
A BILL FOR AN ACT

RELATING TO HAWAII PUBLIC PROCUREMENT CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 103D-102, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Notwithstanding subsection (a), this chapter shall
4 not apply to contracts by governmental bodies:

5 (1) Solicited or entered into before July 1, 1994, unless
6 the parties agree to its application to a contract
7 solicited or entered into prior to July 1, 1994;

8 (2) To disburse funds, irrespective of their source:

9 (A) For grants or subsidies as those terms are
10 defined in section 42F-101, made by the State in
11 accordance with standards provided by law as
12 required by article VII, section 4, of the State
13 Constitution; or by the counties pursuant to
14 their respective charters or ordinances;

15 (B) To make payments to or on behalf of public
16 officers and employees for salaries, fringe
17 benefits, professional fees, or reimbursements;



- 1 (C) To satisfy obligations that the State is required
2 to pay by law, including paying fees, permanent
3 settlements, subsidies, or other claims, making
4 refunds, and returning funds held by the State as
5 trustee, custodian, or bailee;
- 6 (D) For entitlement programs, including public
7 assistance, unemployment, and workers'
8 compensation programs, established by state or
9 federal law;
- 10 (E) For dues and fees of organizations of which the
11 State or its officers and employees are members,
12 including the National Association of Governors,
13 the National Association of State and County
14 Governments, and the Multi-State Tax Commission;
- 15 (F) For deposit, investment, or safekeeping,
16 including expenses related to their deposit,
17 investment, or safekeeping;
- 18 (G) To governmental bodies of the State;
- 19 (H) As loans, under loan programs administered by a
20 governmental body; and
- 21 (I) For contracts awarded in accordance with chapter
22 103F.



- 1 (3) To procure goods, services, or construction from a
2 governmental body other than the University of Hawaii
3 bookstores, from the federal government, or from
4 another state or its political subdivision;
- 5 (4) To procure goods, services, or construction from a
6 source approved as the sole source by the federal
7 government under a grant from the federal government
8 in any procurement funded by state and federal
9 matching funds or by federal funds alone;
- 10 [+4+] (5) To procure the following goods or services which
11 are available from multiple sources but for which
12 procurement by competitive means is either not
13 practicable or not advantageous to the State:
- 14 (A) Services of expert witnesses for potential and
15 actual litigation of legal matters involving the
16 State, its agencies, and its officers and
17 employees, including administrative quasi-
18 judicial proceedings;
- 19 (B) Works of art for museum or public display;
- 20 (C) Research and reference materials including books,
21 maps, periodicals, and pamphlets, which are



- 1 published in print, video, audio, magnetic, or
2 electronic form;
- 3 (D) Meats and foodstuffs for the Kalaupapa
4 settlement;
- 5 (E) Opponents for athletic contests;
- 6 (F) Utility services whose rates or prices are fixed
7 by regulatory processes or agencies;
- 8 (G) Performances, including entertainment, speeches,
9 and cultural and artistic presentations;
- 10 (H) Goods and services for commercial resale by the
11 State;
- 12 (I) Services of printers, rating agencies, support
13 facilities, fiscal and paying agents, and
14 registrars for the issuance and sale of the
15 State's or counties' bonds;
- 16 (J) Services of attorneys employed or retained to
17 advise, represent, or provide any other legal
18 service to the State or any of its agencies, on
19 matters arising under laws of another state or
20 foreign country, or in an action brought in
21 another state, federal, or foreign jurisdiction,



- 1 when substantially all legal services are
2 expected to be performed outside this State;
- 3 (K) Financing agreements under chapter 37D; and
4 (L) Any other goods or services which the policy
5 board determines by rules or the chief
6 procurement officer determines in writing is
7 available from multiple sources but for which
8 procurement by competitive means is either not
9 practicable or not advantageous to the State; and
- 10 [~~45~~] (6) Which are specific procurements expressly exempt
11 from any or all of the requirements of this chapter
12 by:
- 13 (A) References in state or federal law to provisions
14 of this chapter or a section of this chapter, or
15 references to a particular requirement of this
16 chapter; and
- 17 (B) Trade agreements, including the Uruguay Round
18 General Agreement on Tariffs and Trade (GATT)
19 which require certain non-construction and non-
20 software development procurements by the
21 comptroller to be conducted in accordance with
22 its terms.



1 (c) Notwithstanding subsection (a), this chapter shall not
2 apply to contracts made by any regional system board of the
3 Hawaii health systems corporation.

4 (d) Governmental bodies making procurements which are
5 exempt from this chapter are nevertheless encouraged to adopt
6 and use provisions of this chapter and its implementing rules as
7 appropriate; provided that the use of one or more provisions
8 shall not constitute a waiver of the exemption conferred and
9 subject the procurement or the governmental body to any other
10 provision of this chapter."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on July 1, 2020.



Report Title:

Procurement Code Exemption; Sole Source; Federal Government

Description:

Exempts from the Procurement Code contracts to procure goods, services, or construction from a source approved as the sole source by the federal government under a grant from the federal government in any procurement funded by state and federal matching funds or by federal funds alone. (HB1470 HD1)

