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WRITTEN COMMENTS  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
SENATE COMMITTEE  
ON  
WAYS AND MEANS

March 27, 2008

HB 2531, HD 1, SD 1

RELATING TO THE WEST MAUI TRANSPORTATION ACCESS PLAN.

Chair Baker, Vice Chair Tsutsui and committee members, thank you for the opportunity to testify on HB 2531, HD 1, SD 1. The State Procurement Office's (SPO) testimony is limited to Section 2, subsection (b) that provides for a "non-bid" contract with a consultant.

The SPO does not support the language to exempt from HRS chapter 103D, the contract for a consultant to develop the proposed West Maui transportation access plan.

Statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part ". . . shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, . . ." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

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The SPO is against statutorily exempting specific purchases from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable set of rules and processes for award of contracts. The competitive procurement processes of the Code are to insure that all potential providers are afforded the opportunity to compete for the required services. To the extent agencies may need specific purchases to be exempted from Code requirements, the Code provides an exemption process.

The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly to obtain its requirements. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic for the administration and vendors/contractors that must comply with a variety of processes. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, we must participate in the process with one set of statutes and rules.

In conclusion, there is no compelling reason to statutorily exempt the contract for a consultant to develop the West Maui transportation access plan from chapter 103D. The SPO recommends amending Page 4, lines 14 and 15, as follows:

(b) The temporary working group shall develop a West Maui transportation access plan to address road closures in West Maui and may contract with a consultant to develop the plan ~~without regard to chapter 103D, Hawaii Revised Statutes.~~

Thank you.