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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1           SECTION 1. The legislature finds that the State is in need  
2 of increased transparency and accountability in government  
3 contracts, and there is currently neither a method for statewide  
4 data collection, nor clear authority of the centralized state  
5 procurement office to mandate collection for proper reporting  
6 and analysis of important metrics of procurement across the  
7 various procurement jurisdictions across the State.

8           The purpose of this Act is to improve the State's  
9 procurement process with increased transparency and  
10 accountability by strengthening the centralized state  
11 procurement office's oversight of all government contracts in  
12 the State for information collection and retrieval processes  
13 necessary for policy guidance, training, legislative reporting,  
14 and general oversight of procurement across the State by:

15           (1) Mandating that the state procurement office establish  
16                 a statewide procurement database for data collection  
17                 that shall receive meaningful data on all state



1 procurements from all government entities and that is  
2 accessible by all government entities;

3 (2) Clarifying the centralized role and authority of the  
4 state procurement office across the State's  
5 procurement jurisdictions to receive contracting  
6 information for data collection, review, and policy  
7 analysis; and

8 (3) Mandating statewide procurement oversight and  
9 legislative reporting from the state procurement  
10 office.

11 SECTION 2. Section 103D-107, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "~~{}§103D-107[{}]~~ **Compliance audit unit; establishment and**  
14 **purpose.** (a) There is established a compliance audit unit  
15 within the ~~[office of the auditor.]~~ state procurement office.

16 The purpose of this unit shall be to:

17 (1) Periodically review and audit procurement practices  
18 within government to ensure compliance with this  
19 chapter and all applicable rules; and

20 (2) Advocate competition, fairness, and accountability in  
21 the procurement process.



1 Reports made by this unit shall be a matter of public record.  
2 This unit shall utilize as part of the review process, a review  
3 of records and activities specifically for trends and patterns  
4 of occurrence.

5 (b) The office of the auditor shall periodically audit the  
6 compliance audit unit, to ensure compliance with this chapter."

7 SECTION 3. Section 103D-108, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§103D-108 Compliance audit unit; duties and**  
10 **responsibilities.** The compliance audit unit shall:

11 (1) Review and assess applicable innovations in  
12 procurement methods or processes in other governmental  
13 jurisdictions or as described in national or regional  
14 publications;

15 (2) Review current or proposed statutes and rules to  
16 determine whether they promote fairness, efficiency,  
17 and accountability in the procurement process;

18 (3) Review selected contracts awarded pursuant to section  
19 103D-304;

20 (4) Conduct studies, research, and analyses, and make  
21 reports and recommendations with respect to existing



- 1 and new methods of procurement and other matters
- 2 within the jurisdiction of the policy board;
- 3 (5) Establish and maintain a procurement library;
- 4 (6) Establish and maintain a database of meaningful
- 5 statewide procurement contract data; provided that all
- 6 data on the database shall be made accessible to each
- 7 governmental entity and selective non-confidential
- 8 data may be made accessible to the general public to
- 9 further transparency and accountability, as determined
- 10 appropriate by the administrator;
- 11 [~~6~~] (7) Report to the appropriate agency and the chief
- 12 procurement officer stating the areas of noncompliance
- 13 and recommendations for remedial action; and
- 14 [~~7~~] (8) [~~Be present at~~] Participate in legislative
- 15 hearings and policy board meetings to present the
- 16 findings of the unit."

17 SECTION 4. Section 103D-109, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 " **[+]§103D-109[+]** **Compliance audit unit; government**  
 20 **officers and employees to cooperate.** The officers and employees  
 21 of the State and of each county shall cooperate with this unit



1 and furnish to them such information related to procurement  
2 activities as may be called for in connection with the  
3 information gathering and research activities of this unit[-],  
4 including by reporting contract data pursuant to requirements  
5 and procedures established by the administrator, for inclusion  
6 in the database established under subsection 103D-108(6); The  
7 information shall be provided in a timely manner pursuant to  
8 procedures established by the administrator and shall be free of  
9 charge."

10 SECTION 5. Section 103D-205, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) For their respective jurisdictions and unless  
13 otherwise specifically provided in this chapter, each chief  
14 procurement officer shall serve as the central procurement  
15 officer for the officer's respective jurisdiction and:

- 16 (1) Procure or supervise the procurement of all goods,  
17 services, and construction;
- 18 (2) Exercise general supervision and control over all  
19 inventories of goods;
- 20 (3) Sell, trade, or otherwise dispose of surplus goods;
- 21 [and]



1 (4) Establish and maintain programs for the inspection,  
2 testing, and acceptance of goods, services, and  
3 construction[-];

4 (5) Coordinate with the administrator regarding  
5 procurement policies, opportunities for statewide  
6 innovation implementation, and concerns; and

7 (6) Report procurement contract data pursuant to  
8 requirements established by the administrator, in the  
9 form and manner prescribed by the state procurement  
10 office, for inclusion in the database established  
11 under subsection 103D-108(6)."

12 SECTION 6. Section 103D-206, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§103D-206 Additional duties of the administrator of the**  
15 **procurement office.** In addition to the duties referred to in  
16 section 103D-205, the administrator shall:

17 (1) Perform periodic review of the procurement practices  
18 of all governmental bodies;

19 (2) Assist, advise, and guide governmental bodies in  
20 matters relating to procurement[-], including  
21 development and coordination of policies for



- 1           procurement innovation, transparency, and  
2           accountability;
- 3           (3) Determine corrective actions; provided that if a  
4           procurement officer under the jurisdiction of the  
5           administrator of the state procurement office or a  
6           chief procurement officer of any of the other state  
7           entities under section 103D-203, fails to comply with  
8           any determination rendered by the administrator within  
9           thirty days from the date of the issuance of the  
10          determination, or longer if permitted by the  
11          administrator upon request by the procurement officer  
12          or a chief procurement officer, the procurement  
13          officer or chief procurement officer shall be subject  
14          to an administrative fine under section 103D-106, for  
15          every day of noncompliance;
- 16          (4) Develop and administer a statewide procurement  
17          orientation and training program;
- 18          (5) Develop, distribute, and maintain a procurement manual  
19          for all state procurement officials; [~~and~~]

- 1 (6) Develop, distribute, and maintain a procurement guide  
2 for vendors wishing to do business with the State and  
3 its counties[-]; and
- 4 (7) Coordinate and serve as a liaison to the policy board  
5 and chief procurement officers on policy matters,  
6 including reporting of procurement metrics across the  
7 State for all rulemaking and legislative initiatives  
8 relating to procurement policy."

9 SECTION 7. Section 103D-207, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 " ~~[H]~~§103D-207~~[H]~~ **Centralization of procurement authority.**  
12 Except as otherwise provided in sections 103D-208, 103D-209, and  
13 103D-210, all rights, powers, duties, and authority relating to  
14 the procurement of goods, services, and construction, and the  
15 management, control, warehousing, sale, and disposal of goods,  
16 services, and construction now vested in, or exercised by, the  
17 governmental bodies of the State and counties are hereby  
18 transferred to the respective chief procurement officers[-], who  
19 shall coordinate with the administrator for statewide data  
20 collection, training, and policy initiatives."





1 SECTION 8. Section 103D-212, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+]§103D-212[+]~~ **Collection of data concerning public**  
4 **procurement.** The chief procurement officer and the heads of all  
5 purchasing agencies shall cooperate in the preparation of  
6 statistical data concerning the procurement, usage, and  
7 disposition of all goods, services, and construction, and employ  
8 such trained personnel as may be necessary to carry out this  
9 function. All using agencies shall furnish such reports as the  
10 chief procurement officer and state procurement office may  
11 require concerning usage, needs, and stocks on hand, and the  
12 chief procurement officer or state procurement office may  
13 prescribe forms to be used by the using agencies in  
14 requisitioning, ordering, and reporting of goods, services, and  
15 construction."

16 SECTION 9. Section 103D-326, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 " ~~[+]§103D-326[+]~~ **Fiscal responsibility.** (a) Every  
19 contract modification, change order, or contract price  
20 adjustment under a contract shall be subject to prior written  
21 certification by the appropriate fiscal officer for funding the



1 project or the contract, as to the effect of the contract  
2 modification, change order, or adjustment in contract price on  
3 the total project budget or the total contract budget. In the  
4 event that the certification of the fiscal officer discloses a  
5 resulting increase in the total project budget or the total  
6 contract budget, the procurement officer shall not execute or  
7 make such contract modification, change order, or adjustment in  
8 contract price unless sufficient funds are available therefor,  
9 or the scope of the project or contract is adjusted so as to  
10 permit the degree of completion that is feasible within the  
11 total project budget or total contract budget as it existed  
12 prior to the contract modification, change order, or adjustment  
13 in contract price under consideration; provided, that with  
14 respect to the validity, as to the contractor, of any executed  
15 contract modification, change order, or adjustment in contract  
16 price which the contractor has reasonably relied upon, it shall  
17 be presumed that there has been compliance with this section.

18 (b) Any contract modification, change order, or adjustment  
19 in contract price that would result in the lesser of either:

20 (1) A fifty per cent increase of the initial contract  
21 price, or



1        (2) An increase in excess of \$1,000,000 above the initial  
2            contract price,  
3 shall be submitted with associative cost and pricing analysis to  
4 the chief procurement officer for approval, then shall be  
5 submitted to the administrator for notification."

6        SECTION 10. Section 103D-809, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "[+]§103D-809[+] **Review of procurement requirements.** The  
9 ~~[chief procurement officer may]~~ administrator shall collect  
10 information concerning the type, cost, quality, and quantity of  
11 commonly used goods, services, or construction being procured or  
12 used by state public procurement units[-], in coordination with  
13 the chief procurement officer. The chief procurement officer  
14 may also collect and report this information from local public  
15 procurement units. The ~~[chief procurement officer may]~~ state  
16 procurement office shall make available all such available  
17 information to any public procurement unit upon request."

18        SECTION 11. This Act does not affect the rights and duties  
19 that matured, penalties that were incurred, and proceedings that  
20 were begun before its effective date.



1 SECTION 12. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2015-2016 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2016-2017 for the state procurement office to establish the  
6 statewide procurement database and establish necessary positions  
7 pursuant to this Act.

8 SECTION 13. All appropriations, records, equipment,  
9 machines, files, supplies, contracts, books, papers, documents,  
10 maps, and other personal property heretofore made, used,  
11 acquired, or held by the office of the auditor relating to the  
12 functions transferred to the state procurement agency shall be  
13 transferred with the functions to which they relate.

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

16 SECTION 14. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 15. This Act shall take effect on July 1, 2015.



**Report Title:**

Procurement; State Procurement Office; Database; Oversight

**Description:**

Requires the state procurement office to establish a database of all government procurement contracts, accessible to each governmental entity. Requires state procurement office oversight of procurement information. Appropriates funds to establish the database. (HB1126 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

