

ACT 190

H.B. NO. 1689

A Bill for an Act Relating to the Expenditure of State Funds.

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

SECTION 1. The legislature finds there is a need to improve the process used to expend state funds for grants, subsidies, and purchases of services, particularly the process used to purchase health and human services from organizations and individuals in the community available and qualified to act on behalf of the State in responding to the health and human service needs of its citizens.

It is the legislature's intent that separate processes be used by state agencies to expend appropriations of state funds for grants and subsidies for public purposes, and to pay for and provide health and human services to the State's citizens on the agencies' behalf. It is also the legislature's intent that all state agencies use the same single process to obtain and pay for these health and human services.

The objective of this single process to purchase and provide health and human services is to ensure the fair and equitable treatment of all persons who apply to, and are paid to provide those services on the agencies' behalf. It is the intent of this legislature that this improved process result in a simpler, standardized process for both state agencies and the providers to use, and to optimize information-sharing, planning, and service delivery efforts.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER
PURCHASES OF HEALTH AND HUMAN SERVICES
PART I. GENERAL PROVISIONS

§ -101 **Application of this chapter.** (a) This chapter shall apply to all contracts made by state agencies to provide health or human services to Hawaii’s residents, provided that this chapter shall not apply to:

- (1) Contracts to award grants or subsidies of state funds appropriated by the legislature to a specific organization or individual;
- (2) Transactions between or among government agencies, including but not limited to agreements, contracts, and grants;
- (3) Transactions expressly exempt from the requirements of this chapter; and
- (4) Transactions that the chief procurement officer determines are exempt under rules adopted by the policy board.

(b) This chapter shall only apply to contracts solicited or entered into after July 1, 1998, unless the parties agree to its application to a contract solicited or entered into prior to that date.

(c) Nothing in this chapter or rules adopted hereunder shall prevent any state agency from complying with the terms or conditions of any grant, bequest, or cooperative agreement, or from satisfying any requirement of federal statute or regulation to avoid the loss or reduction of federal assistance.

§ -102 **Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Administrator” means the administrator of the state procurement office.

“Agency” means any department, authority, commission, council, board, ittee, institution, legislative body, agency, or other establishment or office of ecutive, legislative, or judicial branch of the State, and includes the office of lian affairs.

“Chief procurement officer” means those officials designated by section -203.

“Contract” means all types of agreements, regardless of what they may be l.

“Contract amendment” means any written alteration of scope of services, of delivery, payment terms, amount of payment, or other provisions of any act accomplished by mutual action of the parties to the contract.

“Data” means recorded information, regardless of form or characteristic.

“Health and human services” means services to communities, families, or iduals which are intended to maintain or improve health or social well-being.

“Provider” means an organization or individual contracted by a state agency to provide health or human services to the public on its behalf.

“Purchasing agency” means a state agency authorized to or responsible for entering into contracts to provide health or human services to the public.

“Request for proposals” means all documents, whether attached or incorporated by reference, soliciting providers to submit a detailed plan to provide health or human services to the public, on behalf of a state agency.

“Scope of service” means any description of the type of activity, including but not limited to, number served, outcomes being sought, target group, and geographic area in which the activity takes place.

“Treatment” means services to individuals and families by health or social work professionals which attempt to alleviate physical or mental illness or behavioral problems, including but not limited to, medical treatment, counseling, physical,

occupational and other therapeutic services, and referral and case management services for medical treatment, counseling, and other therapeutic services.

§ **-103 Education and training.** The administrator of the state procurement office, either alone or in cooperation with the heads of the purchasing agencies, may develop a comprehensive education and training program for the purchase of health and human services. The program shall be available to agency employees, providers, and all other interested members of the public.

§ **-104 Exemption from chapter 103D.** Contracts to purchase health and human services required to be awarded pursuant to this chapter shall be exempt from the requirements of chapter 103D, unless a provision of this chapter imposes a requirement of chapter 103D on the contract or purchase.

§ **-105 Preventing impairment of federal funds.** This chapter shall be liberally construed to not hinder or impede a state agency's application for, or receipt and use, of federal funds.

§ **-106 Authority of the procurement policy board.** The policy board established under section 103D-201 shall adopt all rules necessary to implement this chapter. The policy board shall consider and decide matters of policy within the scope of this chapter including those referred to it by chief procurement officers. The policy board may audit and monitor implementation of its rules and the requirements of this chapter, but shall not exercise authority over the award or administration of any particular contract, or over any dispute or claim arising from a contract.

PART II. PLANNING ORGANIZATION

§ **-201 Interagency committee on purchase of health and human services.** The administrator shall establish an interagency committee on purchase of health and human services comprised of heads of purchasing agencies or their designated representatives. Staff shall be provided by the state procurement office. The interagency committee shall assist the administrator in:

- (1) Securing input from providers to facilitate agency decision-making to assess needs, plan, budget, and purchase health and human services;
- (2) Establishing schedules for planning and purchasing health and human services in relation to the annual and biennial budget cycles;
- (3) Developing criteria to evaluate proposals to provide health and human services, and for restrictive purchases under section -403; and
- (4) Meeting the needs of purchasing agencies and providers for education and training to improve planning for or purchasing of health and human services.

§ **-202 Community council.** (a) There is established a community council on purchase of health and human services. The community council shall be comprised of no more than nine voting members, and one non-voting, ex-officio member of the interagency committee on purchase of health or human services designated by the majority of the members of the committee. There shall be a member from each county, except the county of Kalawao, and up to five members interested in health, human services, employment, or the provision of services to children and youth.

(b) Voting members shall be appointed by the governor and serve for four years. Each voting member shall serve until the member's successor is appointed. Section 26-34 shall apply insofar as it relates to the number of terms and consecutive number of years a member may serve on the council.

(c) Members shall serve without compensation, but shall be reimbursed for actual expenses, including travel expenses, necessary for the performance of their duties.

(d) The community council shall advise the administrator about or assist the administrator in:

- (1) Market or business conditions facing providers;
- (2) Securing input from providers to facilitate agency decision-making to assess needs, plan, budget, and purchase health and human services;
- (3) Facilitating provider participation in the process used by state agencies to plan for and purchase health and human services;
- (4) Establishing schedules for planning and purchasing health and human services in relation to the annual and biennial budget cycles;
- (5) Developing criteria to evaluate proposals to provide health and human services, and for restrictive purchases under section -403; and
- (6) The needs of purchasing agencies and providers for education and training to improve planning for or purchasing of health and human services.

§ -203 **Collaboration of providers.** Provider participation in a state agency's efforts to plan or purchase health or human services, prior to the agency's release of a request for proposal under section -402, including the sharing of information on community needs, best practices, and providers' resources, shall be encouraged, and, as determined by rules, shall not disqualify providers from submitting responses to requests for proposals.

PART III. PROCUREMENT ORGANIZATION

§ -301 **Powers and duties of the administrator.** The administrator of the state procurement office shall carry out the following duties:

- (1) Assist, advise, and guide state agencies in matters relating to planning and purchasing health and human services;
- (2) Establish and maintain a central health and human services contracts data base;
- (3) Develop and administer a statewide orientation and training program for purchasing agency employees, provider organization employees, and all other interested parties on all matters relating to carrying out the purposes of this chapter;
- (4) Develop, distribute, and maintain a health and human service procurement manual for all state procurement officials;
- (5) Develop, distribute, and maintain a procurement guide for health and human service vendors wishing to do business with the State;
- (6) Perform periodic review of the procurement practices of all governmental bodies which purchase health and human services;
- (7) Contract for such services as may be necessary for the purposes of this chapter; and
- (8) Establish and fill such positions as may be necessary to carry out the functions of this chapter, without regard to chapters 76, 77, and 89.

§ -302 **Delegation of authority of the administrator of the state procurement office.** Subject to rules adopted pursuant to this chapter, the administrator may delegate any authority or responsibility conferred by this chapter to a head or the heads of purchasing agencies.

PART IV. SOURCE SELECTION AND CONTRACT FORMATION

§ **-401 Methods of selection.** Unless otherwise provided by law, all contracts for purchases of health and human services shall be awarded by competitive purchase of services pursuant to section -402, except as provided in:

- (1) Section -403 (Restrictive purchase of services);
- (2) Section -404 (Treatment purchase of services);
- (3) Section -405 (Small purchases); and
- (4) Section -406 (Crisis purchase of services).

§ **-402 Competitive purchase of services.** (a) State agencies to which the legislature has appropriated funds for the purchase of health and human services shall solicit proposals to provide health and human services by purchase of health and human services contracts, by publishing a notice requesting the submission of health and human service proposals. Notice of the request for proposals shall be given a reasonable time before the date set forth in the request for submission of proposals. The policy board shall adopt rules which specify:

- (1) The form of the notice;
- (2) What constitutes a reasonable interim between notice and the proposal submission deadline; and
- (3) How the notice is to be published, including but not limited to, whether the publication is to be completed in a newspaper of general circulation, by mail, through a public or private telecommunications network, or any other method or combination of methods which the board deems appropriate.

(b) The request shall state all criteria which will be used to evaluate proposals, and the relative importance of the proposal evaluation criteria.

(c) Any applicant who has a question regarding a request may submit the question to the head of the purchasing agency, or a designee, prior to the proposal submission deadline. The head of the purchasing agency, or a designee, shall provide a response in the form of a clarification, or an amendment of the request, that shall be made available to all those who picked up a request.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing applicants during the process of proposal evaluation. A register of proposals shall be prepared and available for public inspection after proposal submission.

(e) If stated in the request, discussions, as provided by rule, may be held with applicants for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Applicants shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing applicants.

§ **-403 Restrictive purchase of services.** (a) A contract for the purchase of health and human services may be awarded without competition when the head of a purchasing agency determines in writing that there is a basis for restricting the purchase to a purchase from one provider, and the chief procurement officer approves the restrictive purchase determination in writing. Bases for restrictive purchase of services shall include, but are not limited to:

- (1) Need for a service in a geographic area available from only one provider;

- (2) Need for a service with a unique cultural approach designed for a limited target group available from only one provider; and
- (3) When only one provider satisfies limitations imposed by the source of funds for the procurement.

(b) A purchasing agency shall submit the written determination with evidence supporting the request for a restrictive purchase of services to the chief procurement officer. The determination shall be reviewed by the chief procurement officer and, if approved, a notice of intent to issue a restrictive purchase of services contract shall be posted in a manner that makes it accessible to the public.

(c) The policy board shall adopt rules to allow a reasonable opportunity for objections to be filed, including:

- (1) The manner in which notice is to be posted;
- (2) The duration of notice posting; and
- (3) The contents of the notice including, but not limited to, the name of the provider to be issued the contract, the date on which the contract is to be awarded, a statement indicating that any person may file written objections to the issuance of the contract, the address of the person or agency with whom the objections are to be filed, and the date by which the objections are to be filed.

(d) The written determination, any objections, and a written summary of the disposition of any objection shall be included in the contract data base.

§ **-404 Treatment purchase of services.** (a) Treatment services may be purchased in accordance with this section if either or both of the following circumstances are applicable:

- (1) Such services may become necessary from time to time, but cannot be anticipated accurately on an annual or biennial basis; and
- (2) When deferring treatment until solicitation, provider selection, and contract formation can be completed, the problem needing treatment would be rendered worse than at the time of diagnosis or assessment.

Contracts for treatment services shall be awarded on the basis of demonstrated competence and qualification for the type of service required, and at fair and reasonable prices.

(b) At a minimum, before the beginning of each fiscal year, the administrator shall publish a notice describing the types of treatment services that may be needed throughout the year on a periodic basis and inviting providers engaged in providing these treatment services to submit current statements of qualification and expressions of interest to the office. The chief procurement officer may specify a uniform format for statements of qualifications. Providers may amend these statements by filing an amended or new statement prior to the date designated for submission.

(c) The administrator shall form an initial review committee consisting of a minimum of three employees from a state agency or agencies with sufficient education, training, and licenses or credentials to evaluate the statements of qualifications which the administrator receives in response to the notice published pursuant to subsection (b). The committee shall review and evaluate the submissions and other pertinent information, including references and reports, and prepare a list of qualified providers to provide treatment services during the fiscal year. Providers included on the list of qualified treatment providers may amend their statements of qualifications as necessary or appropriate. Providers shall immediately inform the administrator of any changes in information furnished which would disqualify the provider from being considered for a contract award.

(d) When the need to purchase treatment arises, the head of a purchasing agency shall select the provider most qualified to provide the needed treatment from the list of qualified providers.

(e) The head of the purchasing agency, or a designee, shall negotiate a contract, including a rate of compensation which is fair and reasonable, established in writing, and based upon the estimated value, scope, nature, and complexity of the treatment services to be rendered, or use the rate established by the administrator, if any. If negotiations fail, upon written notice of an impasse to the provider selected under subsection (d), the head of the purchasing agency shall choose another provider from the list of qualified providers, and conduct further negotiations. Negotiations shall be conducted confidentially.

(f) Contracts for treatment in excess of \$100,000 or one year shall be procured using section -402, competitive purchase of services, unless a waiver of this subsection is approved by the chief procurement officer.

§ **-405 Small purchases.** Purchases of health and human services of less than \$25,000 are small purchases, and shall be made in accordance with section 103D-305 and rules adopted by the policy board to implement that section.

§ **-406 Crisis purchase of services.** (a) The head of a purchasing agency may contract to purchase health and human services essential to meet a crisis by means other than specified in this chapter if:

- (1) The crisis results from domestic violence, physical or mental illness or injury, homelessness, lack of food, or such other reason, and seriously threatens life, the health, or the safety of any person; and
- (2) The crisis generates an immediate and serious need for health or human services which cannot be met through services available from the departments of health or human services, or under other provisions of this chapter.

(b) The crisis purchase of services shall be made with such competition as is practicable under the circumstances and, where practicable, approval from the chief procurement officer shall be obtained prior to the purchase. A written determination of the need to make a crisis purchase, and the reasons for selecting the provider shall be included in the contract file.

§ **-407 Amendment and cancellation of requests.** A request may be amended or canceled, or any or all proposals may be rejected in whole or in part, as specified in the request or in accordance with rules adopted by the policy board, when it is in the best interest of the state agency which issued the request to amend or cancel the request, or reject proposals in whole or in part. The reason for amending or canceling a request, or for rejecting proposals in whole or in part shall be set out in writing and included in the contract file, and made available to the public.

§ **-408 Modification and termination of contracts.** (a) The policy board shall adopt rules specifying when a contract clause providing for adjustments in time of performance, scope of service, payment amount and terms, or other contract provisions as appropriate, by prior written consent of the parties, may be included in a contract to purchase health and human services.

(b) The policy board shall adopt rules requiring the inclusion of a contract clause providing for termination of the contract, either in whole or in part, for non-performance, reduction in funds available to pay the provider, or a change in the conditions upon which the need for the service was based. The purchasing agency shall be required to provide advance written notice to the provider organization with the reasons for the termination.

§ **-409 Types of contracts.** (a) Any contract that will promote the State's best interests may be used.

(b) A standard contract form for health and human services, including purchases, grants, and subsidies, shall be provided to governmental bodies by the attorney general that may be utilized, at the option of the head of the purchasing agency, without requiring prior approval as to form by the attorney general so long as no substantive changes are made to the form and the contents are appropriate.

(c) Each contract shall expressly state that the recipient or provider is an independent contractor and provide that the recipient or provider shall indemnify and hold harmless the State, the appropriate contracting agency, and the appropriate officers, employees, and agents from and against all claims, damages, and costs arising out of or in connection with the acts or omissions of the recipient or provider.

§ -410 **Multi-term contracts.** A contract for health and human services may be for any period of time and for multiple terms if the head of a purchasing agency deems it to be in the best interest of the purchasing agency to enter into an extended term or multi-term contract, provided the possibility of an extended term or multi-term contract is included in the request for proposals, if applicable, funds are available for the first fiscal period of the initial term of the contract when the contract is executed, and the contract expressly provides that extension or renewal is subject to the availability and appropriation of funds.

§ -411 **Multiple awards.** Most contracts for the competitive purchase of health and human services will be through the award of multiple contracts, and the policy board shall adopt rules prescribing the manner in which multiple contracts are to be awarded.

§ -412 **Time line.** At least once annually, the administrator shall give public notice, as provided by rules, of the types of health and human services state agencies anticipate they will need so that providers may have advance notice of possible future opportunities to submit proposals.

§ -413 **Interim measure for assuring continuation of services.** If funds are appropriated and available, the chief procurement officer, or a designee, may extend the term of a contract which has not terminated for up to six months after the termination date of the contract, to assure the provision of services to the public without disruption.

§ -414 **Allotment.** Contracts to expend and appropriations for the purchase of health and human services shall be subject to the allotment system generally applicable to all appropriations made by the legislature.

PART V. PROTESTS

§ -501 **Protested awards.** (a) A person who is aggrieved by an award of a contract may protest a purchasing agency's failure to follow procedures established by this chapter, rules adopted by the policy board, or a request for proposals in selecting a provider and awarding a purchase of health and human services contract, provided the contract was awarded under section -402 or -403. Amounts payable under a contract awarded under section -402 or -403, and all other awards of health and human services contracts may not be protested and shall be final and conclusive when made.

(b) The protest shall be submitted to the head of the purchasing agency, in writing, within five working days after the postmark date on the notice of award.

(c) The head of the purchasing agency, or a designee, may settle and resolve a protest by one or more of the following means:

- (1) Amending or canceling a request for proposal;
- (2) Terminating the contract which was awarded;
- (3) Initiating a new process to award a contract;
- (4) Declaring the contract null and void from the time of its award; or
- (5) Affirming the purchasing agency's contract award decision.

This authority shall be exercised in accordance with rules adopted by the policy board.

(d) If the protest is not resolved by mutual agreement, the head of the purchasing agency, or a designee, shall promptly issue a decision in writing. The decision shall:

- (1) State the reasons for the action taken; and
- (2) Inform the protesting person of the protester's right to reconsideration as provided in this part.

A copy of the written decision shall be mailed or otherwise furnished to the person who initiated the protest.

(e) A decision under subsection (d) shall be final and conclusive unless a request for reconsideration is submitted to the chief procurement officer under section -502.

§ -502 Right to request reconsideration. (a) A request for reconsideration of a decision of the head of the purchasing agency under section -501 shall be submitted to the chief procurement officer not later than five working days after the receipt of the written decision, and shall contain a specific statement of the factual and legal grounds upon which reversal or modification is sought.

(b) A request for reconsideration may be made only to correct a purchasing agency's failure to comply with section -402 or -403, rules adopted to implement the sections, or a request for proposal, if applicable.

(c) The chief procurement officer may uphold the previous decision of the head of the purchasing agency or reopen the protest as deemed appropriate.

(d) A decision under subsection (c) shall be final and conclusive.

§ -503 Award of contract suspended during a protest. In the event of a timely protest, or request for reconsideration, no further action to award the contract until the issue is resolved shall be taken, unless the chief procurement officer makes a written determination that the award of the contract without delay is necessary to protect the health, safety, or welfare of a person, as provided by rules.

§ -504 Exclusivity of remedies. The procedures and remedies provided for in this part, and the rules adopted by the policy board, shall be the exclusive means available for persons aggrieved in connection with the award of a contract to resolve their concerns."

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER GRANTS AND SUBSIDIES

§ -101 Definitions. As used in this section, unless the context clearly requires otherwise:

"Grant" means an award of state funds by the legislature, by an appropriation to a specified recipient, to support the activities of the recipient and permit the community to benefit from those activities.

"Recipient" means any organization or person receiving a grant or subsidy.

“Subsidy” means an award of state funds by the legislature, by an appropriation to a recipient specified in the appropriation, to reduce the costs incurred by the organization or individual in providing a service available to some or all members of the public.

§ -102 **Applications for grants and subsidies.** Requests for grants and subsidies shall be submitted to the appropriate standing committees of the legislature at the start of each regular session of the legislature. Each request shall state:

- (1) The name of the requesting organization;
- (2) The public purpose for the grant or subsidy;
- (3) The services to be supported by the grant or subsidy;
- (4) The target group; and
- (5) The cost of the grant or subsidy and the budget.

§ -103 **Standards for the award of grants and subsidies.** (a) Grants and subsidies shall only be awarded to individuals who, and organizations which:

- (1) Are licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which a grant or subsidy is awarded;
- (2) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
- (3) Agree not to use state funds for entertainment or lobbying activities; and
- (4) Allow the state agency to which funds for the grant or subsidy were appropriated for expenditure, legislative committees and their staff, and the auditor full access to their records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness, and assuring the proper expenditure of the grant or subsidy.

(b) In addition, a grant or subsidy may be made to an organization only if the organization:

- (1) Is incorporated under the laws of the State; and
- (2) Has bylaws or policies that describe the manner in which the activities or services for which a grant or subsidy is awarded shall be conducted or provided.

(c) Further, a grant or subsidy may be awarded to a non-profit organization only if the organization:

- (1) Has been determined and designated to be a non-profit organization by the Internal Revenue Service; and
- (2) Has a governing board whose members have no material conflict of interest and serve without compensation.

§ -104 **Contracts for grants and subsidies.** An appropriation for a grant or subsidy shall be disbursed by a contract between the state agency designated the expending agency for the appropriation by the legislature, and the recipient of the grant or subsidy. The contract shall be effective as of the first day of the fiscal year for which the funds for the grant or subsidy are appropriated, provided that up to one fourth of the total amount appropriated may be disbursed prior to the execution of the contract.

§ -105 **Allotment.** Contracts to disburse and appropriations for grants and subsidies shall be subject to the allotment system generally applicable to all appropriations made by the legislature.

§ -106 **Monitoring and evaluation.** Every grant or subsidy shall be monitored by the expending agency to ensure compliance with this chapter and the public purpose and legislative intent of the grant or subsidy.”

SECTION 4. Section 103D-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The policy office shall consist of a board of [five] seven members. Notwithstanding the limitations of section 78-5, the members of the board shall include:

- (1) The comptroller;
- (2) A county employee with significant high-level procurement experience; and
- (3) [~~Three~~] Five persons who shall not otherwise be full-time employees of, or contractors with, the State or any county; provided that at least one member shall be a certified professional in the field of procurement, [and] at least one member shall have significant high-level, federal procurement experience[.], and at least two members shall have significant experience in the field of health and human services.

Each appointed member shall have demonstrated sufficient business or professional experience to discharge the functions of the policy office. The initial and subsequent members of the policy office, other than the comptroller, shall be appointed by the governor from a list of three individuals for each vacant position, submitted by a nominating committee composed of four individuals chosen as follows: two persons appointed by the governor; one person appointed by the president of the senate; and one person appointed by the speaker of the house. Except as provided in this section, the selection and terms of the policy office members shall be subject to the requirements of section 26-34. No member of the policy office shall act concurrently as a chief procurement officer. The members of the policy office shall devote such time to their duties as may be necessary for the proper discharge thereof.”

SECTION 5. Act 310, Session Laws of Hawaii 1996, is amended by amending section 3 to read as follows:

“SECTION 3. [(a)] The responsibility for all purchase of service contracts under chapter 42D, Hawaii Revised Statutes (HRS), is transferred to the state procurement office effective July 1, 1998. During the interim period from the effective date of this Act to July 1, 1998, the administrator of the state procurement office shall prepare for the transfer of the responsibility for purchase of service contracts. [Effective July 1, 1998, the purchase of service system shall be transferred from chapter 42D, HRS, to chapter 103D, HRS, to provide for the procurement of all services under one chapter.]

During the two-year transition period, the administrator of the state procurement office shall work with purchase of service providers and affected departments to develop and design a concrete, detailed, and comprehensive procedure to process purchase of service contracts to replace the purchase of service contract procedures presently provided in chapter 42D, HRS; provided that in the design of the procedure the administrator shall establish an advisory council or councils to assist in the processing of such contracts. Each department involved in the purchase of service system shall fully cooperate with the administrator at section, branch, division, and departmental levels.

Toward this end the administrator shall also develop and implement a transition plan to develop necessary and desirable planning and procurement procedures. The transition plan shall be completed no later than December 31, 1996, and

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may be prepared by a consultant hired by the administrator. The transition plan shall include, but not be limited to:

- (1) Planning procedures and processes that establish criteria for developing:
 - (A) Purchase of service contract requirements, including the manner and need for provider input into the executive decision making process;
 - (B) A contract evaluation mechanism;
 - (C) A contract extension evaluation mechanism;
 - (D) A needs assessment mechanism; and
 - (E) A defined schedule necessary to implement the purchase of service system.
- (2) Developing procurement procedures, if necessary, for:
 - (A) [Chapter 103D, HRS, including consideration of whether] A new chapter with a separate procurement process for purchase of service [is desirable]; and
 - (B) The rulemaking process.”

SECTION 6. Sections 6E-16, 6E-40, 11-205.5, 103D-102, 121-45, 163D-17, 195-6.6, 210D-13, 211F-7, 261-6, 304-16.5, 304-35, 321-352, 328K-12, 333F-2, 333F-21, 346-7.5, 346-41.5, 346-274, 353D-3, 358D-8, 383-128, 601-3.6, and 431N-4, Hawaii Revised Statutes, are amended by replacing all references to “chapter 42D” or any particular section of chapter 42D with reference to the appropriate chapter or chapters created under this Act, as appropriate and as the context requires.

SECTION 7. Chapter 42D, Hawaii Revised Statutes, is repealed.

SECTION 8. Act 194, Session Laws of Hawaii 1992, as amended by Act 310, Session Laws of Hawaii 1996, is amended by amending section 20 to read as follows:

“SECTION 20. This Act shall take effect on July 1, 1992, and shall be repealed on July 1, 1998[; provided that sections 42D-1, 42D-2, 42D-3, 42D-4, 42D-5, 42D-6, 42D-7(a), 42D-8, 42D-9, 42D-12(a), 42D-21(b) and (c), 42D-23, 42D-24(a), 42D-25, 42D-31, 42D-32, 42D-33, and 42D-34 shall be reenacted in the form in which they read on the day before the approval of this Act].”

SECTION 9. Act 8, Special Session Laws of Hawaii 1993, as amended by Act 118, Session Laws of Hawaii 1995, is amended by amending section 61 to read as follows:

- “SECTION 61. This Act shall take effect on July 1, 1994; provided that[.1
- (1) Sections] sections 51 and 52 of this Act and sections -110, -201, -202, -204, and -211 of the chapter established in section 2 of this Act shall take effect upon approval[; and
 - (2) The amendment to section 42D-1, Hawaii Revised Statutes, made by section 54 of this Act, which substituted the reference to chapter 103, Hawaii Revised Statutes, with reference to chapter 103D, Hawaii Revised Statutes, in the definition of “purchase of service”, shall continue in effect after the repeal and reenactment of section 42D-1 as provided in section 20 of Act 194, Session Laws of Hawaii 1992].”

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 1997-1998 and \$300,000 or so much thereof as may be necessary for fiscal year 1998-1999 to pay for the operating expenses of the state procurement office to implement the requirements of this Act.

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

SECTION 11. All contracts entered into under statutes or portions of statutes repealed or amended by this Act shall continue to be honored until their termination. The provisions of this Act shall not be applied so as to impair any contract existing as of the effective date of this Act or to otherwise be violative of either the Hawaii Constitution or Article I, section 10, of the United States Constitution.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 1997; except that:

- (1) Sections 7, 8, and 9 shall take effect on June 30, 1998;
- (2) The provisions of chapter 42D, Hawaii Revised Statutes, as they were in effect immediately prior to the chapter's repeal, shall remain in full force and effect until all contracts for grants, subsidies, and purchases of services entered into pursuant to those provisions are terminated by their terms or any other means; and
- (3) Sections 3 and 6 shall take effect on July 1, 1998.

(Approved June 16, 1997.)

Note

1. So in original.