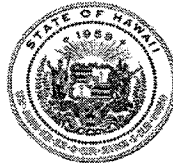


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WRITTEN COMMENTS
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS

February 21, 2008

S.B. 2414, SD 1

RELATING TO HEALTH.

Chair Baker, ViceChair Tsutsui and committee members, thank you for the opportunity to testify on S.B. 2414, SD 1. The State Procurement Office's (SPO) testimony is limited to Section 2, which provides that any contract pursuant to SB 2414, SD 1, shall be a "non-bid" contract exempt from chapter 103D, Hawaii Revised Statutes.

The SPO does not support the language to exempt from HRS chapter 103D, the contract for a consultant to conduct all or a portion of the study.

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.

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 from the Code any contract pursuant to S.B. 2414, SD 1. The SPO recommends amending Page 3, lines 1 and 2, as follows:

The legislative reference bureau may contract the services of a private contractor to conduct all or a portion of the study as it deems appropriate. ~~Any contract executed pursuant to this Act shall be exempt from chapter 103D, Hawaii Revised Statutes.~~

Thank you.

Ken H. Takayama
Acting Director

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Written Comments Only

SB2414, SD1
RELATING TO HEALTH

Comments by the Legislative Reference Bureau
Ken H. Takayama, Acting Director

Submitted to the Senate Committee on Ways and Means
Decision Making

Thursday, February 21, 2008, 9:30 a.m.
Conference Room 211

Chair Baker and Members of the Committee:

Thank you very much for this opportunity to comment on Senate Bill No. 2414, S.D. 1. The Legislative Reference Bureau (Bureau) takes no position either for or against the measure, but submits the following comments and concerns:

- As always, if the Legislature wants us to do this study, we will do what we can to the best of our ability.
- The bill directs the Bureau to undertake a very broad study on certain issues concerning state-funded Medicare programs.
- The Bureau does not collect much less maintain any data of this nature. Therefore, all data will need to come from other sources—assuming that data is available at all.
- Assuming that data is available there are aspects of this study that may require the services of an actuary.
- We note that the deletion of item (E) at page 2, lines 16-19 would reduce the likelihood and the extent of the need for actuarial services, and help to keep costs under control.

Thank you very much for this opportunity to comment.