
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) Limiting the application of criminal penalties under
16 the Hawaii public procurement code to egregious
17 violations of the code and rules adopted thereunder.

18 SECTION 2. Section 103D-106, Hawaii Revised Statutes, is
19 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) Subject to prosecution for a misdemeanor in cases of
12 egregious violations."

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

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



1 balance of an appropriation over and above all outstanding
2 contracts, sufficient to cover the amount required by the
3 contract; provided that ~~[if]~~:

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

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

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



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

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

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

15 SECTION 5. 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 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 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. Limits the application of criminal penalties under the Hawaii Public Procurement Code to egregious violations of the Code and any rules adopted thereunder. Establishes positions within the State Procurement Office. Appropriates funds. Effective 7/1/2525. (SD1)

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