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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE
TO THE HOUSE COMMITTEE
ON
FINANCE

APRIL 4, 2017, 2 P.M.

SENATE BILL 149 HD1
RELATING TO PROCUREMENT

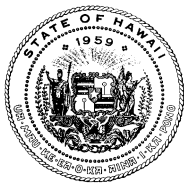
Chair Luke, Vice-Chair Cullen, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 149 HD1. The State Procurement Office (SPO) supports the repeal of HRS §103F-401.5.

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 greatly 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 specific 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 proposal complicates and delays the State's ability to render required services.

Thank you.



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

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**Testimony in STRONG SUPPORT of SB149 HD1
RELATING TO PROCUREMENT**

REPRESENTATIVE SYLVIA LUKE, CHAIR
COMMITTEE ON FINANCE

Hearing Date: Tuesday, April 4, 2017 2:00 p.m. Room Number: 308

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

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

4 The purpose of this bill is to repeal the requirement that all applicants for
5 procurement contracts for health and human services, possess all licenses necessary to
6 conduct the subject business, and to repeal the requirement that all contracts include
7 only costs, fees, and taxes reflected on the face of the proposal.

8 The Adult Mental Health Division (AMHD) has directly experienced the negative
9 impact of this law. Rebuilding community mental health programs for adults is
10 significantly hampered and delayed by present law.

11 It is our understanding that the original intent of this law was to address
12 procurement for Department of Human Services Medicaid contracts with insurance
13 companies, not non-profit service provider contracts. In 103D, there is no similar

1 provision for contracting for goods and services. The only provision available for health
2 and human services contracts is in 103F.

3 The DOH strongly supports this measure and thanks the committee for its
4 consideration of this measure and for its consideration and support of the equivalent bill,
5 HB556 HD1, which you passed on March 1, 2017.

6 There has been no substantive opposition to this bill or to its equivalent bill,
7 HB556 HD1. If the defective date is corrected and SB149 HD2 (draft) is passed by the
8 whole House, this measure will not need to go through conference.

9 Thank you for the opportunity to testify.

10 **Offered Amendments:** We recommend that SB149 HD2 include the following
11 language:

12 SECTION 1. Section 103F-401.5, Hawaii Revised Statutes, is repealed.

13 ~~["§103F-401.5 Proposals and awards. (a) No contract proposals shall be accepted~~
14 ~~from any applicant who lacks any license necessary to conduct the business being~~
15 ~~sought by the request for proposals, with the exception of proposals from applicants to~~
16 ~~operate a child care program required to be licensed pursuant to section 346-161.~~

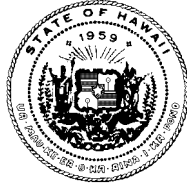
17 ~~(b) Proposals submitted under this chapter shall include all costs, fees, and~~
18 ~~taxes, and any award or contract shall be for the amount of the proposal. No award or~~
19 ~~contract shall include any other payment, rebate, or direct or indirect consideration that~~

1 ~~is not included in the proposal, such as insurance premium or general excise tax~~
2 ~~rebates to or waivers for an applicant or bidder."]~~

3 SECTION 2. Statutory material to be repealed is bracketed and stricken.

4 SECTION 3. This Act shall take effect upon its approval.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

BRIDGET HOLTHUS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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April 4, 2017

TO: The Honorable Representative Syliva Luke, Chair
House Committee on Finance

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 149 HD1 – RELATING TO PROCUREMENT**

Hearing: April 4, 2017, 2:00 p.m.
Conference Room 308, State Capitol

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

PURPOSE: The bill proposes to repeal the requirement that all applicants for procurement contracts for health and human services possess all licenses necessary to conduct the subject business; repeal the requirement that all contracts include only costs, fees, and taxes reflected on the face of the proposal.

The primary focus of the DHS child care licensing program is the health and safety of all children in care. DHS is supportive of the repeal of requirements as proposed in SB 149, as it would result in 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, and as required by Hawaii Administrative Rules (HAR) Chapter 3-143, Competitive Purchase of Services, once an 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.

Thank you for the opportunity to provide testimony on this bill.