

SB 2831

SD-2

**RELATING TO
PROCUREMENT FOR
THE UNIVERSITY OF
HAWAII**

A BILL FOR AN ACT

RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 87, Session Laws
2 of Hawaii 2013, was enacted to: (1) remove the university
3 president's full authority to act as chief procurement officer
4 for the university for all procurement contracts under chapter
5 103D, Hawaii Revised Statutes, (2) transfer authority to the
6 administrator of the state procurement office to act as chief
7 procurement officer with respect to university construction
8 contracts and university professional services contracts
9 relating to construction, and (3) address concerns about the
10 prudent and transparent management of public funds appropriated
11 by the legislature and expended by the university for
12 construction. Since its enactment, Act 87 has resulted in a
13 bifurcated procurement system at the university wherein a
14 different set of rules and procedures applies depending on
15 whether the procurement involves construction or construction
16 related professional services for university construction
17 projects. Requirements for construction or professional



1 services furnished by licensees under chapter 464, Hawaii
2 Revised Statutes, must comply with the Hawaii public procurement
3 code and procedures governing state executive branch agencies,
4 while requirements for goods and services must comply with the
5 Hawaii public procurement code and university executive and
6 administrative procedures governing university transactions.

7 In January 2016, the state procurement office issued its
8 report to the legislature as required under Act 87, which
9 documents the extensive oversight, reviews, and coordination
10 between the university and the state procurement office on
11 procurements involving construction and professional services
12 related to construction. The conclusion of the state
13 procurement office in the report was that "based on SPO's review
14 of 102 UH construction solicitations, UH's Administrative
15 Procedures, and 14 post-award Site Visits, SPO finds that UH is
16 conducting construction procurements in a compliant, efficient
17 and transparent manner." In the report, the state procurement
18 office further set forth minimum recommendations for improvement
19 and mentioned several university specific procedures as "best-
20 practices."



1 The purpose of this Act is to reinstate and restore full
2 authority to the university president to act as the university's
3 chief procurement officer for all procurement contracts under
4 chapter 103D, Hawaii Revised Statutes.

5 SECTION 2. Section 103D-203, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) The chief procurement officer for each of the
8 following state entities shall be:

- 9 (1) The judiciary--the administrative director of the
10 courts;
- 11 (2) The senate--the president of the senate;
- 12 (3) The house of representatives--the speaker of the house
13 of representatives;
- 14 (4) The office of Hawaiian affairs--the chairperson of the
15 board;
- 16 (5) The University of Hawaii--the president of the
17 University of Hawaii; [~~provided that, except as~~
18 ~~specified in section 304A-2672(2), for contracts for~~
19 ~~construction and professional services furnished by~~
20 ~~licensees under chapter 464, the administrator of the~~
21 ~~state procurement office of the department of~~



1 ~~accounting and general services shall serve as the~~
2 ~~chief procurement officer,]~~

3 (6) The department of education, excluding the Hawaii
4 public library system--the superintendent of
5 education;

6 (7) The Hawaii health systems corporation--the chief
7 executive officer of the Hawaii health systems
8 corporation; and

9 (8) The remaining departments of the executive branch of
10 the State and all governmental bodies administratively
11 attached to them--the administrator of the state
12 procurement office of the department of accounting and
13 general services."

14 SECTION 3. Section 304A-2672, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§304A-2672 Powers of the board.** Notwithstanding any law
17 to the contrary, the board may:

18 (1) Designate as a university project, any undertaking,
19 improvement, or facility on any one or more of the
20 areas in one or more of the educational institutions
21 under the jurisdiction of the board;



- 1 (2) Construct and maintain university projects, including
2 a university project included or to be in a university
3 system; [~~provided that all procurements for~~
4 ~~professional services furnished by licensees under~~
5 ~~chapter 464 for construction projects shall be~~
6 ~~coordinated with the department of accounting and~~
7 ~~general services on behalf of the board; provided~~
8 ~~further that the department of accounting and general~~
9 ~~services shall not be responsible for procurements~~
10 ~~determined by both the University of Hawaii and the~~
11 ~~department of accounting and general services to be~~
12 ~~professional services furnished by licensees under~~
13 ~~chapter 464 for repair and maintenance;]~~
- 14 (3) Combine two or more university projects into a
15 university system on one or more of the areas on any
16 one or more of the educational institutions under the
17 jurisdiction of the board, and to maintain the system;
- 18 (4) Combine two or more university projects, university
19 systems, or university projects and university systems
20 into a network, on any one or more of the areas on any
21 one or more of the educational institutions under the



- 1 jurisdiction of the board, and to maintain the
2 network;
- 3 (5) Prescribe and collect rents, fees, and charges for the
4 use of or services furnished by any university project
5 and the facilities thereof, and pledge any
6 appropriation to any university project and the
7 facilities thereof that in aggregate, produces revenue
8 of the university at least sufficient to comply with
9 section 304A-2681;
- 10 (6) With the approval of the governor, issue revenue bonds
11 under this subpart in such principal amount as may be
12 authorized by the legislature from time to time to
13 finance in whole or in part the cost of construction
14 or the cost of maintenance of any university project,
15 including funding reserves therefor;
- 16 (7) Pledge to the punctual payment of revenue bonds and
17 interest thereon, all or any part of the revenue of
18 the university, including any appropriation, in an
19 amount sufficient to pay the revenue bonds and
20 interest as the same become due and to create and
21 maintain reasonable reserves therefor;



1 (8) Establish a loan program or a commercial paper program
2 upon terms and conditions that the board may
3 determine; and

4 (9) Advance moneys of the university, not otherwise
5 required, and do any and all other lawful acts as may
6 be necessary, convenient, or desirable, for carrying
7 into execution and administering this subpart."

8 SECTION 4. The University of Hawaii shall submit an annual
9 report to the legislature detailing a list of all capital
10 improvement projects approved by the board of regents
11 prioritized by each campus no later than twenty days prior to
12 the convening of each regular session.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken.

15 SECTION 6. This Act shall take effect on July 1, 2050;
16 provided that on June 30, 2021, this Act shall be repealed and
17 sections 103D-203(a) and 304A-2672, Hawaii Revised Statutes,
18 shall be reenacted in the form in which they read on the day
19 prior to the effective date of this Act.



Report Title:

UH; Procurement

Description:

Reinstates the President of the University of Hawaii as the chief procurement officer for contracts for construction and construction related professional services furnished by licensees under Chapter 464, Hawaii Revised Statutes. Requires the University of Hawaii to submit an annual report to the Legislature detailing a list of all capital improvement projects approved by the Board of Regents prioritized by each campus no later than 20 days prior to the convening of each Regular Session. Repeals 6/30/2021. Effective 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

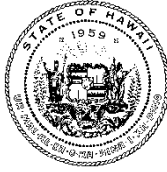


SB 2831

SD-2

TESTIMONY

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
LABOR & PUBLIC EMPLOYMENT

March 15, 2018, 9:00 AM

Senate Bill No. 2831, SD2
RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII

Chair Johanson, Vice Chair Holt, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2831, SD2. 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.

As the bill includes a repeal date, the SPO requests to receive a copy of the UH's annual report to enable responsible decision-making on any capital improvement projects if the UH President's full authority for all of the UH's procurements is not reinstated.

Thank you.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Labor & Public Employment
March 15, 2018 at 9:00 a.m.

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

SB 2831 SD2 – RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII

Chair Johanson, Vice Chair Holt, and members of the committee:

Thank you for the opportunity to submit testimony on SB 2831 SD2. The University of Hawai'i is in 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 SB 2831 SD2.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 15, 2018

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR

SUBJECT: **SUPPORT OF S.B. 2831, SD2, RELATING TO PROCUREMENT FOR THE UNIVERSITY OF HAWAII.** Reinstates the President of the University of Hawaii as the chief procurement officer for contracts for construction and construction related professional services furnished by licensees under Chapter 464, Hawaii Revised Statutes. Requires the University of Hawaii to submit an annual report to the Legislature detailing a list of all capital improvement projects approved by the Board of Regents prioritized by each campus no later than 20 days prior to the convening of each Regular Session. Repeals 6/30/2021. Effective 7/1/2050. (SD2)

HEARING

DATE: Thursday, March 15, 2018
TIME: 9:00 AM
PLACE: Capitol Room 309

Dear Chair Johanson, Vice Chair Holt, and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over 500 general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is in support of S.B. 2831, SD2, Relating to the Procurement of the University of Hawaii which proposes to reinstate the President of the University of Hawaii as the chief procurement officer for contracts for construction and construction related professional services until 2021. The GCA through its Committee has worked with the University of Hawaii in identifying ways to improve the delivery of university projects. The University of Hawaii has been open to hearing feedback and identifying ways in which it can improve in the execution of important repair and maintenance projects and new construction by ensuring the process is efficient and transparent.

Thank you for the opportunity to share our support of S.B. 2831, SD2.

SB-2831-SD-2

Submitted on: 3/13/2018 10:58:27 AM

Testimony for LAB on 3/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randall Francisco	Individual	Support	No

Comments:

SB-2831-SD-2

Submitted on: 3/14/2018 2:12:38 AM

Testimony for LAB on 3/15/2018 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

SB 2831

SD-2

LATE

TESTIMONY