

A Bill for an Act Relating to Professional Service Contracts.

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

SECTION 1. Section 103D-304, Hawaii Revised Statutes, is amended to read as follows:

“§103D-304 Procurement of professional services. (a) Professional services shall be procured in accordance with sections 103D-302, 103D-303, 103D-305, 103D-306, or 103D-307, or this section. Contracts for professional services shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(b) At a minimum, before the beginning of each fiscal year, the head of each purchasing agency shall publish a notice inviting persons engaged in providing professional services which the agency anticipates needing in the next fiscal year, to submit current statements of qualifications and expressions of interest to the agency. Additional notices may be given if:

- (1) The response to the initial notice is inadequate;
- (2) The response to the initial notice does not result in adequate representation of available sources; or
- (3) Previously unanticipated needs for professional services arise.

The chief procurement officer may specify a uniform format for statements of qualifications. Persons may amend these statements by filing a new statement prior to the date designated for submission.

(c) The head of the purchasing agency shall designate a review committee consisting of a minimum of three employees from the agency or from another governmental body, with sufficient education, training, and licenses or credentials for each type of professional service which may be required. The committee shall review and evaluate all submissions and other pertinent information, including references and reports, and prepare a list of qualified persons to provide these services. Persons included on the list of qualified persons may amend their statements of qualifications as necessary or appropriate. Persons shall immediately inform the head of the purchasing agency of any change in information furnished which would disqualify the person from being considered for a contract award.

(d) Whenever during the course of the fiscal year the agency needs a particular professional service, the head of the purchasing agency shall designate a screening committee to evaluate the statements of qualification and performance data of those persons on the list prepared pursuant to subsection (c) along with any other pertinent information, including references and reports. The screening committee shall be comprised of a minimum of three employees of the purchasing agency with sufficient education, training, and licenses or credentials in the area of the services required. If the purchasing agency and using agency are different, the committee shall include at least one qualified employee from the using agency. When the committee includes an employee from a using agency, the employee shall be appointed by the head of the using agency. If qualified employees are not available from these agencies, the officers may designate employees of other governmental bodies. The primary selection criteria employed by the screening committee shall [establish criteria for the selection, and] include but not be limited to:

- (1) Experience and professional qualifications of the staff to be assigned to the project;
- (2) Past performance on projects of similar scope for public agencies or private industry; and

(3) Capacity to accomplish the work in the required time.

The screening committee shall evaluate the submissions of persons on the list prepared pursuant to subsection (c) and any other pertinent information which may be available to the agency, against [that] the selection criteria. The committee may conduct confidential discussions with any person who is included on the list prepared pursuant to subsection (c) regarding the services which are required and the services they are able to provide. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The committee shall provide the head of the purchasing agency with the names of a minimum of three persons who the committee concludes are the most qualified to provide the services required, with a summary of each of their qualifications. The contract file shall contain a copy of the criteria established for the selection and the committee's summary of qualifications for each of the persons provided to the head of the purchasing agency by the committee.

(e) The head of the purchasing agency shall evaluate the summary of qualifications for each of the persons provided by the screening committee and may conduct additional discussions with any of them. The head of the purchasing agency shall then rank the persons [in order of preference.] based on the selection criteria. The head of the purchasing agency shall negotiate a contract with the first ranked person, including a rate of compensation which is fair and reasonable, established in writing, and based upon the estimated value, scope, complexity, and nature of the services to be rendered. If a satisfactory contract cannot be negotiated with the first ranked person, negotiations with that person shall be formally terminated and negotiations with the second ranked person on the list shall commence. Failing accord with the second ranked person, negotiations with the next ranked person on the list shall commence. If a contract at a fair and reasonable price cannot be negotiated, the screening committee may be asked to submit a minimum of three additional persons for the head of the purchasing agency to rank, and resume negotiations in the same manner provided in this subsection. Negotiations shall be conducted confidentially.

(f) Contracts awarded under this section shall be posted electronically within seven days of the contract award by the chief procurement officer and shall remain posted for at least one year. Information to be posted shall include:

- (1) The names of the top five persons submitted under subsection (d), or, if the list submitted under subsection (d) is less than five, all of the persons submitted;
- (2) The name of the person or organization receiving the award;
- (3) The dollar amount of the contract;
- (4) The purchasing agency head making the selection; and
- (5) Any relationship of the principals to the official making the award.

[(f)] (g) Contracts for professional services of less than \$25,000 may be negotiated by the head of a purchasing agency, with any two persons who appear on the list of qualified persons established pursuant to subsection (c). Negotiations shall be conducted in the manner set forth in subsection (e), but without establishing any order of preference."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 30, 2000.)