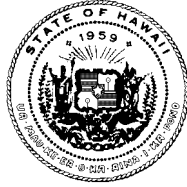


DAVID Y. IGE  
GOVERNOR



PANKAJ BHANOT  
DIRECTOR

BRIDGET HOLTHUS  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

February 8, 2017

TO: The Honorable Representative Dee Morikawa, Chair  
House Committee on Human Services

The Honorable Representative Della Au Belatti, Chair  
House Committee on Health

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 556 – RELATING TO PROCUREMENT**

Hearing: Wednesday, February 8, 2017, 9:00 a.m.  
Conference Room 329, State Capitol

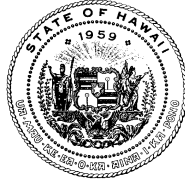
**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) supports this bill.

**PURPOSE:** The purpose of the bill is to require applicants who submit contract proposals to operate a child care program to have necessary business licenses; exempts applicants who submit proposals to operate a child care program or group living facility from having to obtain licenses to operate under section 346-161, Hawaii Revised Statutes (HRS) and Chapter 321, HRS, prior to their proposal being accepted.

The primary focus of the DHS child care licensing program is on the health and safety of all children in care. DHS supports the continued exemption under this bill pursuant to section 103F-401.5, HRS, for applicants who submit contract proposals to operate a child care program to not be required to obtain the license prior to their proposals being accepted.

Pursuant to the service specifications issued by DHS in the Request For Proposals, as required by Hawaii Administrative Rules (HAR) Chapter 3-143, Competitive Purchase of Services, once the applicant's proposal is accepted by DHS, the applicant must obtain a license to operate a group child care center or group child care home before contract services may start.

DHS defers to Department of Health regarding proposed changes to Chapter 321, HRS.  
Thank you for the opportunity to provide testimony on this bill.



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

**Testimony in SUPPORT of HB556**  
**RELATING TO PROCUREMENT**

REPRESENTATIVE DEE MORIKAWA, CHAIR  
COMMITTEE ON HUMAN SERVICES

REPRESENTATIVE DELLA AU BELATTI, CHAIR  
COMMITTEE ON HEALTH

Hearing Date: Wednesday, February 8, 2017

Room Number: 329

1 **Fiscal Implications:** Undetermined at this time.

2 **Department Testimony:** The Department of Health (DOH) testifies in support of the intent of  
3 this bill and offers comments and amendments.

4 The purpose of this bill is to exempt applicants who submit proposals in response to a  
5 Request for Proposals to operate a child care program or group living facility, from having to  
6 obtain licenses to operate under section 346-161 and chapter 321, HRS, prior to their proposal  
7 being accepted.

8 As part of rebuilding community mental health programs for adults, the Adult Mental  
9 Health Division (AMHD) seeks to increase the capacity of community based programs. This may  
10 entail new providers entering our system, in addition to expanding capacity through existing  
11 providers. This may especially be the case for program sub types which are new to Hawaii and  
12 this effort is significantly hampered and delayed by present law.

13 Specifically and for example, the DOH has identified that there is a shortage of special  
14 treatment facilities (STF) in the community that are appropriate for consumers receiving  
15 services from AMHD, and who no longer require hospitalization. This shortage continues to be

1 a critical problem affecting the length of stay for consumers waiting to be discharged from the  
2 Hawaii State Hospital (HSH).

3 The DOH Office of Health Care Assurance (OHCA) is responsible for licensing each STF  
4 provider. According to OHCA, there are currently 21 STFs on the island of Oahu, with 13  
5 available to adults with substance abuse (drug or alcohol). Of the 13 STFs, six also address  
6 mental illness, and the AMHD contracts with all six of these providers. Of the six STFs that  
7 address mental illness, their STF bed capacity is shared with the DOH, Alcohol & Drug Abuse  
8 Division and Developmental Disabilities Division, the United States Office of Veteran’s Affairs,  
9 and the general public.

10 The requirement that the facility obtain licensure prior to being awarded a state  
11 contract has proven to be unfavorable to rebuilding our community based service system and  
12 serves as a significant barrier to new providers entering the service system. Very few if any  
13 providers will obtain a facility, hire staff, train staff, create policy and procedures, obtain  
14 licensure, etc. without the promise of a contract first.

15 The bill, as written, will provide for the possibility a potential provider to apply for a  
16 contract prior to obtaining licensure from the OHCA. Upon contract award, the AMHD will not  
17 actively utilize the program capacity until the provider has obtained licensure from the OHCA.

18 We recommend one amendment to the bill, and that is to delete the phrase “including,  
19 but not limited to, licenses required by chapters 237 and 414,” because although it appears to  
20 provide the citations for tax licenses and business licenses, chapter 414 only applies to for profit  
21 businesses. This phrase may cause more confusion than clarification, and is not necessary.

22 We appreciate the intent of this bill and support it but also ask that the committees  
23 consider HB557 as the means to address our concerns about STF licensing requirements by  
24 repealing section 103F-401.5, HRS, instead of passing this bill to amend it. Repealing section  
25 103F-401.5, HRS, would be our preference.

1 Thank you for the opportunity to testify.

2 **Offered Amendments:** Specifically for this bill, we offer the below amendments, should the  
3 committee wish to advance this bill forward.

4 §103F-401.5 Proposals and awards. (a) No contract proposals shall be accepted from any  
5 applicant who lacks any license necessary to conduct the business being sought by the request  
6 for proposals[~~with the exception of proposals from applicants to operate a child care program~~  
7 ~~required to be licensed pursuant to section 346-161].~~

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 COMMITTEES  
ON  
HUMAN SERVICES  
AND  
HEALTH

February 8, 2017, 9:00 A.M.

HOUSE BILL 556  
RELATING TO PROCUREMENT

Chairs Morikawa and Au Belatti, Vice-Chairs Todd and Kobayashi, and members of the committees, thank you for the opportunity to submit testimony on House Bill 556. The State Procurement Office (SPO) supports the intent to correct HRS §103F-401.5, but recommends that the section be repealed.

HRS §103F-401.5 was passed as Act 69, a Veto Override, during the 2009 Legislature. The section cannot be applied across the board. In many instances, providers cannot be licensed prior to award of a contract. The provider is selected then obtains clearances prior to being licensed (e.g., fire and safety) and prior to commencing services. HRS §103F-401.5 restricts competition among qualified health and human service providers.

HRS 103F administrative rules has provisions without this section, which meets service requirement(s), as applicable. HAR section 3-143-201(12), preparing a request for proposals (RFP), states the RFP shall include "Any specific requirements or qualifications that an applicant must meet in order to submit a proposal including, but not limited to, licensure or accreditation." An applicant submitting a proposal without the required license(s) or qualifications, as determined by the purchasing agency and stated in the RFP, would not be considered for contract award.

Additionally, subsection (b) is unclear and unnecessary. Funding levels are determined by client needs, often on a fee for service basis. It is frequently unknown in advance the precise amount of services needed making it difficult to determine exact funding for a particular service. When that occurs, amounts quoted in proposals may be based on estimated units of service identified in the request for proposals with the caveat that the exact number of units to be used may vary from estimates provided in the solicitation. Requiring that the award or contract be for the amount of the proposal complicates and delays the State's ability to render required services.

Thank you.