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# 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 may procure  
15 project management services through non-governmental third-party  
16 contracts; provided that:

- 17 (1) All governmental agencies shall retain ultimate and  
18 final authority and accountability for project  
19 management as an inherently governmental  
20 responsibility;



1       (2) Oversight of each project management contract shall be  
2       performed by a designated public employee. Oversight  
3       shall include but not be limited to monitoring  
4       performance, approving government documents,  
5       negotiating cost and pricing, and awarding, modifying,  
6       and terminating contracts; and

7       (3) Third-party project management services may provide  
8       advisory, technical, or administrative support but  
9       shall not exercise decision-making authority or  
10       supervise public employees.

11       Oversight of third-party contracts shall remain an  
12       inherently governmental and nondelegable responsibility of the  
13       state agency, which must retain ultimate authority,  
14       accountability, and decision-making over contract performance."

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

18       ""Project management" means a professional service that  
19       manages a project's schedule, cost, quality, safety, scope, and  
20       function, and ensures that the project is completed on time and  
21       within budget."



1 SECTION 3. Section 103D-326, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§103D-326[+] **Fiscal responsibility.** Every contract  
4 modification, budget transfer, change order, or contract price  
5 adjustment under a contract shall be subject to prior written  
6 certification by the appropriate fiscal officer for funding the  
7 project or the contract, as to the effect of the contract  
8 modification, budget transfer, change order, or adjustment in  
9 contract price on the total project budget or the total contract  
10 budget. In the event that the certification of the fiscal  
11 officer discloses a resulting increase in the total project  
12 budget or the total contract budget, the procurement officer  
13 shall not execute or make such contract modification, budget  
14 transfer, change order, or adjustment in contract price unless  
15 sufficient funds are available therefor, or the scope of the  
16 project or contract is adjusted [~~so as~~] to permit the degree of  
17 completion that is feasible within the total project budget or  
18 total contract budget as it existed prior to the contract  
19 modification, budget transfer, change order, or adjustment in  
20 contract price under consideration; provided[7] that, with  
21 respect to the validity, as to the contractor, of any executed



1 contract modification, budget transfer, change order, or  
2 adjustment in contract price which the contractor has reasonably  
3 relied upon, it shall be presumed that there has been compliance  
4 with this section."

5 SECTION 4. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ or so much  
7 thereof as may be necessary for fiscal year 2026-2027 to  
8 establish a special project branch within the public works  
9 division of the department of accounting and general services,  
10 including three full-time equivalent (3.0 FTE) permanent  
11 positions, to provide specialized expertise and staff resources  
12 that support the division's implementation of certain complex,  
13 high-profile capital improvement program projects using  
14 innovative, non-traditional delivery methods.

15 The sum appropriated shall be expended by the department of  
16 accounting and general services for the purposes of this Act.

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

19 SECTION 6. This Act shall take effect on July 1, 2525.



**Report Title:**

DAGS; Procurement; Project Management Services; Budget Transfers; Certification; Fiscal Officers; Public Works Division; Special Project Branch; Positions; Appropriation

**Description:**

Authorizes governmental bodies and public employees to procure project management services through non-governmental third-party contracts under certain conditions. Clarifies the inherently governmental and nondelegable responsibility of governmental agencies, which must retain ultimate authority, accountability, and decision-making over contract performance. Requires every budget transfer to receive prior written certification from an appropriate fiscal officer as to the effect the budget transfer will have on the total project budget or the total contract budget. Appropriates funds to establish a Special Project Branch within the Public Works Division of the Department of Accounting and General Services, including funds for three full-time equivalent (3.0 FTE) permanent positions, to provide specialized expertise and staff resources that support the Division's implementation of certain complex, high-profile capital improvement program projects using innovative, non-traditional delivery methods. Effective 7/1/2525. (SD2)

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

