



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

---

Testimony Presented Before the  
House Committee on Higher Education  
Thursday, February 2, 2017 at 2:00 p.m.

By  
Jan Gouveia, Vice President for Administration  
University of Hawai'i System

### HB 424– RELATING TO THE UNIVERSITY OF HAWAII

Chair Woodson, Vice Chair Hashem and members of the committee:

Thank you for the opportunity to submit testimony on HB 424. The University of Hawai'i is in **STRONG SUPPORT** of this measure, which amends sections 103D-203 and 304A-2672, Hawai'i Revised Statutes (HRS), to reinstate the President of the University of Hawai'i as the chief procurement officer for contracts for construction and construction-related professional services.

Historically, the President of the University of Hawai'i has been afforded the duties, powers and authority of a chief procurement officer – similar to the Administrative Director of the Courts for the Judiciary, President of the Senate, Speaker of the House of Representatives, Chairperson of the Board of the Office of Hawaiian Affairs, Superintendent of the Department of Education, CEO of Hawai'i Health Systems Corporation, the Administrator of the State Procurement Office, the respective finance directors of the counties, the respective chairpersons of the councils of the counties, the managers and chief engineers of the respective county boards of department water supply, and director of the semi-autonomous public transit agency.

In 2013, Act 87, SLH 2013 (HB 114), was signed into law that, among other things, amended HRS §§103D-203 and 304A-2672 to:

- Require the Administrator of the State Procurement Office (SPO), rather than the University of Hawai'i President, to serve as the Chief Procurement Officer for construction-related procurements;
- Require all procurements for professional services furnished by licensees under chapter 464 (i.e. Engineers, Architects, Surveyors, and Landscape Architects) for construction projects to be “coordinated” with the Department of Accounting and General Services (DAGS); and
- Require SPO to submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2016, of the Administrator's findings and recommendations, including any proposed legislation, relating to the transparency, efficiency, and compliance of the University of Hawai'i's procurement of construction contracts and construction-related consultant services pursuant to chapter 103D, HRS.

The chief procurement officer plays an integral role in the day-to day transactions of all procurements under chapter 103D, HRS – which is an already complicated and time-consuming effort. It became further complicated and time consuming when this role was transferred to the Administrator for SPO, along with the additional requirement of coordinating with DAGS. Fortunately, the Administrator for SPO and the Public Works Director for DAGS handled the

situation with professionalism and sensitivity to their impact on UH's CIP program, and all parties agreed to some basic parameters and a process for all construction-related procurements.

In accordance with the Act, the SPO Administrator submitted a report to the 2016 Legislature entitled, "State Procurement Office Findings and Recommendations Relating to the University of Hawai'i's Procurement of Construction Contracts and Construction-Related Consultant Services Pursuant to Chapter 103D Hawai'i Revised Statutes as Required by Act 87, SLH 2013, 'Relating to Higher Education.'"

The report documents the extensive oversight, reviews, cooperation and coordination between the University and the SPO on procurements for construction and construction-related professional services. As documented in the report, between July 1, 2013 to June 30, 2015, the SPO reviewed 102 University solicitations for construction out of 373 construction procurements conducted by UH during that time. The reviews included solicitations for competitive sealed bids, professional services, and small purchases. The SPO also provided oversight of post-award procurement activities by conducting eleven (11) construction site visits and three (3) desktop reviews of on-going projects.

The conclusion to the report stated:

"Based on SPO's review of 102 UH construction solicitations, UH's Administrative Procedures, and fourteen (14) post-award Site Visits, SPO finds that UH is conducting construction procurements in a compliant, efficient, and transparent manner."

The SPO report set forth minimal recommendations for improvement and, in fact, lauded some University-specific procedures as "best-practices." While the University has implemented the SPO recommendations, it has continued to improve the efficiency, transparency and compliance of its capital program since the Report:

1. To ensure strict compliance with the Hawai'i Public Procurement Code, the University has extensively revised policies and procedures related to the procurement of construction and professional services to align with Section 103D HRS and its related Hawai'i Administrative Rules.
2. To ensure the prudent and transparent expenditure of public funds, the University established a core staff of procurement professionals, dedicated solely to the procurement of construction and construction-related professional services.
3. The University has adopted the Hawai'i Electronic Procurement System (HePS) which provides real-time and immediate access to by all interested contractors, consultants and vendors to construction solicitations, bidder submittals, and public notice of awards on a single, online platform.
4. To ensure the prudent and transparent management of public funds, the University has acquired a collaborative, cloud-based construction project management system called e-Builder®. The goal is to provide visibility into the status of our construction projects so all stakeholders have access to real-time information and ensure projects are delivered on-time and on-budget. As a web-based solution, it captures project data and utilizes

electronic workflow to track business processes and generate reports that support a capital program at both the micro and macro level.

The University has tremendous regard for the Administrator and the entire State Procurement Office team. We appreciate the long-standing relationship based on respect and professional courtesy. However, under the current structure imposed by Act 87 in 2013, the University has been operating under a bifurcated procurement system. There is one set of procedures, templates, forms and approval work flows specific to goods and services, for which the University President serves as the chief procurement officer; and another set of processes for construction and construction-related professional services that utilize the SPO forms, templates, and procedures, for which the SPO Administrator serves as the chief procurement officer for the University. This dual authority structure also causes confusion for UH personnel with procurement requirements, support staff processing procurement and related documents, and, more importantly, the vendor and contracting community who bid on University projects.

With the finding by SPO set forth in its Report to the Legislature that "UH is conducting construction procurements in a compliant, efficient, and transparent manner," and the additional improvements that the University has made specifically to the management and solicitation of its construction projects, the University believes full chief procurement officer authority should be restored to the President of the University. This is particularly important at a time when the University is expected to aggressively address its deferred maintenance backlog. With the additional safeguards and imposition of industry best practices, we believe the University has demonstrated that it can and will continue to conduct its construction procurements in a compliant, efficient, and transparent manner.

Thank you for the opportunity to testify in strong support of HB 424.

DAVID Y. IGE  
GOVERNOR



SARAH ALLEN  
ADMINISTRATOR  
MARA SMITH  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Tel: (808) 586-0554  
email: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
<http://spo.hawaii.gov>  
Twitter: [@hawaiispo](https://twitter.com/hawaiispo)

**TESTIMONY  
OF  
SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE**

**TO THE HOUSE COMMITTEE  
ON  
HIGHER EDUCATION**

February 2, 2017, 2:00 PM

**House Bill 424  
RELATING TO THE UNIVERSITY OF HAWAII**

Chair Woodson Vice-Chair Hashem, and members of the committee, thank you for the opportunity to submit testimony on HB 424. The State Procurement Office (SPO) supports SECTIONS 2 and 3 of the bill amending sections 103D-203 and 304A-2672, Hawaii Revised Statutes (HRS) to reinstate the President of the University of Hawaii (UH) as the Chief Procurement Officer (CPO) for contracts for construction and construction-related professional services furnished by licensees under chapter 464.

Act 87, SLH 2013 (HB 114) "Relating to Higher Education" was signed into law on May 31, 2013. By enacting Act 87, the Legislature amended HRS §103D-203 and §304A-2672 by repealing the authority of the President of the UH to serve as the CPO for construction contracts and professional services, furnished by licensees under chapter 464 (i.e. Engineers, Architects, Surveyors, and Landscape Architects), related to construction contracts and assigned those responsibilities to the Administrator of the SPO.

To implement the requirements of this Act, the SPO issued UH Procurement Delegation No. 2013-01 delegating procurement authority to the UH President as well as a Memorandum of Agreement (MOA) delineating SPO's oversight responsibilities and UH's responsibilities and procedures. The SPO also imposed a high-level oversight role in order to evaluate the UH's construction procurement practices by collecting and reviewing data related to the UH's construction procurements for FYs 14 and 15, in order to provide fact-based report to the Legislature by January 2016.

The SPO's report documented the extensive oversight, reviews, cooperation and coordination between the SPO and the UH on procurements for construction and construction-related professional services. As documented in the report, between July 1, 2013 to June 30, 2015, the SPO reviewed 102 University solicitations for construction out of 373 construction procurements

conducted by UH during that time. The reviews included solicitations for competitive sealed bids, professional services, and small purchases. The SPO also provided oversight of post-award procurement activities by conducting eleven (11) construction site visits and three (3) desktop reviews of on-going projects.

Based on the SPO's review of 102 UH construction procurements, UH's Administrative Procedures, and 14 post-award site visits, the SPO found that the UH is conducting construction procurements in a compliant, efficient, and transparent manner. As such, based on the SPO's findings and recommendations, the SPO supports reinstating the UH President's full authority to act as the Chief Procurement Officer for all the UH's procurements, including the procurement of construction and construction-related professional services.

Thank you.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 31, 2017 4:11 PM  
**To:** HEDtestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB424 on Feb 2, 2017 14:00PM\*

**HB424**

Submitted on: 1/31/2017

Testimony for HED on Feb 2, 2017 14:00PM in Conference Room 309

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



**HB426**  
**RELATING TO UNIVERSITY OF HAWAI'I RULEMAKING**  
House Committee on Higher Education

February 2, 2017

2:00 p.m.

Room 309

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **COMMENT** on HB426, which expressly exempts a variety of University of Hawai'i (UH) policy decisions from the public notice, hearing, and input requirements of Hawai'i Revised Statutes chapter 91.

OHA appreciates that policies regarding UH campus operations and other strictly internal matters may be most appropriately made without the 30 days public notice, hearing, and input requirements of chapter 91. **However, a broad reading of the language in this measure may also exempt the establishment of policies that impact the rights and interests of the public, including Native Hawaiians, from the chapter 91 rulemaking process.** For example, policies "controlling and regulating" UH lands may involve the restriction or regulation of Native Hawaiian traditional and customary practices associated with those lands, as well as the interests and activities of the general public; this bill would allow decisions on such policies to be made in a regular Board of Regents meeting, with only six days notice, and without a prior opportunity to review the details of policy proposals. Such policies would be more rightfully established via chapter 91 rulemaking, which affords a much more meaningful public notice period and a formally structured public review, hearing, and testimony process. Notably, the meaningful identification and consideration of place-based traditional and customary practices would likely require much more time for review and research than the six days afforded under this measure; the fact that much of the lands owned or occupied by UH are "ceded" and public land trust lands heightens the need for appropriate public scrutiny and input, regarding policies that may affect associated Native Hawaiian rights and interests.

Similarly, changes to in-state residency criteria, which qualify students for in-state tuition as well as access to the state higher education loan fund, may significantly impact the interests of both the general public, as well as OHA's beneficiaries; any such changes would also be exempted from the chapter 91 rulemaking process under this measure. Accordingly, this bill may significantly limit public notice, review, and opportunities to provide input on the benefits and drawbacks of proposed changes to in-state residency determinations for our public higher education system.

Mahalo for the opportunity to testify on this measure.