
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-102, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Notwithstanding subsection (a), this chapter shall
4 not apply to contracts by governmental bodies:

5 (1) Solicited or entered into before July 1, 1994, unless
6 the parties agree to its application to a contract
7 solicited or entered into prior to July 1, 1994;

8 (2) To disburse funds, irrespective of their source:

9 (A) For grants as defined in section 42F-101, made by
10 the State in accordance with standards provided
11 by law as required by article VII, section 4, of
12 the state constitution; or by the counties
13 pursuant to their respective charters or
14 ordinances;

15 (B) To make payments to or on behalf of public
16 officers and employees for salaries, fringe
17 benefits, professional fees, or reimbursements;

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- 1 (C) To satisfy obligations that the State is required
2 to pay by law, including paying fees, permanent
3 settlements, subsidies, or other claims, making
4 refunds, and returning funds held by the State as
5 trustee, custodian, or bailee;
- 6 (D) For entitlement programs, including public
7 assistance, unemployment, and workers'
8 compensation programs, established by state or
9 federal law;
- 10 (E) For dues and fees of organizations of which the
11 State or its officers and employees are members,
12 including the National Association of Governors,
13 the National Association of State and County
14 Governments, and the Multi-State Tax Commission;
- 15 (F) For deposit, investment, or safekeeping,
16 including expenses related to their deposit,
17 investment, or safekeeping;
- 18 (G) To governmental bodies of the State;
- 19 (H) As loans, under loan programs administered by a
20 governmental body; and
- 21 (I) For contracts awarded in accordance with chapter
22 103F;

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- 1 (3) To procure goods, services, or construction from a
2 governmental body other than the university of Hawaii
3 bookstores, from the federal government, or from
4 another state or its political subdivision;
- 5 (4) To procure the following goods [~~or~~], services, or
6 construction that are available from multiple sources
7 but for which procurement by competitive means is
8 either not practicable or not advantageous to the
9 State:
- 10 (A) Services of expert witnesses for potential and
11 actual litigation of legal matters involving the
12 State, its agencies, and its officers and
13 employees, including administrative quasi-
14 judicial proceedings;
- 15 (B) Works of art for museum or public display;
- 16 (C) Research and reference materials including books,
17 maps, periodicals, and pamphlets, which are
18 published in print, video, audio, magnetic, or
19 electronic form;
- 20 (D) Meats and foodstuffs for the Kalaupapa
21 settlement;
- 22 (E) Opponents for athletic contests;

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- 1 (F) Utility services whose rates or prices are fixed
2 by regulatory processes or agencies;
- 3 (G) Performances, including entertainment, speeches,
4 and cultural and artistic presentations;
- 5 (H) Goods and services for commercial resale by the
6 State;
- 7 (I) Services of printers, rating agencies, support
8 facilities, fiscal and paying agents, and
9 registrars for the issuance and sale of the
10 State's or counties' bonds;
- 11 (J) Services of attorneys employed or retained to
12 advise, represent, or provide any other legal
13 service to the State or any of its agencies, on
14 matters arising under laws of another state or
15 foreign country, or in an action brought in
16 another state, federal, or foreign jurisdiction,
17 when substantially all legal services are
18 expected to be performed outside the State;
- 19 (K) Financing agreements under chapter 37D;
- 20 (L) Educational materials and related training for
21 direct student instruction in career and
22 technical education programs as defined in

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1 section 302A-101, including supplies, implements,
2 tools, machinery, electronic devices, or other
3 goods purchased by the department of education;
4 provided that:

5 (i) The department of education shall acquire
6 three written quotes for purchases that
7 exceed \$100,000 made pursuant to this
8 subparagraph;

9 (ii) Awards over \$2,500 shall comply with section
10 103D-310(c); and

11 (iii) Awards over \$500,000 shall be approved by
12 the superintendent of education; and

13 (M) Any other goods [~~or~~], services, or constuction
14 that the policy board determines by rules or the
15 chief procurement officer determines in writing
16 is available from multiple sources but for which
17 procurement by competitive means is either not
18 practicable or not advantageous to the State; and

19 (5) That are specific procurements expressly exempt from
20 any or all of the requirements of this chapter by:

21 (A) References in state or federal law to provisions
22 of this chapter or a section of this chapter, or

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1 references to a particular requirement of this
2 chapter; and

3 (B) Trade agreements, including the Uruguay Round
4 General Agreement on Tariffs and Trade (GATT),
5 that require certain non-construction and non-
6 software development procurements by the
7 comptroller to be conducted in accordance with
8 its terms."

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval;
12 provided that the amendments made to section 103D-102(b), Hawaii
13 Revised Statutes, by section 1 of this Act shall not be repealed
14 when that section is reenacted on July 1, 2027, pursuant to
15 section 4 of Act 150, Session Laws of Hawaii 2024.

16
17 INTRODUCED BY: *Nuckie K. Nuhou*

18 BY REQUEST
JAN 21 2025

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Report Title:

Procurement; Exemptions; Construction Projects

Description:

Exempts from the Hawaii Public Procurement Code contracts by government bodies to procure certain construction projects.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To exempt from the Hawaii Public Procurement Code (Procurement Code) contracts by government bodies to procure certain construction projects.

MEANS: Amend section 103D-102(b), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 103D-102(b)(4)(M), HRS, provides a procurement exception for situations when it is not practicable nor advantageous to use one of the allowable methods of procurement for the acquisition of goods and services.

There may be situations when it is either not practicable or not advantageous to competitively procure for a construction project. This bill would allow the Chief Procurement Officer the ability to exempt a construction project from Procurement Code requirements when it is either not practicable or not advantageous to competitively procure.

Impact on the public: The exemption to the Procurement Code created by this bill is narrow and only to be allowed when approved by the Chief Procurement Officer after a showing that it is either not practicable or not advantageous to procure construction projects competitively.

Impact on the department and other agencies: This bill requires the Chief Procurement Officer to determine that the competitive procurement of a certain construction project is either not practicable or not advantageous to the State before the project can be exempted from the Procurement Code.

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GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: TRN 995.

OTHER AFFECTED
AGENCIES: State Procurement Office.

EFFECTIVE DATE: Upon approval.