
SENATE CONCURRENT RESOLUTION

REQUESTING THE STATE PROCUREMENT OFFICE AND THE STATE ETHICS COMMISSION TO REVIEW POSSIBLE PROCUREMENT CODE AND ETHICS VIOLATIONS COMMITTED BY THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM.

1 WHEREAS, trade missions to China and Korea in 2005 were
2 pursued by the Department of Business, Economic Development, and
3 Tourism to encourage economic and tourism-related partnerships
4 with these two countries and thus are considered to be
5 state-related business; and

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7 WHEREAS, the state procurement laws are intended to ensure
8 that the State receives the best value for its money through a
9 competitive selection process with vendors; and

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11 WHEREAS, according to an article dated February 12, 2006 in
12 the Honolulu Advertiser, the Department of Business, Economic
13 Development, and Tourism may have violated state procurement
14 laws when the department selected a nonprofit organization to
15 handle the finances for the Governor's trade mission to China
16 and Korea in 2005; and

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18 WHEREAS, concerns have been raised as to whether the
19 department circumvented the procurement code, due to the fact
20 that the department entered into "protocol and procedural
21 framework," which is in essence a procurement contract for
22 services; and

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24 WHEREAS, the "protocol and procedural framework" resulted
25 in compensation and realization to the parties who were part of
26 the trade mission; and

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28 WHEREAS, the department approached the Hawaii District
29 Export Council, a nonprofit organization, to jointly organize
30 with the department the Governor's China trade mission; and
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1 WHEREAS, the department conceived of the trade mission,
2 solicited all of the private funding, and executed the planning
3 and scheduling of the trade mission, including all the decisions
4 concerning the subcontractors, financing, and organization of
5 the mission, notwithstanding the advice of the Attorney General
6 to take precautions as described below; and
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8 WHEREAS, the amount of \$268,637 was raised by the
9 department from private sector sponsors to support the mission;
10 and
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12 WHEREAS, the department received a letter dated
13 April 5, 2005 from the Department of the Attorney General
14 cautioning that if the director or someone from the department
15 was assisting in making decisions about how money is spent at
16 the nonprofit in charge of organizing the state trade mission,
17 the department may be violating procurement law; and
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19 WHEREAS, on March 8, 2005, the State Procurement Office
20 notified the department that it would constitute a potential
21 violation of the procurement code to hire Events International
22 to help organize the trade mission without going through the
23 competitive selection process because there was a potential for
24 a contractor to derive benefits as a result of receiving the
25 trade mission contract; and
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27 WHEREAS, the department still received services from Events
28 International because the company assisted in the planning of
29 the trade mission without solicitation of bids or proposals; and
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31 WHEREAS, there remains important questions regarding the
32 department's use of such a structure involving nonprofit
33 organizations; and
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35 WHEREAS, the Attorney General in his letter warned the
36 department that any state employee whose trip is paid by private
37 funds received from the sponsors and participants of the trade
38 mission should receive prior approval from the State Ethics
39 Commission; and
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41 WHEREAS, a genuine issue of concern arises as to whether it
42 is permissible under ethics law to solicit private funding to
43 finance activities that are essentially a government function;
44 and



1 WHEREAS, in 1997 the Office of the Auditor performed a
2 procurement code audit of the department and recommended that
3 the department develop a procurement manual for use by all
4 operating units and ensure that all project managers are
5 properly trained in contracting policies and procedures; now,
6 therefore,
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8 BE IT RESOLVED by the Senate of the Twenty-third
9 Legislature of the State of Hawaii, Regular Session of 2006, the
10 House of Representatives concurring, that the State Procurement
11 Office and State Ethics Commission are requested to separately
12 review this matter for possible procurement code and ethics code
13 violations committed by the Department of Business, Economic
14 Development, and Tourism; and
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16 BE IT FURTHER RESOLVED that the State Procurement Office
17 and State Ethics Commission are requested to separately report
18 their respective findings and recommendations to the Legislature
19 no later than September 1, 2006; and
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21 BE IT FURTHER RESOLVED that certified copies of this
22 Concurrent Resolution be transmitted to the Administrator of the
23 State Procurement Office, the Executive Director of the State
24 Ethics Commission, and the Director of Business, Economic
25 Development, and Tourism.
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