
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The purpose of this Act is to amend the
2 procurement laws relating to the purchase of health and human
3 services to promote procurement efficiency, program success, and
4 government accountability by:

5 (1) Authorizing the procurement policy board to adopt
6 administrative rules to provide an expedited method
7 for purchasing agencies to competitively procure
8 health and human services small purchases;

9 (2) Increasing efficiency and short-term treatment
10 purchase of services;

11 (3) Promoting fair and reasonable prices through
12 government transparency and accountability; and

13 (4) Streamlining membership requirements for the
14 procurement policy board.

15 SECTION 2. Chapter 103F, Hawaii Revised Statutes, is
16 amended by adding to part IV a new section to be appropriately
17 designated and to read as follows:



1 "§103F- Fair and reasonable pricing policy; cost or
2 pricing data. (a) For each contracting action under this
3 chapter including any change orders or contract modifications
4 that increase the original contract amount, the procuring agency
5 shall make a written determination that the amount of the
6 contracting action is fair and reasonable.

7 (b) In determining whether the amount of the contracting
8 action is fair and reasonable, the procuring agency shall obtain
9 the data necessary to perform a cost or price analysis to
10 determine that the amount of the contracting action is a fair
11 and reasonable price."

12 SECTION 3. Section 103D-201, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The policy board shall consist of [~~seven~~] six
15 members. Notwithstanding the limitations of section 78-4, the
16 members of the board shall include:

- 17 (1) The comptroller;
- 18 (2) A county employee with significant high-level
19 procurement experience; and
- 20 (3) [~~Five~~] Four persons who shall not otherwise be full-
21 time employees of the State or any county; provided



1 that at least one member shall be a [~~certified~~]
2 professional in the field of procurement, at least one
3 member shall have significant high-level, federal
4 procurement experience, and at least [~~two members~~] one
5 member shall have significant experience in the field
6 of health and human services.

7 Each appointed member shall have demonstrated sufficient
8 business or professional experience to discharge the functions
9 of the policy board. The initial and subsequent members of the
10 policy board, other than the comptroller, shall be appointed by
11 the governor from a list of [~~three~~] two individuals for each
12 vacant position, submitted by a nominating committee composed of
13 [~~four~~] three individuals chosen as follows: [~~two persons~~] one
14 person appointed by the governor; one person appointed by the
15 president of the senate; and one person appointed by the speaker
16 of the house. Except as provided in this section, the selection
17 and terms of the policy board members shall be subject to the
18 requirements of section 26-34. No member of the policy board
19 shall act concurrently as a chief procurement officer. The
20 members of the policy board shall devote such time to their
21 duties as may be necessary for the proper discharge thereof."



1 SECTION 4. Section 103F-404, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§103F-404[+]~~ Treatment purchase of services. (a)
4 Treatment services may be purchased in accordance with this
5 section if ~~[either or both of]~~ the following circumstances are
6 applicable:

7 ~~[-(1) Such services may become necessary from time to time,~~
8 ~~but cannot be anticipated accurately on an annual or~~
9 ~~biennial basis; and~~

10 ~~-(2) When deferring treatment until solicitation, provider~~
11 ~~selection, and contract formation can be completed,~~
12 ~~the problem needing treatment would be rendered worse~~
13 ~~than at the time of diagnosis or assessment.~~

14 ~~Contracts for treatment services shall be awarded on the basis~~
15 ~~of demonstrated competence and qualification for the type of~~
16 ~~service required, and at fair and reasonable prices.]~~

17 (1) The need for treatment services is unanticipated and
18 arises from time to time;

19 (2) The required services are for a one-time purchase for
20 not more than \$100,000 and no longer than one year;



1 (3) The services are industry standard services, that is,
2 the services are generally accepted practices by the
3 industry or profession; and

4 (4) The award of a contract is based on demonstrated
5 competence and qualification for the type of service
6 required and at fair and reasonable prices.

7 ~~(b) [At a minimum, before the beginning of each fiscal~~
8 ~~year, the administrator shall publish a notice describing the~~
9 ~~types of treatment services that may be needed throughout the~~
10 ~~year on a periodic basis and inviting providers engaged in~~
11 ~~providing these treatment services to submit current statements~~
12 ~~of qualification and expressions of interest to the office. The~~
13 ~~chief procurement officer may specify a uniform format for~~
14 ~~statements of qualifications.] The head of the purchasing~~
15 agency, or a designee, shall, at a minimum, publish a notice
16 describing the types of treatment services that may be needed
17 throughout the fiscal year on an as-needed basis and inviting
18 providers engaged in providing these treatment services to
19 submit current statements of qualification and expressions of
20 interest to the purchasing agency. Providers may amend these



1 statements by filing an amended or new statement prior to the
2 date designated for submission.

3 (c) The [~~administrator~~] head of the purchasing, or a
4 designee, shall form an initial review committee for each
5 profession, consisting of a minimum of three employees from a
6 state agency or agencies with sufficient education, training,
7 and licenses or credentials to evaluate the statements of
8 qualifications which the [~~administrator~~] head of the purchasing
9 agency, or a designee, receives in response to the notice
10 published pursuant to subsection (b). The committee shall
11 review and evaluate the submissions and other pertinent
12 information, including references and reports, and prepare a
13 list of qualified providers to provide treatment services during
14 the fiscal year. Providers included on the list of qualified
15 treatment providers may amend their statements of qualifications
16 as necessary or appropriate. Providers shall immediately inform
17 the [~~administrator~~] head of the purchasing agency of any changes
18 in information furnished [~~which~~] that would disqualify the
19 provider from being considered for a contract award.

20 (d) When the need to purchase treatment arises, the head
21 of a purchasing agency shall select the provider most qualified



1 to provide the needed treatment from the list of qualified
2 providers.

3 (e) The head of the purchasing agency, or a designee,
4 shall negotiate a contract, including a rate of compensation
5 ~~[which]~~ that is fair and reasonable, established in writing, and
6 based upon the estimated value, scope, nature, and complexity of
7 the treatment services to be rendered, or use the rate
8 established by the ~~[administrator,]~~ head of the purchasing
9 agency, or a designee, if any. If negotiations fail, upon
10 written notice of an impasse to the provider selected under
11 subsection (d), the head of the purchasing agency shall choose
12 another provider from the list of qualified providers, and
13 conduct further negotiations. Negotiations shall be conducted
14 confidentially.

15 (f) Contracts for treatment services in excess of \$100,000
16 or that last for more than one year shall ~~[be procured using~~
17 ~~section 103F 402, competitive purchase of services, unless a~~
18 ~~waiver of this subsection is approved by the chief procurement~~
19 ~~officer.]~~ utilize an alternative applicable method of
20 procurement."



1 SECTION 5. Section 103F-405, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§103F-405[+]~~ **Small purchases.** Purchases of health and
4 human services of less than [~~\$25,000~~] \$100,000 are small
5 purchases, and shall be made in accordance with [~~section 103D-~~
6 ~~305-and~~] rules adopted by the policy board to implement [~~that~~]
7 this section."

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Procurement; Price or Cost Data; Procurement Policy Board;
Treatment Purchase of Services; Small Purchase of Service

Description:

Requires cost or pricing analysis for health and human services purchasing. Changes membership of the Procurement Policy Board. Authorizes purchasing agency heads, or their designees, to issue requests for statement of qualifications and to establish lists of qualified providers for treatment purchase of services. Increases the small purchase threshold for health and human services. (SD1)

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