

NEIL ABERCROMBIE
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February 7, 2011

TO: The Honorable John M. Mizuno, Chair
House Committee on Human Services

FROM: Patricia McManaman, Interim Director

SUBJECT: **H.B. 735 - RELATING TO HUMAN SERVICES**

Hearing: Thursday, February 7, 2011; 9:30 a.m.
Conference Room 329, State Capitol

PURPOSE: The purpose of H.B. 735 is to allow the Department of Human Services to develop grant programs by which private, not-for-profit, and public entities administer federal stimulus funds, private foundation grants, and other funds to prevent and respond to domestic violence

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the proposed bill to facilitate support in the prevention and response to domestic violence.

DHS is unaware of any existing or continuing ARRA funding opportunities available with respect to domestic violence. Additionally, existing mechanisms are in place to distribute or award ARRA and other funds through the traditional procurement process.

Thank you for the opportunity to testify on this bill.

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

**TO THE
HOUSE COMMITTEE
ON
HUMAN SERVICES**

February 07, 2011

9:35 AM

HB 735

RELATING TO HUMAN SERVICES

Chair Mizuno, Vice-Chair Jordan, and committee members, thank you for the opportunity to testify on HB 735. This bill would allow an exemption from HRS chapter 103F, purchases of health and human services, for the selection of not-for-profit organizations and public entities to administer federal stimulus funds, private foundation grants and other funds to prevent and respond to domestic violence.

The State Procurement Office (SPO) does not support this bill. This bill is unnecessary as the source selection methods and contract formation (methods of selection) are already contained in chapters 103F, PART IV and 103D, PART III to accomplish what this bill proposes.

Public procurement's primary objective is to give everyone equal opportunity to compete for Government contracts; to prevent favoritism, collusion or fraud in awarding of contracts. The true nature of competition gives government agencies the benefits of knowing that the acquiring of health and human services was conducted in a fair and objective manner. Meeting this objective requires a single set of statutes and rules that define and mandate the use of selection processes that are competitive, efficient, fair, transparent, open and impartial. The competitive procurement processes are to insure that all potential providers are afforded the opportunity to compete for the required services through established time-tested, fair, and reliable set of rules and processes for award of contracts.

The SPO opposes statutorily exempting specific agencies, as it is not in the best interest of government, the health and human services provider community, and the general public. HRS chapter 103F provides a health and human services competitive procurement process which applies to all contracts made by state agencies for the benefit of Hawaii's residents, as opposed to a total blanket statutory exemption. To the extent agencies may need specific items to be exempt, the current statutes and rules provide an exemption process. If an expedited procurement process is needed, HAR chapter 3-133, Procurement for the Expedient Use of American Recovery and Reinvestment Act (ARRA) Funds is also available for the department of human services to use.

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 HRS chapter 103F to be a single source of public procurement policy applicable to purchases of health and human services. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic and confusing to health and human 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. To legislate that any one entity should be exempt from compliance with HRS chapter 103F conveys a sense of disproportionate equality in the law's application.

If the Legislature intends to exempt specific programs, the exemption should include assurances that the department's exempt process includes fair and open competition, disclosure, transparency, due process for aggrieved parties, a defined selection and awards process, and the various elements contained in HRS chapter 103F to ensure public confidence that the exempt procurement process is as fair and open.

In conclusion, there is no compelling reason to statutorily exempt the department of human services from the requirements of HRS chapter 103F since current statutes and administrative rules already provides independence and flexibility in the procurement process. The SPO recommends that HB 735 be deferred. Thank you.