

LINDA LINGLE
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
ECONOMIC DEVELOPMENT & BUSINESS CONCERNS
ON
January 29, 2008

H.B. 2267

RELATING TO PROCUREMENT

Chair Yamashita and members of the Committee, thank you for the opportunity to testify on H.B. 2267.

The Department of Accounting and General Services (DAGS) appreciates the bill's attempt to make the procurement code's protest procedure fairer and believes that what the bill proposes is reasonable. DAGS' concern is that the State's 20 Chief Procurement Officers may not have adequate staff support or resources to take back the authority to settle protests from all procurement officers to whom the protest settlement responsibility has been delegated. DAGS recommends that these staffing and resource requirements be determined and that if provided for, they do not take away from any programs or projects in the administration's budget submittal.

DAGS recognizes that reimbursing protestors for reasonable attorney's fees would appeal to protestors. DAGS' concern is that what is "reasonable" needs to be clearly defined to avoid frivolous costs or protests. DAGS further recommends that the drafters

of the bill establish a means for the State to pay the reasonable attorney's fees and to do so without adversely affecting any programs or projects in the administration's budget submittal.

DAGS believes that the administrative review of determinations made by the Chief Procurement Officers by the Department of Commerce and Consumer Affairs (DCCA) is acceptable. The potential conflict the bill mentions will exist no matter where the review is handled, as the 20 Chief Procurement Officers have jurisdiction in all branches of government. Of the 20 Chief Procurement Officers, 4 are in the State Executive Branch (1 - Cabinet Departments, 1 - UH, 1 - DOE, 1 - Hawaii Health Systems Corp), 1 is in the State House, 1 is in the State Senate, 1 is in the Judiciary, 1 is in OHA, 4 are in the mayors' cabinets, 4 are in the county councils, and 4 are in the boards of water supply.

In summary, DAGS supports the intent of the bill and recommends that the resource requirements of the protest settlement and definition of reasonable attorney's fees for reimbursement be addressed in the bill's language. DAGS does not believe it is necessary to reassign the administrative review of determinations made by the Chief Procurement Officers from the DCCA to the Office of the Ombudsman.

Thank you for the opportunity to testify on this matter.