



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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**COMMENTS
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS**

March 28, 2012

9:35 a.m.

HB 2265, HD2, SD1

RELATING TO THE STATE PROCUREMENT CODE.

Chair Ige, Vice-Chair Kidani and committee members, thank you for the opportunity to submit comments on HB 2265, HD2, SD1. This bill proposes to make permanent the small purchases limits for goods and services to less than \$100,000 and less than \$250,000 for construction.

Act 175, SLH 2009 temporarily amended HRS Section 103D-305(a) for small purchase procurements less than \$100,000 for goods or services and less than \$250,000 for construction. Act 175 also amends HRS section 103D-305(c) for procurements \$25,000 to less than \$100,000 to be conducted on an electronic procurement system.

The electronic procurement system is the fairest, most efficient, time saving method of procuring small purchases. Electronic procurement ensures the greatest amount of competition by electronically notifying all prospective bidders, in an open and transparent environment.

As background, small purchases without an electronic procurement requirement are inherently unfair because there is no public notice issued and the purchaser decides whom to contact for the three price quotations. That process is secretive, hidden from public view, prone to misuse, abuse, bid rigging and manipulation (i.e. purchaser will get a quote from a friend/preferred vendor and get 2 more quotes that are higher than the friend/preferred vendor, assuring friend/preferred vendor is selected).

The electronic procurement requirement is to assure all interested parties are electronically notified of the procurement and provided an equal opportunity to submit a price quotation in a transparent and open manner. The electronic procurement (e-procurement) system is utilized for issuing and responding to solicitations. Components include vendor registration, electronic solicitation, e-mail notification to vendors, submission of electronic quotes by vendors, and electronic (notice of) award. The e-procurement system automates the procurement system, allows for collection of comprehensive data on expenditures, reduces procurement cycle time, and reduce the cost of conducting procurement as a result of increased competition.

The State Procurement Office (SPO) supports this bill; however, recommends additional amendments to HRS §103D-305. The attached amendments to §103D-305 with reference to section 103D-324 on performance and payment bonds, clarifies procurement officer responsibility, clarifies applicability of electronic procurement includes up to \$250,000 and deletes unnecessary language as electronic procurement (eProcurement) systems are in place, including applicable training.

Thank you.

attachment

Attachment:

§103D-305 Small purchases; prohibition against parceling. ~~Repeal and reenactment on July 1, 2012. L-2010, c 107, §1.~~ (a) Procurements of less than \$100,000 for goods or services, or \$250,000 for construction shall be made in accordance with procedures set forth in rules adopted by the policy board that are designed to ensure administrative simplicity and as much competition as is practicable; provided that multiple expenditures shall not be created at the inception of a transaction or project so as to evade the requirements of this chapter; and provided further that procurement requirements shall not be artificially divided or parceled so as to constitute a small purchase under this section.

(b) Procurements ~~of~~ greater than \$50,000 for construction under subsection (a) shall require security by ~~a~~ performance ~~bond~~ and payment bonds, pursuant to section 103D-324, delivered to the ~~purchasing agency~~ procurement officer, that is:

- (1) In a form prescribed by the rules of the policy board;
- (2) Executed by a surety company authorized to do business in this State; and
- (3) In an amount equal to one hundred per cent of the price specified in the contract,

or shall otherwise be secured by a performance bond in a manner satisfactory to the ~~purchasing agency~~ procurement officer.

(c) Procurements of \$25,000 to less than ~~[\$100,000]~~ \$250,000 shall be made in accordance with small purchase procedures; provided that such small purchase procurements through an electronic system shall be required ~~[after the policy board has adopted rules for electronic procurement and provided training to the affected agency].~~



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HB 2265, HD2 SD1 - Attachment:
WAM- 03-28-12

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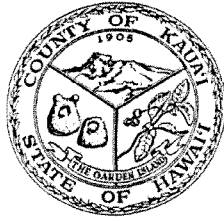
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Bernard P. Carvalho, Jr.
Mayor



Wallace G. Rezentes, Jr.
Director of Finance

Gary K. Heu
Managing Director

Sally A. Motta
Deputy Director of Finance

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DIVISION OF PURCHASING
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TESTIMONY
OF
ERNEST W. BARREIRA, M.S.
BUDGET AND PURCHASING DIRECTOR
DEPARTMENT OF FINANCE
COUNTY OF Kaua'i

TO THE
SENATE COMMITTEE
ON WAYS AND MEANS

HB 2265 HD2

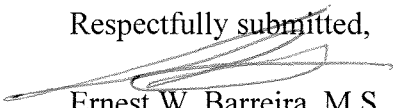
RELATING TO THE STATE PROCUREMENT CODE.

Chair Ige, Vice Chair Kidani, and committee members. Thank you for the opportunity to testify on HB 2265 SD2. This bill proposes to increase the limits on procurements qualifying for certain small purchase procedures to \$100,000 for goods or services and \$250,000 for construction; require procurements greater than \$50,000 for construction to require performance bonds, and require procurements of \$25,000 to less than \$100,000 to be made in accordance with small purchase procedures.

The County of Kaua'i supports the bill.

The competitive enhancements and efficiency elements of electronic procurement cannot be understated. Electronic procurement via the use of the Internet is far more expansive, reaches a larger scope of potential bidders and as such, advances the concept of competition. Electronic procurement also avoids subjectivity in contacting only a select number of persons or businesses as required under the small purchase requirements. In that regard, this bill is critical to address the efficiency and effectiveness needs of the procurement operations statewide.

Respectfully submitted,


Ernest W. Barreira, M.S.
Budget and Purchasing Director
County of Kauai

An Equal Opportunity Employer

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 28, 2012

TO: HONORABLE SENATOR DAVID IGE, CHAIR, MICHELLE KIDANI, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON WAYS & MEANS

SUBJECT: **SUPPORT OF H.B. 2265, HD2, SD1, RELATING TO THE STATE PROCUREMENT CODE.** Makes permanent the amendments made to section 103D-305, Hawaii Revised Statutes, that increase the limits on procurements qualifying for certain small purchase procedures to \$100,000 for goods or services and \$250,000 for construction; require procurements greater than \$50,000 for construction to require performance bonds; and require procurements of \$25,000 to less than \$100,000 to be made in accordance with small purchase procedures. Effective July 1, 2010. (SD1)

HEARING

DATE: Wednesday, March 28, 2012

TIME: 9:35 a.m.

PLACE: Conference Room 211

Dear Chair Ige, Vice Chair Kidani and Members of the Committee:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii whose mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest. GCA is submitting testimony **in support** of H.B. 2265, HD2, S1, Relating to the State Procurement Code.

Among other provisions of Act 175 (SLH 2009) being made permanent that needs to be coordinated with other bills still being considered, this bill will make permanent the temporary amendments made to Section 103D-305, Hawaii Revised Statutes by Act 175 (SLH 2009) which will increase the limits on procurements that fall under small purchase procedures to \$100,000 for goods and services and \$250,000 for construction; require performance bonds for procurements more than \$50,000; and require procurements of \$25,000 to less than \$100,000 to be made in accordance with small purchase procedures using the electronic procurement system.

GCA applauds the legislature's recognition of the effectiveness of the electronic procurement system and the efficiencies it presents especially on smaller purchase procurements. This measure will address any concerns parties may have with discretionary advisements and allows the electronic bidding system to regulate itself.

The GCA supports the passage of H.B. 2265, HD2, SD1 and recommends that the committee pass this measure.

Thank you for the opportunity to provide our views on this measure.