# UNIVERSITY OF HAWAI'I SYSTEM
Legislative Testimony

Testimony Presented Before the
Senate Committees on Higher Education
and
Government Operations
March 21, 2017 at 1:20 p.m.
By
Jan Gouveia, Vice President for Administration
University of Hawai'i System

HB 424 HD1 – RELATING TO THE UNIVERSITY OF HAWAII

Chairs Kahele and Kim, Vice Chairs Kidani and Ruderman, and members of the committees:

Thank you for the opportunity to submit testimony on HB 424 HD1. 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, <u>dedicated solely</u> 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 HD1.

**DAVID Y. IGE**
GOVERNOR

**SARAH ALLEN**
ADMINISTRATOR

**MARA SMITH**
ASSISTANT ADMINISTRATOR

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEES
ON
HIGHER EDUCATION
AND
GOVERNMENT OPERATIONS

March 21, 2017, 1:20 PM

House Bill 424 HD1
RELATING TO THE UNIVERSITY OF HAWAII

Chairs Kahele and Kim, Vice-Chairs Kidani and Ruderman, and members of the committee, thank you for the opportunity to submit testimony on HB 424 HD1. 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.

The Committee on Higher Education and the Arts
And
Committee on Government Operations

RE: **HB 424, HD1, Relating to The University of Hawaii**

Attention: Chairs Kai Kahele and Donna Mercado Kim, Vice Chairs Michelle Kidani and Russell Ruderman and Members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support HB 424, HD1** that reinstates the authority and responsibility for all procurement contracts under chapter 103D, Hawaii revised Statutes, to the University President.

The ability of the University to expedite construction needs for repair and maintenance as well as new construction is essential to enhancing instruction and research. The physical conditions that students and employees experience influence recruitment and retention. For too long the need to remove impediments in procurement has languished resulting in repairs and replacement of buildings being delayed. The University President should have both the authority and the accountability for procurement.

UHPA urges the committee to **support HB 424, HD1.**

Respectfully Submitted,

Kristeen Hanselman
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March 21, 2017 at 1:20 p.m.
By
Jan Gouveia, Vice President for Administration
and
Kalbert K. Young, Vice President for Budget and Finance/CFO
University of Hawaiʻi System

HB 424 HD1 Proposed SD1 – RELATING TO THE UNIVERSITY OF HAWAII

Chairs Kahele and Kim, Vice Chairs Kidani and Ruderman, and members of the committees:

Thank you for the opportunity to submit testimony on this measure. The University of Hawaiʻi strongly supports Part I and opposes Part II of HB 424 HD1 Proposed SD1. Part I amends sections 103D-203 and 304A-2672, Hawaiʻi Revised Statutes (HRS), to reinstate the President of the University of Hawaiʻi as the chief procurement officer for contracts for construction and construction-related professional services. Part II requires that two members of the University of Hawaiʻi Board of Regents be faculty members; prohibits the University of Hawaiʻi Board of Regents from increasing tuition fees until an unspecified date; and requires the university to report to the legislature regarding tuition increases and the university's repair and maintenance costs.

PART I

Historically, the President of the University of Hawaiʻi 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 Hawaiʻi 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.

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> 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.

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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.

PART II

Section 6 and 8 of the proposed SD1 would replace the two current at-large Board of Regents members upon the end of their existing terms with one faculty from the UH committee colleges and one faculty from either UH Mānoa, UH Hilo or UH West Oʻahu. The statute currently provides for a voting student regent and does not preclude a faculty member or additional students from applying and being selected to serve as a regent. The university does not support this part of the measure because it is contrary to the principles of sound governance. Additionally, both the Board of Regents and the Administration have implemented measures that have increased opportunities for stakeholder input.

Section 7 and 9 of the proposed draft would prohibit the Board of Regents from approving any tuition increase for an unspecified time and require the University to submit a report regarding whether the tuition increases effective for the 2018-2021 academic years are assisting in addressing the university's R&M backlog.

Eliminating any tuition increases at the University is not a realistic means to fund a government operation. Tuition rate increases already go through a rigorous public notification and communication process, which are subject to the open meeting requirements of Chapter 92, Hawai'i Revised Statutes. Executive Policy 6.202 requires at least one such meeting be held on Hawai'i, Maui, Kaua'i, and O'ahu islands. These meetings, and the general public scrutiny regarding UH's tuition rates, already ensures a large amount of public input will be provided to the Board of Regents as it deliberates any tuition rate increases.

Regent Policy 6.202 states that:

> *"The ultimate intent of this policy is that every qualified Hawai'i citizen shall have an opportunity to pursue postsecondary education within the university system. Since tuition and mandatory fees are critical to access, they shall not be so uniformly high that they prevent qualified citizens from attending a campus of the university. As a general principle, the board subscribes to a tuition policy that seeks to keep costs to resident students at the lowest practical level while maintaining a financial aid program that responds to the needs of students who cannot meet the costs of attendance."*

Tuition at the University of Hawai'i is significantly higher than a decade ago. The tuition rate increases during this period coincided with reductions in state general fund appropriations to the University. With general fund declines during the last recessionary (economic) cycle from 2009 and increasing costs, tuition revenues are essential to maintaining operations. According to a State Higher Education Executive Officers (SHEEO) State Higher Education Finance (SHEF) study, FY2015 tuition accounts for more than 33% of University revenues, making it a critical component of University operations. General fund appropriations continue to be lower than FY2009 levels ($32 million, or 7% lower in FY2017).

| Fiscal Year | GF Appropriation | % change |
|---|---|---|
| 2009 | $ 460,482,584 | |
| 2010 | $ 422,591,205 | -8.23% |
| 2011 | $ 360,687,276 | -14.65% |
| 2012 | $ 386,307,258 | 7.10% |
| 2013 | $ 377,460,254 | -2.29% |
| 2014 | $ 386,721,245 | 2.45% |
| 2015 | $ 409,656,245 | 5.93% |
| 2016 | $ 427,574,683 | 4.37% |
| 2017 | $ 428,293,331 | 0.17% |

Although tuition rates have increased, UH continues to be an affordable option compared to other public universities. In its "2016 College Affordability Diagnosis," the University of Pennsylvania Graduate School of Education found that Hawai'i ranked third overall as the most affordable state when considering the percentage of family income required for residents to finance the full cost of a public higher education. The Community Colleges were found to be the most affordable two-year public higher education institutions in the nation; Mānoa was ranked 5th among states in providing affordable access to a public research university education; and Hawai'i ranked 7th in affordable access to a public four-year non-doctoral institution education through its Hilo and West O'ahu campuses.

Additionally, as mentioned earlier in the SHEEO SHEF study, tuition comprises 33% of UH's total revenues. By contrast, the national average is 47%. This indicates that Hawai'i's students pay a smaller share of the cost of their education than most of their counterparts. Hawai'i ranks the 6th lowest in the nation in terms of the cost share borne by students. UH has been and continues to be one of the most generously funded state systems in the nation due to the ongoing support of the legislature.

The Board of Regents have approved a tuition schedule that begins in academic year (AY) 2017-18 and runs through AY2019-20. The schedule has NO INCREASES approved in AY2017-18. Increases approved for AY2018-19 and AY2019-20 are only up to 2.0% - and, even then, only if necessary to fund revenue bonds for capital projects to address deferred maintenance of the University. This is another area of funding where the Legislature has reduced the amount of capital funding to the University over the same period of time. The UH Administration and the Board of Regents are very conscious of the impact of tuition increases on affordability.

In summary, the University feels that there is a process in place which ensures that a considerable amount of public scrutiny and input is involved in the approval of any tuition increases. Likewise, improved communications between the Board of Regents and stakeholders provides additional opportunities for interaction and discussion with a greater audience.

As the state's sole public higher education system, the University remains steadfast in its commitment to providing access and quality education to Hawai'i's citizens. This commitment, as reflected in the University's Strategic Directions, remains the top priority of the University administration. The University has made every effort to maintain institutional aid and launch targeted student support initiatives that will get students to go to college, stay in college, and graduate on time.

Thank you for your time and consideration.

The Committee on Higher Education and the Arts
And
Committee on Government Operations

RE: **HB 424, HD1, Proposed SD1 Relating to The University of Hawaii**

Attention: Chairs Kai Kahele and Donna Mercado Kim, Vice Chairs Michelle Kidani and Russell Ruderman and Members of the Committee

The University of Hawaii Professional Assembly (UHPA) urges the committee to **support HB 424, HD1 proposed SD1**. **Part I** reinstates the authority and responsibility for all procurement contracts under chapter 103D, Hawaii revised Statutes, to the University President.

The ability of the University to expedite construction needs for repair and maintenance as well as new construction is essential to enhancing instruction and research as well influencing recruitment and retention. The University President should have both the authority and the accountability for procurement.

**Part II, Section 6** speaks to the importance of faculty having direct and viable input into the "internal organization and management of the university." Our concern relates to the university continuing to believe that employees must have special policies directed at their participation on the Board of Regents. These individuals have already been vetted and confirmed by the Senate. This should suffice for their participation; they are adults who have been briefed by the Ethics Commission. There is no need to establish different standards of behaviour than is applied to all members of the Board of Regents. UHPA recognizes the Committee Chair's desire to ensure that the employee's voice is heard and acted upon by the Board of Regents.

UHPA urges the committee to **support HB 424, HD1 proposed SD1.**

Respectfully Submitted,

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Executive Director

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