

ACEC

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of Hawaii

January 25, 2010

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EMAILED TESTIMONY TO: HEDTestimony@Capitol.hawaii.gov

**Hearing Date: Tuesday, January 26, 2:15 p.m., Conference Room 309
(House Committee on Higher Education)**

Honorable Representatives Jerry L. Chang, Chair, Mark M. Nakashima, Vice Chair, and
Members of the House Committee on Higher Education

Subject: HB 2055, Relating to the University of Hawaii

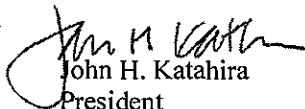
Dear Chair Chang, Vice Chair Nakashima, and Committee Members,

The American Council of Engineering Companies of Hawaii (ACECH), representing
more than 60 consulting engineering firms and 1,300 employees, **opposes HB 2055,**
Relating to the University of Hawaii.

HB 2055 seeks to exempt the University of Hawaii from Hawaii Revised Statutes (HRS)
Chapter 103D the State procurement code. The bill encourages the University to use the
provisions of Chapter 103D as guidelines. However, ACECH strongly believes that the
State procurement code under 103D is the best means for procuring professional services,
and should continue to be used by the University of Hawaii. The State procurement code
provides fair and proper award of public contracts in a manner open and transparent to the
public. The procedure of "Qualifications-Based Selection" under 103D-304 provides the
nationally recognized best method for procurement of professional design and other
services. We believe the University has not provided sufficient reasons to sidestep the State
procurement code. Further, we are concerned this bill goes against public's best interest in
an open and transparent procurement process.

We appreciate your time and the opportunity to comment on this bill. Please do not hesitate
to contact us if you have any questions regarding our testimony.

Respectfully submitted,


John H. Katahira
President

PLUMBING & MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII



Via Facsimile: 586-6684

January 25, 2010

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GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Representative Jerry L. Chang, Chair
Committee on Higher Education
House of Representatives
The Twenty-Fifth Legislature, Regular Session of 2010
State Capitol
Honolulu, HI 96813

Chair Chang, Vice Chair Nakashima, and Members of the Committee:

SUBJECT: H.B. 2055 Relating to the University of Hawaii

My name is Gregg Serikaku. I am the Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii.

The Association for which I speak is opposed to H.B. 2055, which exempts the University of Hawaii from the current procurement rules of Chapter 103-D of the Hawaii Revised Statutes.

We believe that Chapter 103-D provides an effective method for the procurement of goods, services and construction, and helps to protect public funds from abuse and waste. In fact, Chapter 103-D was specifically enacted to create a fair and open procurement procedure that eliminates favoritism, ensures competitive bids, and prevents those contractors who do not have the required licenses, tax clearances, insurance coverage, etc., from bidding on public projects, all of which potentially saves taxpayers thousands of dollars.

Furthermore, the creation of separate procurement procedures for different entities will generate confusion among potential contractors and will certainly lead to many hours of lost time and efficiency.

Lastly, the actual process of developing separate procurement procedures will undoubtedly cost the state additional funds that may not be prudent during these economic times.

We therefore respectfully urge the committee to hold this bill.

Thank you very much for this opportunity to testify.

Respectfully yours,

Gregg S. Serikaku
Executive Director

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January 26, 2010

Testimony To: House Committee on Higher Education
Representative Jerry Chang, Chair

Presented By: Tim Lyons
President

Subject: H.B. 2055 - RELATING TO THE UNIVERSITY OF HAWAII

Chair Chang and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. Our testimony today represents the collective thoughts of nine separate and distinct subcontracting associations:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

We are opposed to this bill. Prior to the establishment of the procurement code for all state agencies, contractors lived daily with a "mixmash" of rules and regulations on how to do business with the State. Some contractors gave up doing state work because it was so confusing going from one agency to the other. The rules were different, the procedures were different and the requirements were different. This bill set us on the path of potentially nineteen (19) different sets of rules to do business with the government.

It was based on that then we endorsed the establishment of the Hawaii Procurement Code. Over the years there have been a number of protections built into the Public Procurement Code which protects subcontractors and those who do business with the government. We are, after all, talking about taxpayer money and it is important that it be spent correctly.

On previous occasions when this subject has arisen, the communication offered by the University of Hawaii officials as to why they wanted to get out of the procurement code was that they were tired of protests and that the procedure lengthened the time of the projects. We think that it is important to remember that a protest is filed because the unsuccessful contractor feels as if the successful contractor did not play by the same rules that he had to play by. In most cases they tell us that if they were able to do the same things that the successful bidder was to do, then they could have gotten the job. All the Procurement Code does is make sure that everybody is playing on a level playing field and if in fact they are not, you need to have a provision that allows people to protest. We do not believe that it is enough to provide in this bill that the Board "encouraged" to use the provisions of the procurement code as "guidelines". This doesn't even call for them to use it. They

are only encouraged to use it, and then when they do, it is only a guideline. UH is already one of the worst offenders of the procurement code. This bill allows them to get out of the prompt payment provision, deletes protections for subcontractors including bonding claims and encourages bid shopping by general contractors.

In conclusion, we do not feel the University of Hawaii should be exempt from the procurement code and if there are problems with the procurement code, that detract from having a smooth, transparent and fair system then we should be addressing that for the benefit of all agencies not just the University of Hawaii.

Based on the above, we oppose this bill.

Thank you.