
14 specialized professional services by allowing procuring agencies  
15 to timely procure needed professional services in situations  
16 when there are fewer than three qualified submissions.



1           Accordingly, the purpose of this Act is to allow agencies  
2   procuring professional services to submit a request for  
3   alternative procurement approval from the chief procurement  
4   officer or chief procurement officer's designee if fewer than  
5   three qualified persons respond to a solicitation.

6           SECTION 2. Section 103D-304, Hawaii Revised Statutes, is  
7   amended as follows:

8           1. By amending subsection (g) to read:

9           "(g) The selection committee shall rank a minimum of three  
10   persons based on the selection criteria and send the ranking to  
11   the head of the purchasing agency. If fewer than three  
12   qualified persons respond to a solicitation, the agency may  
13   submit a request for alternative procurement approval from the  
14   chief procurement officer or chief procurement officer's  
15   designee. The contract file shall contain a copy of the summary  
16   of qualifications for the ranking of each of the persons  
17   provided to the head of the purchasing agency for contract  
18   negotiations. If more than one person holds the same  
19   qualifications under this section, the selection committee shall  
20   rank the persons in a manner that ensures equal distribution of  
21   contracts among the persons holding the same qualifications.



1 The recommendations of the selection committee shall not be  
2 overturned without due cause."

3 2. By amending subsection (j) to read:

4 "(j) Contracts for professional services [~~of less than~~  
5 within the limits in section 103D-305[7] may be negotiated by  
6 the head of the purchasing agency, or designee, with at least  
7 any two persons on the list of qualified persons established  
8 pursuant to subsection (c). Negotiations shall be conducted in  
9 the manner set forth in subsection (h), with ranking based on  
10 the selection criteria of subsection (e) as determined by the  
11 head of the agency."

12 SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2050.



S.B. NO. 2385  
S.D. 2  
H.D. 1

**Report Title:**

Procurement; Professional Services; Alternative Procurement  
Approval

**Description:**

Allows a purchasing agency to submit a request for alternative procurement approval from the chief procurement officer or chief procurement officer's designee if fewer than three qualified persons respond to a solicitation. 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.*

