



GOV. MSG. NO. 540

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 6, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 6, 2010, the following bill was signed into law:

HB347 HD2 SD2 CD1

A BILL FOR AN ACT
RELATING TO THE UNIVERSITY OF HAWAII.
ACT 082 (10)

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII.

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

1 SECTION 1. Chapter 304A, Hawaii Revised Statutes, is
2 amended by adding four new sections to be appropriately
3 designated and to read as follows:

4 "§304A-A Construction projects. In the solicitation for
5 bids for construction projects with a total estimated contract
6 value of \$1,000,000 or higher, the university shall require each
7 bidder to submit a listing of the bidder's subcontractors who
8 are to perform work with a value that exceeds five per cent of
9 the total bid amount submitted by the bidder.

10 §304A-B Pre-bid conference. (a) At least fifteen days
11 prior to submission of bids similar to those described in
12 section 103D-302 for a construction or design-build project with
13 a total estimated contract value of \$500,000 or more, and at
14 least fifteen days prior to submission of proposals similar to
15 those described in section 103D-303 for a construction or
16 design-build project with a total estimated contract value of
17 \$100,000 or more, the university shall hold a pre-bid conference



1 and shall invite all potential interested bidders, offerors,
2 subcontractors, and union representatives to attend.

3 (b) The university shall comply with the rules adopted
4 pursuant to section 103D-303.5, by the procurement policy board
5 established under section 103D-201.

6 §304A-C Right to audit records. (a) The university, at
7 reasonable times and places, may audit the books and records of
8 any person who has submitted cost or pricing data similar to
9 those described in section 103D-312 to the extent that such
10 books and records relate to such cost or pricing data. Any
11 person who receives a contract, change order, or contract
12 modification for which cost or pricing data is required, shall
13 maintain such books and records that relate to such cost or
14 pricing data for three years from the date of final payment
15 under the contract, unless another period is otherwise
16 authorized in writing.

17 (b) The university shall be entitled to audit the books
18 and records of a contractor or any subcontractor under any
19 negotiated contract or subcontract other than a fixed-price
20 contract to the extent that such books and records relate to the
21 performance of such contract or subcontract. The books and
22 records shall be maintained by the contractor for a period of



1 three years from the date of final payment under the prime
2 contract and by the subcontractor for a period of three years
3 from the date of final payment under the subcontract, unless
4 another period is otherwise authorized in writing.

5 §304A-D Preference for small businesses; set-asides; use
6 as subcontractors. (a) The university shall comply with the
7 rules adopted pursuant to section 103D-906, by the procurement
8 policy board established under section 103D-201."

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

11 "(c) Notwithstanding subsection (a), this chapter shall
12 not apply to contracts made by any regional system board of the
13 Hawaii health systems corporation[-], or, except with respect to
14 sections 103D-110, 103D-304 with respect to design professional
15 services furnished by licensees under chapter 464, 103D-324,
16 103D-707, and 103D-1002, the university or the board of regents
17 of the university."

18 SECTION 3. Section 304A-105, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) The board of regents shall develop internal policies
21 and procedures for the procurement of goods, services, and
22 construction, consistent with the goals of public accountability



1 and public procurement practices, which shall be subject to
2 [chapter 103D.] sections 103D-110, 103D-304 with respect to
3 design professional services furnished by licensees under
4 chapter 464, 103D-324, 103D-707, 103D-1002, 304A-A, 304A-B,
5 304A-C, and 304A-D. Except as provided in this subsection,
6 chapter 103D shall not apply to any actions or activities
7 undertaken, conducted, or performed under authority of the board
8 of regents or the university; provided that the board of regents
9 and the university are encouraged to use the provisions of
10 chapter 103D as guidelines; and provided further that in using
11 one or more provisions of chapter 103D as guidelines, neither
12 the board of regents nor the university shall be:

13 (1) Deemed to have waived in any way the exemption from
14 the requirements and applicability of chapter 103D
15 granted in this subsection; or

16 (2) Subject to any of the provisions or requirements of
17 chapter 103D other than those provided for in this
18 subsection."

19 SECTION 4. The board of regents of the University of
20 Hawaii shall submit annual reports to the legislature no later
21 than twenty days prior to the convening of the regular sessions



1 of 2011 and 2012, that shall include but not be limited to the
2 following:

3 (1) A description of the University of Hawaii's internal
4 procurement process;

5 (2) A description of the University of Hawaii's internal
6 procedures for handling protests of solicitations or
7 awards of contracts, if different from the procedures
8 described under chapter 103D, Hawaii Revised Statutes;
9 and

10 (3) A description and summary of any protests or
11 litigation that have arisen during the period of time
12 that the University of Hawaii is exempt from chapter
13 103D, Hawaii Revised Statutes, with certain
14 exceptions, pursuant to this Act.

15 SECTION 5. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun, before its effective date.

18 SECTION 6. In codifying the new sections added by section
19 1 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2010;
4 provided that on July 1, 2012, this Act shall be repealed and
5 sections 103D-102(c) and 304A-105(b), Hawaii Revised Statutes,
6 shall be reenacted in the form in which they read on the day
7 prior to the effective date of this Act.

APPROVED this 6 day of MAY, 2010



GOVERNOR OF THE STATE OF HAWAII

