

JAN 18 2024

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 commission to
2 improve standards of conduct, in its final report submitted to
3 the house of representatives on December 1, 2022, urged county
4 governments to identify organizational risks of corruption and
5 ethical violations and to develop systematic improvements to
6 minimize those risks. The legislature finds that the county-
7 related events recited in the final report, involving a select
8 few employees and officials in the city and county of Honolulu,
9 the county of Hawaii, and the county of Maui, have shaken the
10 public's trust in the strength and integrity of county
11 government. In particular, the bribery scandal involving an
12 official in Maui county highlighted potential pitfalls in
13 placing undue reliance on the discretion of a single individual
14 to determine that there is only one source for a required good,
15 service, or construction.



1 The legislature further finds that the public procurement
2 code should be amended to assist the counties in strengthening
3 their procedures for sole-source procurements.

4 The legislature also finds that the public procurement code
5 contains a strong and clear statement of the requirements of
6 ethical public procurement at section 103D-101, Hawaii Revised
7 Statutes, and recognizes that principles of ethical procurement
8 generally favor an absence of political involvement. However,
9 to minimize the risk of corruption and ethical violations,
10 additional oversight is needed to strengthen public scrutiny and
11 transparency and to maintain the integrity of sole source
12 procurement decisions. This need is particularly acute as Maui
13 County faces elevated spending requirements in response to the
14 wildfires of August 2023.

15 Accordingly, the purpose of this Act is to require county
16 council approval for contracts that exceed \$30,000 and are
17 awarded by a county under its statutory authorization for sole
18 source procurement.

19 SECTION 2. Section 103D-306, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§103D-306 Sole source procurement. (a) A contract may
2 be awarded for goods, services, or construction without
3 competition when [~~the~~]:

4 (1) The head of a purchasing agency determines in writing
5 that there is only one source for the required good,
6 service, or construction[~~the~~];

7 (2) The determination is reviewed and approved by the
8 chief procurement officer[~~the~~];

9 (3) The written determination is posted in the manner
10 described in rules adopted by the policy board[~~a~~];

11 (4) A review of past performance, if available, has been
12 conducted[~~the~~]; and [~~no~~]

13 (5) No objection is outstanding[~~the~~];

14 provided that a contract to be awarded by a county under this
15 section shall first be approved by the council of the county by
16 resolution if the contract amount exceeds \$30,000.

17 (b) The written determination, any objection, past
18 performance evaluations relied upon, and a written summary of
19 the disposition of any objection shall be included in the
20 contract file.



1 ~~(b)~~ (c) The written determination shall contain such
2 information as the rules of the policy board require. Persons
3 may file written objections to the issuance of a contract
4 pursuant to this section. Rules of the policy board shall
5 provide for the disposition of objections, including a written
6 summary of the disposition.

7 ~~(e)~~ (d) The rules of the policy board shall include a
8 non-exhaustive list of procurements which constitute sole source
9 procurements and criteria for determining when a particular
10 procurement may be determined to be a sole source. The rules
11 shall also prescribe when cost or pricing data must be
12 considered and how they are to be used in establishing the
13 price, terms, and conditions, if any, for a contract awarded
14 pursuant to this section."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



S.B. NO. 2208

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *My D. [Signature]*
By Request



S.B. NO. 2208

Report Title:

Mauı County Council Package; Procurement; Sole Source
Procurements; Counties

Description:

Amend the procurement code to require County Council approval for contracts awarded by a county under its statutory authorization for sole source procurement if the contract amount exceeds \$30,000.

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

