

ACT 121

S.B. NO. 1143

A Bill for an Act Relating to Public Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-22, Hawaii Revised Statutes, is amended to read as follows:

“§103-22 Advertisement for bids required; exceptions. (a) No expenditure of public money[,] where the sum to be expended is \$15,000 or more shall be made except under contract let, after public advertising for sealed tenders, in the manner provided by law, except [salaries]:

- (1) Salaries or pay of officers or employees[, or permanent];
- (2) Permanent settlements, subsidies, or other claims or objects for which a fixed sum must be paid by law[, or for];
- (3) For other purposes which do not admit of competition[, or for];
- (4) For the purchase of materials or supplies from any other department, bureau, organization, or [municipal or] political subdivision of the federal, state, [municipal] or county governments, other than University of Hawaii bookstores[, or for]; or

(5) For the performance of public work or contracts by any other such department, bureau, organization, or [municipal or] political subdivision of the federal, state, [municipal] or county governments[, where the sum to be expended is \$8,000 or more shall be made except under contract let after public advertisement for sealed tenders, in the manner provided by law].

(b) In all cases of expenditures of public money that is more than [\$4,000] \$10,000 but less than [\$8,000,] \$15,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State; provided that in the case of public works or repairs and maintenance of buildings, roads, and other site improvements where the expenditure is more than [\$4,000] \$10,000, but less than [\$15,000,] \$25,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State.

(c) In the case of public works emergency repairs and maintenance of buildings and its appurtenances including essential utilities and services, sewage facilities, and emergency roadway work where the expenditure is more than \$10,000 but less than \$25,000, the expenditure may be made without public advertisement for sealed tenders or a call for informal bids. For purposes of this subsection, "emergency" means work which clearly shows an immediate and compelling need for remedy for purposes of public health, welfare and safety, and preservation of life and property. The cause of the emergency shall be beyond the control of the State or county. A written determination of the emergency and the selection of the contractors shall be made by the head of the department or agency and shall become a part of the contract file.

(d) No expenditures for public purposes shall be so divided or parceled as to defeat or evade this section."

SECTION 2. Section 103-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [Expenditures in excess of such sum without so contracting may be made, with the approval of the legislative body, in the case of a county, or of the governor, in the case of the State, or of the board of regents, in the case of the University of Hawaii, or of the board of education, in the case of the department of education, or of its board or other governing authority in the case of any independent board or agency, when the expenditures are for repairs of roads, waterworks, and buildings, or, with such approval, expenditures not in excess of \$15,000 for alterations of buildings, or when the work to be done is of such a nature that its extent and character cannot be known or specified beforehand with reasonable certainty, or when no tender is received in response to an advertisement, or, with such approval, expenditures not in excess of \$15,000 for new roads, waterworks, and buildings, either on behalf of the expending division of government or for the federal or state government or any department thereof may be made, without contract, advertisement, or sealed tenders; and, in the case of such new roads, waterworks, and buildings, expenditures in excess of \$15,000 may be made, with the same approval; provided that the expending division of government shall first advertise for sealed tenders and shall keep a full and true account of the cost of the work, if done by itself, without awarding a contract therefor, and shall, upon the completion of the work, publish a full and true statement of its cost and of the amounts of rejected tenders, if any; and provided further that any governmental agency actually performing the work shall in no case receive more than the actual cost thereof.] Expenditures in the dollar amounts requiring public advertisement for sealed tenders pursuant to section 103-22 may be made without so contracting, with

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the approval of the legislative body, in the case of a county, or of the governor, in the case of the State, or of the board of regents, in the case of the University of Hawaii, or of the board of education, in the case of the department of education, or of its board or other governing authority in the case of any independent board or agency, when:

- (1) The expenditures are for repair and maintenance of roadways, waterworks, and buildings and its appurtenances including essential utilities and services and sewage facilities;
- (2) The expenditures are for alterations of buildings, provided the expenditures do not exceed \$25,000;
- (3) The expenditures are for new roads, waterworks, and buildings, provided the expenditures do not exceed \$25,000;
- (4) The work to be done is of such a nature that its extent and character cannot be known or specified beforehand with reasonable certainty; or
- (5) No tender is received in response to an advertisement.’’

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 20, 1993.)