

LATE

SB-2607

Submitted on: 2/12/2018 1:43:54 PM

Testimony for GVO on 2/13/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gayle Hamasaki	Individual	Oppose	No

Comments:

DAVID Y. IGE
GOVERNOR

LATE



SARAH ALLEN
ADMINISTRATOR

MARA SMITH
ASSISTANT ADMINISTRATOR

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEES
ON
GOVERNMENT OPERATIONS
AND
HIGHER EDUCATION

February 13, 2018, 1:30 PM

Senate Bill No. 2607
RELATING TO THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

Chairs Kim and Kahele, Vice-Chairs Ruderman and Kim, and members of the committees, thank you for the opportunity to submit testimony on SB 2607. The State Procurement Office's (SPO) comments are limited to SECTION 2 of the bill and does not view this amendment to HRS §304A-3005 to be necessary.

Act 2-09, SLH 1965 which established the Research Corporation of the University of Hawaii (RCUH), intended the corporation to have a broad purpose that "...shall include, but not be limited to, the promotion of all educational, scientific, and literally pursuits." It also recognized that RCUH "requires a much more flexible and streamlined method of operation than is permitted the usual operations of State agencies. In short...must be able to function...more like a business." in order to achieve its mission to support and enhance research, development, and training in Hawaii with a focus on the University of Hawaii (UH).

In FY2017, RCUH expended a total of \$277,688,348 consisting of:

- UH Extramural Projects: \$196,545,905 (externally sponsored federal and non-federal contracts, grants, and other agreements);
- UH Revolving Projects: \$38,222,104 (self-sustaining income-generating projects established to support a specialized service activity, a recharge center, or other sales and services activities);
- Direct Projects: \$23,434,096 (projects assigned to and accepted by RCUH from non-UH organizations, including federal and state agencies, international, and other non-profit organizations); and
- UH Intramural Projects: \$19,486,243 (internally sponsored programs or activities funded with UH Research and Training Revolving Funds (RTRF) or Tuition and Fee Special Funds (TFSF)).

Of the \$277,688,348 expended in FY2017, the following are the top 5 financial expenditures for RCUH:

- Personnel (Salaries & Fringe): \$140,400,509 (50.6%);
- Sub-Contracts: \$30,706,542 (11.1%);
- Other: \$29,838,319 (10.8%);
- Equipment: \$22,234,504 (8%); and
- Consultants: \$16,934,262 (6.1%)

As RCUH is one of the state's largest employers, it's no surprise that its largest financial expenditure was on Personnel. The employment of RCUH project personnel is dependent on grants, contracts, and agreements under which they are hired that have durations ranging from several months to several years. According to its Annual Report, during FY2016-2017, RCUH employed approximately 2,750 employees with 96.9% of these employees working and residing in the state of Hawaii and the remaining 3.1% in the continental U.S. and foreign countries.

Since 70.8% of RCUH's projects are externally sponsored federal and non-federal contracts, grants, and other agreements, the RCUH currently has policies in place which comply with federal procurement rules and also provide fair and transparent procurement of goods and services. Additionally, RCUH's procurement policies and procedures are intended to reflect an environment that provides Projects with the best possible solution for obtaining goods and services in a timely and cost effective manner, while ensuring compliance with applicable regulations and promoting good business practices. Adherence to competitive procurement practices are be carried out based on the following general principles:

- Obtaining best value;
- Ensuring compliance with all applicable laws, regulations, and RCUH policies and procedures;
- Promoting good business practices;
- Engaging in fair and ethical business relationships;
- Providing transparency and accountability;
- Promoting sustainability and supplier diversity; and
- Ensuring effective and efficient stewardship of resources.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. While RCUH may be exempt from HRS chapter 103D for advertising for bids and purchases to be made in Hawaii whenever public moneys are expended as well as with respect to construction contracts, purchases are made through a competitive solicitation process whenever feasible. Purchases made on a competitive basis are also required to ensure fair and reasonable prices are obtained for goods and services and all procurement transaction promote open and fair competition.

Lastly, federal regulations requires documentation of cost analysis or price analysis for procurement actions. To comply with this requirement, RCUH uses its Determination of Cost or Price Reasonableness form to show that the price is fair and reasonable and to demonstrate that the procurement process was conducted in an open and fair manner, and that RCUH received the most advantageous price. When a transaction is processed through RCUH, the UH Administrative Procedures (APMs) or sponsored agreements shall apply were RCUH Procurement & Disbursing policies are silent. Attached for your consideration herein is RCUH's Procurement Checklist that delineates the actions required to ensure price reasonableness for purchases at various dollar thresholds.

Thank you.

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SB-2607

Submitted on: 2/12/2018 2:10:40 PM

Testimony for GVO on 2/13/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara DeBaryshe	Individual	Oppose	No

Comments:

I strongly oppose SB 2607. I understand the issues involved because I am a UH faculty member who has held many external contracts and grants. However, this testimony is provided as a individual citizen and not on behalf of the University.

Not all external contracts and grants are traditional research. Part of what UH does is to use our skills as scientists and evaluators to help state and nonprofit agencies and philanthropic organizations better serve the public. Many of our contracts are for short-term evaluations, policy white papers, etc., that provide information about social circumstances, effective family support programs, or healthy child and family development.

In much of the work, we need to move quickly and meet tight deadlines. Usually this involves small amounts of money (a few thousand dollars) for items such as a short-term hire or graphic design and printing. We simply cannot respond to community needs if every purchase needs to go through a complex bid system. RCUH has extensive in-house procedures that are also verified by our departmental and college fiscal offices to ensure that every purchase is needed, cost efficient, and appropriate for the project budget,

This bill, while well intended, would have the unintended side effect of hampering much of the work we do to support community wellbeing.

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SB-2607

Submitted on: 2/13/2018 8:29:52 AM

Testimony for GVO on 2/13/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Brosius	Testifying on behalf of Research Corp of UH. West Maui Mountains Watershed Partnership Program	Oppose	No

Comments:

Aloha Legislators, While fiscal prudance and equeal opportunity is important to bidders, it is also critical that research functions not be unduely restricted by procurement measures. Procurement within our system is already painfully slow and hampers our ability to implement time sensative projects. I would like the legislature to focus on supporting the monmodernization of our procurment system to ease our operations while keeping an acceptable degree of oversite. In my experience the oversite is adequate. Thank you for your consideration.

Testimony Presented Before the
Senate Committees on Government Operations and Higher Education

By
Dr. Sylvia Yuen

In opposition to SB 2607, Relating to the Research Corporation of the University of Hawaii

Chairs Kim and Kahele and members of the Senate Committees on Government Operations and Higher Education, thank you for the opportunity to present testimony on SB 2607, Relating to the Research Corporation of the University of Hawaii. I am Sylvia Yuen, Executive Director of RCUH.

Act 209, Session Laws of Hawai'i 1965 (now codified as HRS §304A-3001-3011) which established RCUH intended the corporation to have a broad purpose that "...shall include, but not be limited to, the promotion of all educational, scientific, and literary pursuits". It recognized that RCUH "...requires a much more flexible and streamlined method of operation than is permitted the usual operations of State agencies. In short... must be able to function... more like a business...." The creation of RCUH was visionary: the first service ordered project on auditory deprivation was for \$8,855; in 1985 RCUH's volume of business grew to \$40.5 million; and today it is over \$277 million. These extramural grants and contracts support a broad range of research, development, and training projects which enhance the economy throughout the state. For example, although a large majority of the projects are located in Honolulu, in FY 2017 there were 640 RCUH employees and more than \$32 million expended on Hawaii Island and 268 employees and more than \$23.5 million expended on Maui.

Many of the extramural awards are for research, but others bring value to Hawaii in other ways, like the: Veterans to Nurses program that assists veterans to successfully achieve a bachelor's degree in nursing; Hawaii's Pipeline to Health Careers which recruits minority and disadvantaged students to pursue health careers; Pacific Regional Center Cancer Registry which provides the six U.S. Affiliated Pacific Island jurisdictions with reliable population-based cancer surveillance data; the Culinary Institute of the Pacific program which trains students in emerging industry standards and to comply with the Food Safety Modernization Act; and the cyber security workforce development program at UH West Oahu. Together with research, training and development projects are vital to the Education and Knowledge Creation cluster where wages tend to be higher than in other economic clusters. Through the diligent efforts of UH and state principal investigators (PIs), federal and private funds are being secured which significantly add to the state's investments in technology transfer, STEM education, and other initiatives to diversify Hawaii's economy and grow the Education and Knowledge cluster. RCUH contributes to the success of these efforts by providing the fast and efficient personnel and finance services that PIs require to meet funding obligations and deadlines.

It should be noted that RCUH has standards and controls to ensure federal regulations and state EEO and ethics requirements are met. All purchases made through RCUH must meet federal procurement regulations, and there is a checklist and policies and procedures which delineate required actions for purchases at various dollar thresholds to ensure fair and transparent procurement.

How is RCUH fulfilling its function? An external audit of RCUH is conducted annually. The latest audit, by Accuity LLP, provided a "clean audit" with no major or minor statement of findings. Moreover, federal audits are also periodically conducted, and these, also, have found no major weaknesses in RCUH's performance. Although some have indicated that RCUH is becoming more bureaucratic and weighted with rules and regulations, most users are generally satisfied with RCUH's performance. A confidential online survey of customers indicated:

- 80% were satisfied/very satisfied with RCUH services (on a 5-point rating scale)
- 87% would recommend RCUH services to others
- when asked for 3 words to describe RCUH, the most frequently cited were: *helpful, efficient, and professional*

SB 2607 limits RCUH's exemption from Chapter 103D, HRS, to research and contracts for investigations, training, and studies that are directly related to research. This would impede RCUH's efforts to fulfill the purpose for which it was established which, in addition to research, includes, but is not limited to, the promotion of all educational, scientific, and literary pursuits. If SB 2607 is approved, non-research projects like the ones I mentioned earlier would not be exempt from Chapter 103D, requiring a more lengthy procurement process of sealed bids and public advertising. These projects bring in millions of dollars to the University and state and should be accorded the same services as research projects. It is increasingly difficult to secure federal and private funds for research and non-research projects, and both should be supported to ensure their success and ability to secure future extramural awards.

SB 2607 also places a dollar threshold above which even research and contracts for investigations, training and studies would not be exempt from Chapter 103D. This would make it more difficult and prolong the time for such projects to purchase goods and services, jeopardizing their ability to complete work within funding deadlines. Moreover, identifying a specific dollar amount in state statute would reduce RCUH's nimbleness to respond to evolving conditions, especially if it is set below the federal guidelines. The limit in state statute adds complexity to the procurement process and would require legislative action whenever the threshold is changed.

RCUH opposes SB 2607. The restriction the bill places on RCUH's exemption regarding Chapter 103D, HRS, will have a detrimental effect on its ability to support and enhance research, development, and training in Hawaii which, in turn, will negatively impact the University of Hawaii's programs and the state's economy.