
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. Section 103D-101, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§103D-101 Requirements of ethical public procurement.**

4 (a) All public employees shall conduct and participate in
5 public procurement in an ethical manner. In conducting and
6 participating in procurement, public employees shall:

7 (1) Act as a fiduciary and trustee of public moneys;

8 (2) Remain independent from any actual or prospective
9 bidder, offeror, contractor, or business;

10 (3) Act only in the public interest;

11 (4) Abide by the statutes and administrative rules
12 relating to public procurement;

13 (5) Identify and maximize efficiencies in the public
14 procurement process;

15 (6) Encourage economic competition by:



- 1 (A) Ensuring that all persons are afforded an equal
2 opportunity to compete in a fair and open
3 environment; and
- 4 (B) Researching innovative goods and services to meet
5 the public's needs;
- 6 (7) Avoid the intent and appearance of unethical behavior;
- 7 (8) Avoid social interactions with any actual or
8 prospective bidder, offeror, contractor, business, or
9 other interested parties during the procurement
10 process;
- 11 (9) Maintain confidentiality in a manner that ensures a
12 fair procurement process;
- 13 (10) Remain impartial in dealings with any actual or
14 prospective bidder, offeror, contractor, business, or
15 other interested parties; and
- 16 (11) Identify and eliminate any conflicts of interest.
- 17 (b) Any actual or prospective bidder, offeror,
18 [+]contractor[+], or business taking part in the conduct of
19 public procurement, shall act in good faith to practice
20 purchasing ethics, and when applicable, display business



1 integrity as a responsible offeror through the public
2 procurement process, including but not limited to the following:

- 3 (1) Avoiding the intent and appearance of unethical
4 behavior or business practices;
- 5 (2) Refraining from any activity that would create the
6 appearance of impropriety or conflicts of personal
7 interest and the interests of the State or counties;
- 8 (3) Identifying and eliminating any conflicts of interest;
9 and
- 10 (4) Ensuring that all persons are afforded an equal
11 opportunity to compete in a fair and open environment.

12 (c) All parties involved in the negotiation, performance,
13 or administration of state contracts shall act in good faith.

14 (d) Governmental bodies and public employees shall not
15 procure services for project management through non-governmental
16 third-party contracts; provided that this subsection shall not
17 apply to the procurement of independent verification and
18 validation contracts for information technology services if
19 approved by the agency's respective chief procurement officer,
20 as provided under section 103D-203."



1 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 ""Project management" means a professional service that
5 manages a project's schedule, cost, quality, safety, scope, and
6 function, and ensuring that the project is completed on time and
7 within budget."

8 SECTION 3. Section 103D-405, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) Outside contractors may be utilized to prepare
11 specifications and work statements in the development of a
12 solicitation. Contractors paid for those services shall be
13 precluded from bidding on or receiving a contract when they
14 participated [~~in any way~~] in the development of the solicitation
15 package or any resulting contract[-]; provided that an outside
16 contractor who has been paid to prepare specifications and work
17 statements in the development of a solicitation may bid on or
18 receive a contract after they participated in the development of
19 the solicitation package for the resulting contract if:

20 (1) The purchasing agency is the department of
21 transportation;



1 (2) The director of transportation determines in writing
2 that a waiver authorizing the outside contractor to
3 bid on or receive a contract is in the best interests
4 of the State; and

5 (3) The solicitation package requires a procurement method
6 that is allowable under federal statute; federal
7 regulation; federal special experimental,
8 demonstration project; or a federal approval of the
9 procurement method."

10 SECTION 4. No later than thirty days after the first year
11 of implementation of this Act, the department of transportation
12 shall submit a report to the legislature. The report shall
13 contain:

14 (1) A summary of the application of this Act to
15 procurements;

16 (2) An explanation of the benefits of this Act to the
17 State;

18 (3) A recommendation of whether the amendments made by
19 section 3 of this Act should be made permanent,
20 amended, or repealed; and



1 (4) Any other findings and recommendations deemed relevant
2 by the department of transportation, including any
3 proposed legislation.

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

6 SECTION 6. This Act shall take effect on July 1, 3000;
7 provided that section 3 of this Act shall be repealed on
8 June 30, 2027; provided further that section 103D-405(d), Hawaii
9 Revised Statutes, shall be reenacted in the form in which it
10 read on the day prior to the effective date of this Act.



Report Title:

Procurement; Ethical Public Procurement; DOT; Project Management; Government Bodies

Description:

Prohibits all governmental bodies and public employees from procuring services for project management through non-governmental third-party contracts, except for certain procurements of independent verification and validation contracts for information technology services. Temporarily authorizes, until 6/30/2027, outside contractors who prepared specifications and work statements in the development of a Department of Transportation solicitation to bid on those projects if certain requirements are satisfied. Requires a report by the Department of Transportation. Effective 7/1/3000. (SD2)

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