



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony SUPPORTING SB2540
Relating to the Department of Health

REPRESENTATIVE DELLA BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH

Hearing Date: March 17, 2016, 9:00 a.m. Room Number: 329

1 **Fiscal Implications:** The measure does not affect the \$160.5M request in the Governor's
2 Supplemental Budget Request, which must be appropriated in one lump-sum to maintain the
3 design/build schedule.

4 **Department Testimony:** SB2540 proposes a balance of procurement exemptions and enhanced
5 public comment to encourage timely construction of a new patient facility on the grounds of the
6 Hawaii State Hospital. While this measure is unlikely to accelerate the project's current phase –
7 demolition of the Goddard Building – its enactment may be important as the project moves
8 forward. That said, **the most critical resource for timely completion is a \$160.5M lump-sum**
9 **appropriation request financed by General Obligation bonds.**

10 The Department of Health (DOH) has already begun to execute the Hawaii State Hospital Master
11 Plan with the goal completing the new building within a five years through a Design/Build
12 project delivery system.

- 13 • The demolition phase is under way for the dilapidated Goddard Building, specifically
14 asbestos and hazardous materials abatement.

- 1 • Approval of a Certificate of Need, which is required by law, for the new health care
- 2 facility is expected no later than this month
- 3 • The Environmental Impact Statement process has been initiated by the Department of
- 4 Accounting and General Services (DAGS)
- 5 • Pending approval of the Governor's \$160.5M lump-sum appropriation request, the
- 6 Request For proposal (RFP) will be issued and the construction phase will begin

7 The Governor's Steering Committee meets weekly to assure the accelerated pace. However, the

8 value of SB2540 to enhance momentum is dependent on approval of the lump-sum \$160.5M

9 appropriation in the Governor's Supplemental Budget Request.

10 Thank you for the opportunity to testify.

11 **Offered Amendments:** N/A

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR

PAULA A. YOUNGLING
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Telephone: (808) 587-4700
e-mail: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>

TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
HEALTH

March 18, 2016, 9:00 AM

Senate Bill No. 2540
RELATING TO THE DEPARTMENT OF HEALTH

Chair Belatti, Vice-Chair Creagan, and members of the committee, thank you for the opportunity to submit testimony on SB 2540. The State Procurement Office supports the intent of this bill, but opposes the exemption language on page 2, SECTION 1, lines 1 to 2. SPO also opposes the language on page 2, Section 2, lines 20-21, allowing the governor, with the assistance of the director, to negotiate with any person for the development or expansion of a forensic facility.

Statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part "...shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings..." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

One of public procurement's primary objectives is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in the awarding of contracts. Another critical objective is to ensure disclosure and public visibility into the way tax-payer dollars are being spent. As such, along with open competition the Code provides safeguards to ensure procurement integrity, determination of fair and reasonable pricing, public notice, and transparency. The Code also provides consistency in the manner in which purchasing agencies procure goods, services, and construction.

Exemptions to the Code mean that all procurements made with taxpayer monies for this authority, will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the Code. It means that there is no requirement for due diligence,

proper planning or consideration of protections for the State in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. It also means the authority is not required to adhere to the Code's procurement integrity laws.

To provide fairness and consistency, and due process for vendors/contractors, the Code offers a legal and contractual remedy process to resolve protested solicitations and awards, which includes impartial reviews by the Department of Commerce and Consumer Affairs administrative hearings process and the ability to request judicial review. The protest process also protects agencies and taxpayers from onerous and baseless protests, minimizes delays and disruptions in the award of contracts, and supports a prompt resolution.

To ensure all vendors/contractors who seek public contracts compete on equal footing they are required to demonstrate compliance with Hawaii laws. The Code requires potential vendors/contractors to comply with Hawaii laws prior to award of a contract, i.e. DOTAX Tax Clearance Certificate including IRS certification, DLIR Certificate of Compliance; DCCA Certificate of Good Standing; or Hawaii Compliance Express (HCE) Certificate of vendor compliance. Upon completion of goods provided or services performed, and before final payment is made, a vendor/contractor is again required to demonstrate compliance with Hawaii laws, thereby assuring that public funds are paid to compliant vendors/contractors.

Open bidding procedures assures that the State obtains value, and potential vendors/contractors are treated fairly. Those who lack a working knowledge of the Code, may view it as a cumbersome process. The SPO believes that it is vital to good government to have a fair and consistent process to award government contracts that hold agencies responsible and accountable for their actions.

The SPO is against exempting the Department of Health for the development or expansion of a forensic facility from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, reliable set of rules and processes for award of contracts.

In conclusion, there is no compelling reason to statutorily exempt the Department of Health for the development or expansion of a forensic facility from the Code. The SPO recommends deleting Page 1, lines 15 and 16; Page 2, lines 1 and 2:

~~"The legislature intends that the governor may negotiate and award a contract to develop or expand a forensic facility without necessity of compliance with the procurement code."~~

SPO also recommends amending the language on Page 2, Section 2, lines 18 through 21, to read as follows:

"§334 – Development or expansion of a forensic facility of the department of health. (a) Notwithstanding any other law to the contrary, the governor, with the assistance of the director, may ~~negotiate~~ contract with any person, pursuant to 103D, Hawaii Revised Statutes for the development or ..."

Thank you.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Health

Testimony by
Hawaii Government Employees Association

March 18, 2016

S.B. 2540 – RELATING TO THE
DEPARTMENT OF HEALTH

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, raises concerns over the purpose and intent of S.B. 2540, which authorizes the Governor, with the assistance of the director, to negotiate with any person for the development or expansion of a forensic facility of the Department of Health.

While it is prudent and necessary to expediently construct a new forensic facility at the Hawaii State Hospital to address the high census and to house forensic patients, we respectfully argue that bypassing procurement lends to favoritism when awarding contracts. Further, because this is a high-profile community need, the process should be completed in a transparent manner, where tax payers can follow how their money is being spent. Granting the Governor express authority to negotiate directly with any person just to expedite the process does not guarantee the design or construction of an adequate facility.

Thank you for the opportunity to raise concerns on S.B. 2540.

Respectfully submitted,

Randy Perreira
Executive Director