

ACT 168

H.B. NO. 1974

A Bill for an Act Relating to Procurement.

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

SECTION 1. The legislature finds that small businesses are the life-blood 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 of the Hawaii public procurement code, relating to assistance to small businesses. 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, there was no dedicated position to carry out those rules. Unfortunately, in the absence of this dedicated position or a small business office, these interim rules failed to help the small business community and expired in 2011. Act 42, Session Laws of Hawaii 2017, created a small business initiative; however, the initiative did not receive funding and the enabling legislation sunset in 2020.

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

The legislature additionally 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 the State.

The legislature notes 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 available appropriate business metrics and data to provide relevant information necessary for the creation of those rules.

The legislature further finds that any solution to address small business concerns in the State must be attempted incrementally. The legislature also notes 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 business assistance initiative to 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 a five-year small business assistance initiative and provide staffing for the implementation of part IX of the Hawaii public procurement code, relating to assistance to small businesses.

SECTION 2. Section 103D-902, Hawaii Revised Statutes, is amended to read as follows:

“§103D-902 Small business assistance. (a) The policy board shall adopt rules to assist small businesses in learning how to do business with the State.

(b) The state procurement office shall establish a small business initiative program consistent with this chapter to ensure that small businesses, including businesses owned by veterans, Native Hawaiians, and women, are able to effectively participate in small business contracting opportunities in the State.”

SECTION 3. (a) There is established within the state procurement office a small business assistance initiative to facilitate the collection and development of relevant data and information to assist small businesses. The term of the initiative shall be five years from the enactment of this Act.

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

(c) There is established the position of small business procurement coordinator within the state procurement office, which shall be exempt from chapter 76. 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 administrator of the state procurement office, 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 this section 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 this section;
- (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 administrator of the state procurement office; and
- (6) Producing an annual report of small business participation data and metrics to be submitted to the administrator of the state procurement office.

(d) 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 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 federal and state contracts. The awardee shall be a small business owned by a veteran, Native Hawaiian, 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 electronic mail 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;
- (6) Aggregating all small business resources and materials from around the State and presenting them in an easily accessible and understandable online format for 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' electronic mail 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.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$366,000 or so much thereof as may be necessary for fiscal year 2022-2023 for the small business assistance initiative established pursuant to this Act; provided that the sum appropriated shall be allocated as follows:

- (1) \$115,000 to complete the state small business database as provided by Act 42, Session Laws of Hawaii 2017, prior to its repeal;
- (2) \$126,000 for the establishment of one permanent full-time equivalent (1.00 FTE) small business procurement coordinator position exempt from chapter 76, Hawaii Revised Statutes, in the state procurement office; and
- (3) \$125,000 for the hiring of a local small business to operate and maintain the small business office established by this Act and for marketing of and outreach for the full five-year term of the small business assistance initiative.

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

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 2022.

(Approved June 27, 2022.)