
A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

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

1 SECTION 1. The legislature finds that supporting local
2 businesses strengthens the State's economy by creating more
3 local jobs, increasing local workforce and business capacity,
4 and enhancing economic and environmental sustainability. The
5 legislature further finds that allocation of State funds to
6 non-local or out-of-state contractors or entities does not
7 foster the same benefits as allocating these funds locally and
8 may impede the success of local businesses and the State's
9 economy. Local businesses often face barriers when competing
10 for State contracts due to the higher costs associated with
11 doing business in an island state, limited physical workforce
12 capacity, and limited price competitiveness to produce goods and
13 services.

14 The legislature believes that a preference for local
15 businesses in bidding for contracts from purchasing agencies of
16 the State and counties will help level the business playing
17 field for local contractors. The legislature recognizes that



1 while a local preference may slightly raise the average cost for
2 bid contracts, this cost will be offset by the increases in
3 state and county revenues from additional local business
4 activity, increased local employment, and the long-term effects
5 of keeping money within local businesses and the local
6 workforce.

7 The legislature further finds that as part of the State's
8 incremental initiatives to assist small businesses in the state
9 procurement process, the state procurement office is now
10 addressing part IX of the Hawaii public procurement code and
11 assisting self-identified small businesses to obtain state
12 contracts. The legislature recognizes the importance of
13 continuing this progress by expanding the small business
14 assistance initiative into a permanent procurement program to
15 collect and develop relevant data and information necessary for
16 small businesses to compete for and obtain small business
17 contracts and identify and resolve issues that must be addressed
18 to develop an effective small business state contracting program
19 within the state procurement process.

20 Accordingly, the purpose of this Act is to:

21



- 1 (1) Permanently establish and appropriate funds for the
- 2 small business procurement program and small business
- 3 procurement coordinator position within the state
- 4 procurement office;
- 5 (2) Require purchasing agencies to apply a local
- 6 preference to Hawaii businesses when evaluating
- 7 contracts awarded by competitive sealed bidding or
- 8 competitive sealed proposals;
- 9 (3) Establish a small business procurement special fund
- 10 and require the small business procurement coordinator
- 11 to adopt rules and establish policies, effective
- 12 January 1, 2029, requiring small businesses to commit
- 13 to contributing 0.2 per cent of state contract awards
- 14 to the special fund; and
- 15 (4) Repeal the small business assistance initiative
- 16 established in Act 168, Session Laws of Hawaii 2022.

17 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
 18 amended by adding two new sections to part IX be appropriately
 19 designated and to read as follows:

20 **"§103D- Small business procurement program;**
 21 **establishment.** (a) There is established within the state



1 procurement office a small business procurement program to
2 ensure that small businesses, including businesses owned by
3 veterans, Native Hawaiians, and women, are able to effectively
4 participate in small business contracting opportunities in the
5 State.

6 (b) The small business procurement program shall be
7 administered by the small business procurement coordinator.

8 **§103D- Small business procurement coordinator;**

9 **appointment; duties.** (a) The administrator of the state
10 procurement office shall appoint a small business coordinator
11 for the proper administration, enforcement, and facilitation of
12 this part, without regard to chapter 76; provided that the
13 coordinator shall be eligible for participation in state
14 employee benefit plans. Notwithstanding section 76-16(b)(17),
15 this exemption from chapter 76 shall not expire.

16 (b) The coordinator shall implement and administer
17 programs and procedures necessary to assist small businesses to
18 effectively participate in the State's public procurement
19 processes. The coordinator shall:

- 20 (1) Administer the daily operations of the small business
21 procurement program;



- 1 (2) Establish and maintain a statewide small business
2 database;
- 3 (3) Establish processes for the registration,
4 certification, and identification of small business in
5 the State;
- 6 (4) Develop and implement outreach, engagement, and
7 education initiatives, including:
- 8 (A) Serving as a liaison and advocate for small
9 business interests within the state procurement
10 system;
- 11 (B) Participating in outreach and engagement
12 activities, including networking events, trade
13 association meetings, local business expositions,
14 and collaborating with organizations that support
15 entrepreneurs, with a special focus on supporting
16 underserved communities;
- 17 (C) Developing and disseminating outreach campaigns
18 to promote small business initiatives and
19 opportunities, including newsletters and
20 electronic mail communications; and



- 1 (D) Creating, developing, advertising, and
- 2 encouraging vendor participation in workshops,
- 3 seminars, and trainings designed to promote and
- 4 enhance small business participation in state
- 5 contracts;

- 6 (5) Aggregate resources and advance accessibility,
- 7 including:

- 8 (A) Aggregating all small business resources and
- 9 materials areas the State and presenting them in
- 10 an easily accessible and understandable online
- 11 format for potential vendor participants; and

- 12 (B) Coordinating with small business advocates in the
- 13 public and private sectors to create a small
- 14 business network that can be easily accessed by
- 15 all small businesses;

- 16 (6) Develop policy, oversight, and training, including:

- 17 (A) Adopting rules and establishing policies to
- 18 support the implementation of this part;

- 19 (B) Producing, publishing, and disseminating training
- 20 materials designed to inform procurement staff
- 21 and small business vendors of policies and rules;



- 1 (C) Collaborating with state agencies to identify and
- 2 promote contracting opportunities suitable for
- 3 small businesses, including identifying potential
- 4 contracts for set-asides or preferences; and
- 5 (D) Establishing mechanisms and implementing
- 6 procedures for handling disputes and
- 7 investigating allegations of fraud and other
- 8 misappropriations of the small business
- 9 procurement program and its benefits to small
- 10 businesses; and
- 11 (7) Perform data collection and reporting, including:
- 12 (A) Establishing a system for collecting and
- 13 analyzing data on small business participation in
- 14 state contracts, including data on contract
- 15 awards aggregated by industry, agency, and
- 16 business demographic;
- 17 (B) Collecting data on existing and future small
- 18 business vendor disputes, problems, difficulties,
- 19 successes, recommendations, and any other metrics
- 20 deemed important to the program by the state
- 21 procurement office or legislature; and



1 (C) Producing an annual report of small business
 2 participation data and metrics to be submitted to
 3 the administrator of the state procurement
 4 office."

5 SECTION 3. Chapter 103D, Hawaii Revised Statutes, is
 6 amended by adding a new section to part X to be appropriately
 7 designated and to read as follows:

8 "§103D- Hawaii businesses. (a) Notwithstanding any
 9 law to the contrary, a purchasing agency shall apply a local
 10 preference to a Hawaii business in evaluating contracts awarded
 11 by competitive sealed bidding pursuant to section 103D-302 or
 12 competitive sealed proposals pursuant to section 103D-303.

13 (b) To qualify for a local preference, a Hawaii business
 14 shall self-certify that:

- 15 (1) It will maintain its headquarters in the State
- 16 throughout the performance of the contract; and
- 17 (2) No less than fifty-one per cent of the labor in the
- 18 performance of the contract, with respect to time and
- 19 expenses, will be incurred from persons domiciled in
- 20 the State,



1 provided that the small business procurement coordinator may
2 adopt further rules and establish policies related to self-
3 certification requirements.

4 (c) Where a bid or proposal contains both Hawaii and
5 non-Hawaii businesses, for the sole purpose of selecting the
6 lowest bid or purchase price, the price or bid offered by the
7 Hawaii business shall be decreased by subtracting the applicable
8 local preference percentage pursuant to subsection (d); provided
9 that the contract amount of any contract awarded shall be the
10 amount of the bid or price offered, exclusive of the
11 preferences.

12 (d) The local preference shall be five per cent for all
13 contracts.

14 (e) If a Hawaii business is awarded a contract with the
15 application of a local preference and is subsequently found to
16 have failed to meet or maintain the requirements of subsection
17 (b), the Hawaii business shall:

18 (1) Perform the contract at the contract price reduced by
19 the amount of the local preference applied during bid
20 or proposal evaluation; and



1 (2) Refund any overpayment to the purchasing agency that
2 awarded the contract.

3 (f) The policy board or any county may adopt rules
4 pursuant to chapter 91 or ordinances, respectively, necessary or
5 appropriate to implement this section.

6 (g) For the purposes of this section, "Hawaii business"
7 means any person, agency, corporation, or other business entity
8 with its principal place of business located in the State."

9 SECTION 4. Chapter 103D, Hawaii Revised Statutes, is
10 amended by adding two new sections to part IX to be
11 appropriately designated and to read as follows:

12 "§103D-A Small business procurement program; rules;
13 policies; nonprofit contributions. The small business
14 procurement coordinator shall adopt rules and establish
15 policies, effective January 1, 2029, requiring small businesses
16 to commit to contributing 0.2 per cent of state contract awards
17 to the small business procurement special fund established
18 pursuant to section 103D-B.

19 §103D-B Small business procurement special fund. (a)
20 There is established in the state treasury the small business
21 procurement special fund, into which shall be deposited all



1 moneys collected from small business contributions pursuant to
2 section 103D-A.

3 (b) Moneys in the special fund shall be expended to
4 support tax deductible nonprofit organizations and programs as
5 determined by the small business procurement program."

6 SECTION 5. Section 103D-902, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§103D-902 Small business assistance.** ~~[(a)]~~ The policy
9 board shall adopt rules to assist small businesses in learning
10 how to do business with the State.

11 ~~[(b) The state procurement office shall establish a small~~
12 ~~business initiative program consistent with this chapter to~~
13 ~~ensure that small businesses, including businesses owned by~~
14 ~~veterans, Native Hawaiians, and women, are able to effectively~~
15 ~~participate in small business contracting opportunities in the~~
16 ~~State.]"~~

17 SECTION 6. Act 168, Session Laws of Hawaii 2022, is
18 amended by amending section 6 to read as follows:

19 "SECTION 6. This Act shall take effect upon its approval;
20 provided that section 4 shall take effect on July 1, 2022~~[-]~~;



1 provided further that section 3 shall be repealed on June 30,
2 2026."

3 SECTION 7. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$126,000 or so much
5 thereof as may be necessary for fiscal year 2026-2027 to
6 establish one permanent full-time equivalent (1.0 FTE) small
7 business procurement coordinator position within the state
8 procurement office.

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

11 SECTION 8. In codifying the new sections added by
12 section 4 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 3000;
18 provided that section 4 of this Act shall take effect on January
19 1, 2029.



Report Title:

SPO; Small Business Procurement Program; Small Business Procurement Coordinator; Local Preference; Hawaii Businesses; Small Business Procurement Special Fund; Appropriation

Description:

Permanently establishes the Small Business Procurement Program and Small Business Procurement Coordinator position within the State Procurement Office. Requires purchasing agencies to apply a local preference to Hawaii businesses in evaluating contracts awarded by competitive sealed bidding or competitive sealed proposals. Establishes criteria for a Hawaii business to qualify for a local preference. Establishes procedures for contract awardees who fail to meet or maintain the preference criteria. Establishes a special fund and requires the Small Business Procurement Coordinator to establish rules and policies, effective 1/1/2029, requiring small businesses to commit to contributing 0.2 per cent of state contract awards to the special fund. Repeals the Small Business Assistance Initiative established in Act 168, SLH 2022. Appropriates funds for the Small Business Procurement Coordinator. Effective 7/1/3000. (HD1)

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

