
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 all procurement
2 activities should be conducted in a manner that ensures
3 transparency, fiscal responsibility, and accountability.

4 The legislature further finds that section 103D-309, Hawaii
5 Revised Statutes, requires a certification that there are
6 sufficient funds available to cover the cost of a contract
7 before that contract becomes binding. However, this section
8 does not include a specific threshold of funds that must be
9 available, nor does it adequately address the disposition of
10 contract awards that exceed appropriated amounts. The
11 legislature therefore finds that this law should be amended to
12 address these issues by establishing a threshold amount and
13 requiring contracts that exceed that amount to be approved by
14 the chief procurement officer.

15 The legislature additionally finds that the current
16 requirement that the state procurement office administrator
17 provide written attestation for recommendations and



1 solicitations under section 103D-309, Hawaii Revised Statutes,
2 is necessary to ensure proper oversight of state resources.
3 Accordingly, the legislature affirms this requirement.

4 Therefore, the purpose of this Act is to promote
5 transparency, fiscal responsibility, and fair procurement
6 practices by:

- 7 (1) Ensuring that awarded contracts are supported by
8 sufficient appropriations by requiring that an awarded
9 contract amount not exceed ten per cent of the amount
10 of the available appropriation or balance of an
11 appropriation;
- 12 (2) Requiring a contract that exceeds the ten per cent
13 threshold to be approved by the chief procurement
14 officer to become binding; and
- 15 (3) Amending criminal penalties under the Hawaii public
16 procurement code to provide that a person who
17 intentionally violates the code is guilty of:
- 18 (A) A petty misdemeanor for the first offense; and
19 (B) A misdemeanor for any subsequent offense.

20 SECTION 2. Section 103D-106, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) Any person who intentionally violates this chapter or
2 any rules adopted pursuant to this chapter [~~shall be guilty of a~~
3 ~~misdemeanor and~~] shall be:

- 4 (1) Subject to removal from office;
- 5 (2) Liable to the State or the appropriate county for any
6 sum paid by it in connection with the violation, and
7 that sum, together with interest and costs, shall be
8 recoverable by the State or county; [~~and~~]

9 (3) Subject to imposition of an administrative fine under
10 subsection (b) [~~+~~]; and

- 11 (4) Guilty of:
 - 12 (A) A petty misdemeanor for the first offense; and
 - 13 (B) A misdemeanor for any subsequent offense."

14 SECTION 3. Section 103D-309, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Contracts awarded pursuant to section 103D-302,
17 103D-303, or 103D-306, shall neither be binding nor have any
18 force and effect of law unless the comptroller, the director of
19 finance of a county, or the respective chief financial officers
20 of the department of education, the judiciary, or the
21 legislative branches of the State or county, as the case may be,



1 endorses thereon a certificate that there is an appropriation or
2 balance of an appropriation over and above all outstanding
3 contracts, sufficient to cover the amount required by the
4 contract; provided that [~~if~~]:

5 (1) The awarded contract amount does not exceed ten per
6 cent of the amount of the available appropriation or
7 balance of an appropriation; provided further that a
8 contract that exceeds the ten per cent threshold shall
9 require approval from the chief procurement officer to
10 become binding for the purposes of this section; and

11 (2) If the contract is a multi-term contract, the
12 comptroller, director of finance, or chief financial
13 officer shall only be required to certify that there
14 is an appropriation or balance of an appropriation
15 over and above all outstanding contracts[7] that is
16 sufficient to cover the amount required to be paid
17 under the contract during the fiscal year or remaining
18 portion of the fiscal year of each term of the
19 multi-year contract; [~~provided further that the~~] and



1 (3) The administrator of the state procurement office
2 shall attest in writing to any recommendation or
3 solicitations.

4 This section shall not apply to any contract under which the
5 total amount to be paid to the contractor cannot be accurately
6 estimated at the time the contract is to be awarded, or to any
7 contract for which consideration is in kind or forbearance, or
8 to any contract awarded pursuant to section 103D-306 that is a
9 one-time payment through a purchase order."

10 SECTION 4. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2026-2027 for
13 the state procurement office to carry out the purposes of this
14 Act, including the establishment and hiring of permanent
15 full-time equivalent (FTE) positions.

16 The sum appropriated shall be expended by the state
17 procurement office for the purposes of this Act.

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



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2525.



Report Title:

SPO; Procurement; Certification of Available Funds; Threshold Amount; Chief Procurement Officer; Penalties; Appropriation; Positions

Description:

Ensures that awarded contracts are supported by sufficient appropriations by requiring that the contract amount does not exceed 10% of the amount of the appropriation or balance of an appropriation that is available to cover the cost of the contract. Requires a contract that exceeds the 10% threshold to be approved by the Chief Procurement Officer. Amends criminal penalties under the Hawaii Public Procurement Code by providing that a person who intentionally violates the code is guilty of a petty misdemeanor for the first offense and a misdemeanor for any subsequent offense. Establishes positions within the State Procurement Office. Appropriates funds. Effective 7/1/2525. (SD2)

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