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H.B. NO. 1382

A Bill for an Act Relating to Procurement.

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

SECTION 1. Small businesses are the lifeblood of the State's economy. Act 50, Session Laws of Hawaii 2005, was enacted to promote the growth and development of small businesses in Hawaii through the establishment of a small business preference program as part of the procurement process. Additionally, Act 213, Session Laws of Hawaii 2007, approved the funding for a full-time position in the state procurement office with the purpose of implementing part IX (assistance to small businesses), chapter 103D, Hawaii Revised Statutes. Unfortunately, due to funding and staffing cuts in 2008, this position was never filled and was eliminated from the state procurement office. Although section 3-124-73, Hawaii Administrative Rules, and related interim small business preference rules went into effect in 2007, a dedicated position to carry out those rules was lacking. In the absence of this dedicated position or a small business office, these interim rules failed to help the small business community and the rules expired in 2011.

The legislature finds that small businesses owned by veterans, native Hawaiians, and women are the most vulnerable and disadvantaged businesses within our State. The legislature further finds that an initiative is needed to identify, quantify, and address the needs of these small businesses and to measure and track their present participation in state small business contracts.

The legislature further finds that the State must create, develop, and implement strategies to ensure that small businesses, including businesses owned by veterans, native Hawaiians, and women, are able to effectively participate in small business contracting opportunities within our State.

The legislature further finds that previously developed administrative rules with respect to the development of small business contracts with the State were not effective because of a lack of appropriate business metrics and data available to provide relevant information necessary for the creation of those rules.

The legislature finds that any solution to address small business concerns in the State must be attempted incrementally. The legislature further finds that the state procurement office is now ready to address part IX of the Hawaii Public Procurement Code and assist self-identified small businesses in obtaining state contracts. The legislature intends to facilitate this process by creating a small

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business assistance initiative to convene small business stakeholders, collect and develop relevant data and information necessary for small businesses to compete for and obtain small business contracts, and identify and resolve issues that must be addressed to develop an effective small business state contracting program within the state procurement process.

The purpose of this Act is to establish the small business assistance initiative and provide staffing for the implementation of part IX (assistance to small businesses), chapter 103D, Hawaii Revised Statutes.

SECTION 2. (a) There is established, within the state procurement office, a three-year small business assistance initiative to facilitate the collection and development of relevant data and information and convene stakeholders for the development of an effective small business program, including the development of rules.

(b) The small business assistance initiative shall consist of a small business procurement coordinator, a small business office, and a small business advisory group.

(c) There is established, as part of the small business assistance initiative established under subsection (a), a small business advisory group. The small business advisory group shall be convened by the chief procurement officer of the State, shall consist of members from state agencies, non-profit entities, and local businesses, and shall be staffed by the state procurement office. The small business advisory group shall:

- (1) Meet regularly to discuss the progress of the initiative and to investigate any substantial problems brought to the attention of the group;
- (2) Recommend parameters to expand the initiative's policy to include other methods of procurement or other substantive improvements;
- (3) Recommend the placement and scope, administrative definition, staffing, and funding requirements for a state small business office designed to help small businesses better utilize a state small business program;
- (4) Recommend the disposition of the small business procurement coordinator, including continuing the position of small business procurement coordinator as a civil service exempt position, converting the position to a full-time civil service position, or placing the position outside of the initiative;
- (5) Recommend goals that should be established to award a percentage of state annual expenditures to identified veteran, native Hawaiian, and female owned businesses based on metrics established by the small business advisory group;
- (6) Recommend the appropriate next steps for a state small business program as it looks to fully implement section 103D-906, Hawaii Revised Statutes;
- (7) Undertake and complete a study to determine the viability of transferring the functions of the small business office to an office within an existing state department and submit the study and final recommendation to the procurement policy board and to the legislature in the report described in paragraph (9);
- (8) Use data received from the small business procurement coordinator and small business office to make recommendations for rules to be developed by the chief procurement officer and the procurement policy board; and
- (9) By November 30, 2020, draft, publish, and disseminate to the procurement policy board, the legislature, and the public a final report

of all the recommendations, observations, and metrics related to the initiative, as well as the initiative's success in encouraging and increasing small business participation in the state procurement process and the amount of state contracts being awarded to small businesses.

(d) There is established the position of small business procurement coordinator within the state procurement office, which shall be exempt from chapter 76, Hawaii Revised Statutes. The small business procurement coordinator, with the assistance of the small business office, shall be responsible for the collection and maintenance of data from the state small business database, the provision of this data and metrics to the small business advisory group, and the daily operations of the small business assistance initiative established in subsection (a). The small business procurement coordinator shall also be responsible for implementing programs and procedures to carry out the intent of part IX, chapter 103D, Hawaii Revised Statutes, to assist small businesses, including:

- (1) Establishing and maintaining a statewide small business database;
- (2) Establishing and managing a small business registration, certification, and identification process;
- (3) Drafting policies and rules to assist in the implementation of part IX, chapter 103D, Hawaii Revised Statutes;
- (4) Producing, publishing, and disseminating training materials designed to inform procurement staff and self-identified small business vendors of all small business programs and opportunities;
- (5) Conducting surveys of, and collecting feedback from, procurement staff and self-identified small business vendors to be presented to the small business advisory group and chief procurement officer of the State; and
- (6) Producing an annual report of small business participation metrics and data to be submitted to the small business advisory group.

(e) There is established, as part of the initiative under subsection (a) and within the state procurement office, a small business office. A contract to hire a firm to perform the operations and maintenance of the small business office for the duration of the initiative shall be executed. The contract shall be awarded to an existing Hawaii-based small business advocacy group with experience in helping small businesses obtain state and federal contracts. The awardee shall be a small business owned by a native Hawaiian, veteran, or female, and shall have an understanding of the small business community to be able to meet the requirements of the small business initiative. The small business office shall be responsible for:

- (1) Providing timely training and reports relating to key developments in the small business community;
- (2) Establishing communications with self-identified vendors that may include developing and implementing a newsletter and email campaign to keep vendors informed of current small business events;
- (3) Producing and publicizing outreach campaigns related to the small business initiative and other small business programs and opportunities as may be developed or discovered;
- (4) Creating, developing, advertising, and encouraging vendor participation in workshops, seminars, and training designed to promote and enhance small business participation in state contracts;
- (5) Establishing mechanisms and implementing procedures for conducting audits, handling disputes, and investigating allegations of fraud and other misappropriations of the small business initiative and its benefits to small businesses;

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- (6) Aggregating all small business resources and materials from around the State and presenting them in an easily accessible and understandable online format by potential vendor participants;
 - (7) Coordinating with small business advocates in the public and private sectors to create a small business network that can be easily accessed by all small businesses;
 - (8) Answering small business vendors' emails and questions about the State's existing small business programs; and
 - (9) Collecting data on existing and future small business vendor disputes, problems, difficulties, successes, recommendations, and any other metrics deemed important to the initiative by the state procurement office or legislature.
- (f) The small business assistance initiative shall cease to exist on June 30, 2020; provided that the small business advisory group shall remain responsible for submitting a report pursuant to subsection (c)(9).

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2017-2018 for assisting small businesses; provided that the sum appropriated shall be used:

- (1) To complete the state small business database;
- (2) For the establishment of one full-time equivalent (1.00 FTE) temporary small business procurement coordinator position exempt from chapter 76, Hawaii Revised Statutes, in the state procurement office; and
- (3) For the hiring of a local small business to operate and maintain the small business office and for marketing of and outreach for the small business assistance initiative.

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

SECTION 4. This Act shall take effect on July 1, 2017, and shall be repealed on June 30, 2020.

(Approved June 20, 2017.)