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**TESTIMONY OF Paul S. Schultz
TO THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT
OPERATIONS
ON SENATE BILL NO. 705
RELATING TO HAWAII PUBLIC PROCUREMENT
MARCH 3, 2009**

Senate Chair Taniguchi and members of the Senate committee on Judiciary and Government Operations, thank you for the opportunity to testify in support of Senate Bill No. 705. The purpose of this bill is to amend State Procurement Code Section 103D-102 to allow sole source procurement of "goods, services, or construction from a specific vendor that has been previously approved for that procurement under a grant from the federal government".

In 2004, Hawaii State Civil Defense (SCD) acquired a system called "Hawaii Homeland Security Command Information System (H2S-CIS)" from a local vendor, Hawaiya Technologies, Inc. (HTI). HTI submitted a proposal to SCD for the implementation of H2S-CIS at SCD and Kewalo Basin to be funded via a competitive Department of Homeland Security grant. The grant request was submitted by SCD naming the system and vendor. The grant was subsequently awarded to SCD naming both the State of Hawaii and HTI in the award. HTI satisfactorily developed and installed this command and control system. The system is comprised of a command, control and display system within the SCD Emergency Operations Center (EOC) in Diamond Head and a Radar, Electro-Optical sensors and the Automatic Identification System (AIS) at the Kewalo Basin. It was the first of its kind in the State of Hawaii and to date the ONLY Port Security system installed to protect any part of Honolulu Harbor.

In 2006, with the increased threat of terrorism in American ports, HTI developed a strategy to implement H2S-CIS throughout all of Hawaii's commercial ports with implementation to be spread across a 5 year span. The State of Hawaii, specifically the Port of Honolulu had been identified as one of the critical U.S. ports requiring protection and authorized to submit grant proposals under the Port Security Grant Program (PSGP). In response to this, the State of Hawaii Department of Transportation Harbors (DOTH) submitted five (5) projects to DHS which included H2S-CIS. Of the five projects, H2S-CIS was the only approved submission with a FEMA/DHS approved sole source to HTI.

In 2007, DOTH submitted three (3) new proposals in response to the 2007 PSGP announcement. All three proposals were accepted by DHS FEMA and again provided sole source approvals to HTI for the implementation of H2S-CIS at the Kahalui Maui Harbor and sole source to Trex/Sago for the implementation their Pier Protection with Passive Millimeter Wave

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Imaging (P3MWI) system. The third system, Credentialing did not have a specific vendor, therefore, was identified for full and open competition by DHS FEMA.

In 2008, the port of Honolulu was moved from Tier II to Tier III in critical importance within DHS FEMA for protection. With this transition, \$4,528,068 was identified for the Port of Honolulu. DOTH has been going through an extensive vetting process to identify the projects for the 2008 PSGP, and one of the projects will be to implement H2S-CIS for the Island of Hawaii. Additionally, the 2009 PSGP announcement was recently released and DOTH plans to include H2S-CIS for the Island of Kauai.

The foregoing example demonstrates clearly that there is a need to exempt sole source federal funding from the provisions of the State Procurement Code. As such Code is presently worded and interpreted, the State of Hawaii cannot take advantage of federal funding where the federal government has qualified a sole source for such funding.

In these recessionary times, and with President Obama's initiatives to stimulate the economy by funding state and municipal projects, it is imperative that the State be able to move quickly to accept and execute federal dollars. The State Procurement code must be amended to allow permit State matching funds for sole source federal funding so as not to lose significant federal funds allocated for Hawaii.

In response to this, Senator Donna Mercado Kim has introduced a bill to amend the State Sole Source procurement code. Currently, the SB705 bill is stated as:

SECTION 1. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§103D- Exemption for General Services Administration-approved sole source vendor. (a) A bidder or offeror who is a United States General Services Administration-approved sole source vendor, shall be exempt from complying with sections 103D-302, 103D-303, or 103D-304, as applicable, in any procurement funded by state and federal matching funds.

(b) Subsection (a) shall apply only if the United States General Services Administration-approved sole source vendor was responsible for obtaining the federal funding."

Although this will provide some level of exemption, this is not sufficient to resolve the problem. Therefore, we propose that the bill be amended to encompass all procurement of "goods, services, or construction approved for sole source under a grant from the federal government" . We propose the amendment to read as the following:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 103D-102, Hawaii Revised Statutes is amended to read as follows:

(4) Exemption for Federal Government-approved sole source vendor. To procure goods, services, or construction from a source approved as the sole source by the federal government under a grant from the federal government in any procurement funded by state and federal matching funds or by federal funds alone;

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Thank you for the opportunity to testify on Senate Bill No. 705.

Respectfully Submitted

Mr. Paul S. Schultz