
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The legislature finds that the state
2 procurement office, in order to fully discharge its
3 responsibilities, must take further steps to ensure compliance
4 with chapter 103D, Hawaii Revised Statutes, by the executive
5 agencies.

6 The purpose of this Act is to require the state procurement
7 policy board to conduct compliance examinations.

8 SECTION 2. Section 103D-202, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§103D-202 Authority and duties of the state procurement
11 policy board. (a) Except as otherwise provided in this
12 chapter, the state procurement policy board shall have the
13 authority and responsibility to adopt rules, consistent with
14 this chapter, governing the procurement, management, control,
15 and disposal of any and all goods, services, and construction.
16 All rules shall be adopted in accordance with chapter 91;
17 provided that the state procurement policy board shall have the
18 power to issue interim rules by procurement directives, which



1 shall be exempt from the public notice, public hearing, and
2 gubernatorial approval requirements of chapter 91. The interim
3 rules shall be effective for not more than eighteen months.

4 (b) The state procurement policy board shall consider and
5 decide matters of policy within the scope of this chapter
6 including those referred to it by a chief procurement officer.

7 (c) The state procurement policy board shall have the
8 power to audit and monitor the implementation of its rules and
9 the requirements of this chapter, but shall not exercise
10 authority over the award or administration of any particular
11 contract, or over any dispute, claim, or litigation pertaining
12 thereto.

13 The state procurement policy board shall annually review
14 and examine procurement contracts that are over \$50,000 of a
15 minimum of two executive departments, divisions, or agencies to
16 ensure compliance with this chapter as follows:

- 17 (1) Based upon a pattern of noncompliance; or
18 (2) Based upon circumstances of a particular procurement
19 that may indicate an intention to circumvent this
20 chapter;



1 provided that there shall be follow-up examinations of a
2 department, division, or agency that has been previously audited
3 under paragraph (1) or (2).

4 In addition, the state procurement policy board shall
5 select any department, division, or agency for compliance
6 examinations to ensure compliance with this chapter, to be
7 randomly selected or as otherwise authorized by law.

8 The state procurement office shall report the results of
9 all compliance examinations to the legislature no later than
10 twenty days before the convening of each regular session."

11 SECTION 3. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

State Procurement Policy Board; Compliance Examinations

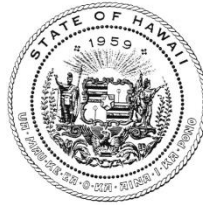
Description:

Requires the state procurement policy board to annually review and examine procurement contracts of at least two executive department, division, or agency contracts that are over \$50,000. Requires the state procurement policy board to randomly perform compliance examinations of government purchasing agencies and examinations of agencies selected based on a pattern of agency noncompliance. Effective 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
ECONOMIC DEVELOPMENT & BUSINESS
March 15, 2016 9:00 A.M.

SB 2493 SD 2
RELATING TO PROCUREMENT

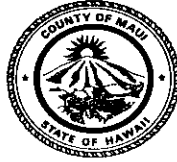
Chair Kawakami, Vice-Chair Kong, and members of the committee, thank you for the opportunity to submit testimony on SB 2493 SD 2. The State procurement Office (SPO) does not view this bill to be necessary. The State's procurement code already allows the policy board to audit executive departments, divisions and agencies to ensure compliance with the State's procurement code.

In addition, pursuant to HRS §103D-107, establishes a compliance audit unit within the Office of the Auditor for the purpose of periodically reviewing and auditing procurement practices within government to ensure compliance with 103D.

Please note, there is ambiguity between what is stated in the committee reports and what is written in the bill itself. In Section 3, page 3, line 8, of the bill it states that the "state procurement office shall report the results of all compliance examinations to the legislature...." However, the Stand. Com. Rep. No. 2701 SB 2493 SD 2 indicated that the State Procurement Policy Board is required to report the results of all compliance examinations to the Legislature. If the legislature's intent is for the SPO to submit the report, then SPO will only submit the report on behalf of the Procurement Policy Board. As stated in earlier testimonies to this bill, SPO does not have the resources to meet the procurement review requirements of this bill.

Thank you for the opportunity to testify on this bill.

ALAN M. ARAKAWA
Mayor



DANILO F. AGSALOG
Director

MARK R. WALKER
Deputy Director

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DEPARTMENT OF FINANCE
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TESTIMONY
OF
GREG KING, CHAIRMAN
STATE PROCUREMENT POLICY BOARD

TO THE HOUSE OF REPRESENTATIVES
COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
March 15, 2016 9:00 a.m.

SB2493 SD2
RELATING TO PROCUREMENT

Chair Kawakami, Vice-Chair Kong, and members of the committee, thank you for the opportunity to submit testimony on SB2493 SD2. I am opposed to this legislation.

As the current Chairman of the Procurement Policy Board, I am speaking for myself only. The procurement policy board does not have the resources and may not have the expertise to conduct any type of valid audit or review of the procurement operations of a state or county agency. The State Procurement Policy Board has no budget of its own, and it is my understanding that the SPO does not have a budget available for the Procurement Policy Board to conduct audits or reviews.

The State Procurement Policy Board, under HRS 103D-201(b), consists of the State Comptroller, a county procurement professional, a federal procurement professional, 2 health and human services professionals, and two other persons with significant procurement experience. The composition of the board is best suited to provide input and decision making on proposed rules, and not to conduct audits. Even if sufficient financial resources were provided to the board to hire an auditor, it is unknown whether the board has the capability to properly direct or oversee an audit.

With the exception of the State Comptroller position on the board, the Procurement Policy Board consists of volunteers. My experience, from being on the board off and on during 4 administrations, is that the board members that have served are qualified individuals who are thoughtful and capable decision makers with substantial leadership and management experience. These individuals have the time to attend a few meetings a year, but they would not all be able to

3/15/16

Committee on Economic Development & Business

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take enough time out of their busy full time schedules to conduct or oversee a properly conducted audit or review. In my time on the board, I have found that it has been difficult for

each of the 4 administrations that I have served under to fill board vacancies due to the experience requirements. Currently, we do not have enough members for quorum to hold a meeting. Imposing new time consuming tasks on the board would likely make it even more difficult to find qualified board members willing to serve.

HRS 103D-107 provides for a compliance audit unit within the Office of the Auditor. Due to the principle of the separation of duties, and the existing expertise to direct and oversee an audit that exists within the office of the auditor, it is my opinion that the goal of increasing procurement audits would be done most efficiently and effectively by the Office of the Auditor, and not the procurement policy board or the State Procurement Office.

Thank you for your consideration.