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WRITTEN COMMENTS  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
SENATE COMMITTEE  
ON  
JUDICIARY AND GOVERNMENT OPERATIONS

February 27, 2009

9:30 AM

SB 1036

RELATING TO ELECTIONS.

Chair Taniguchi, Vice-Chair Takamine and committee members, thank you for the opportunity to provide comments on SB 1036. This bill allows the Chief Election Officer to either award a contract or make an emergency procurement when a procurement is being protested and the contract cannot reasonably be expected to be awarded within one year prior to the election.

The State Procurement Office (SPO) does not support this bill that provides a separate process only for the Office of Elections to resolve and settle protests from aggrieved Offerors. Part VII, Legal and Contractual Remedies, HRS Chapter 103D, allows for a consistent and fair process for both the agency and aggrieved Offeror. In addition, HRS §103D-701(f) already provides that the Chief Procurement Officer may make a written determination that the award of the contract without delay is necessary to protect the substantial interests of the State.

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. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are allowed to develop their own individual processes, it becomes problematic and confusing to vendors, contractors and service providers that must comply with a variety of different processes and standards. 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.

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There needs to be one single source of public procurement policy. If it is to be the policy and procedures as used by the Office of Elections, then all other purchasing jurisdictions and departments should use the same requirements of this section, rather than having multiple policies. Therefore, HRS chapter 103D, Part VII, Legal and Contractual Remedies need to be amended.

The SPO recommends this bill be held. Thank you.