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TESTIMONY  
OF  
BONNIE KAHAKUI, ACTING ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO  
THE HOUSE COMMITTEE  
ON  
JUDICIARY & HAWAIIAN AFFAIRS  
FEBRUARY 16, 2021, 2:00 pm

HOUSE BILL 314, HD1  
RELATING TO MANDATORY REPORTING

Chair Nakashima, Vice Chair Matayoshi, and members of the committee, thank you for the opportunity to submit testimony on HB314, HD1. The State Procurement Office (SPO) offers comments and recommendations.

COMMENTS: The Hawaii Public Procurement Code ,Chapter 103F, HRS, purchase of health and human services, and Chapter 103D, purchase of goods, services and construction, are intended to provide guidance and definitions for the methods and procedures of procurement. The proposed amendments to address specific requirements for the providers would not be appropriate in either Chapter 103F or Chapter 103D, HRS. The amendments would be more appropriate in the HRS Chapter and Hawaii Administrative rules pertaining to the departments that purchase health and human services.

Recommendations: Remove in its entirety Section 2, pages 1 to 4, of HB314, HD1.

Thank you.

DAVID Y. IGE  
GOVERNOR



CATHY BETTS  
DIRECTOR

JOSEPH CAMPOS II  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
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February 15, 2021

TO: The Honorable Representative Mark M. Nakashima, Chair  
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **HB 314 – RELATING TO MANDATORY REPORTING.**

Hearing: Tuesday, February 16, 2021, 2:00 p.m.  
Via Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of the measure and provides comments. DHS appreciates the amendments of the Committee on Health, Human Services, and Homelessness,

- (1) Removing the requirement for providers of health or human services to report any violation of rule or law while fulfilling a contract with the State;
- (2) Exempting contracts with annual financial reporting provisions that are required by federal law or regulation, or by conditions of a federal cooperative agreement or grant, from the financial reporting requirements established by this measure;
- (3) Changing the effective date to July 1, 2060, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

**PURPOSE:** The purpose of the bill requires that providers of health or human services that receive state funds file annual financial reports and that the reports be disclosed to the department of taxation. Exempts certain contracts with existing reporting requirements. Effective 7/1/2060. (HD1)

Section 1 clarifies the purpose of the measure is to ensure that entities that receive funds from the department of health or department of human services use those funds responsibly.

DHS agrees with the previous testimony of the Hawaii Alliance of Nonprofit Organizations (HANO) that the filing requirement be coordinated to avoid multiple filings of the same reports, and or to allow for an electronic repository.

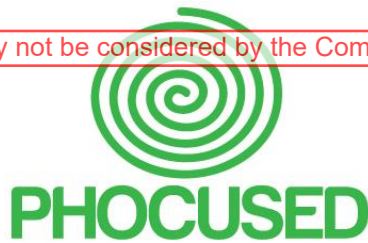
DHS is also concerned that depending upon an organization's business structure, the annual statements may vary in complexity and may not necessarily inform the agency whether or not the organization would use funds responsibly in the future. Form 990s (which are already publicly available) and financial audits may be more informative as to the organizations' fiscal controls; however, a report of a single year may not be predictive.

This additional requirement may likely limit the number of organizations who will respond to a Request for Proposal, as some smaller organizations may see the additional reporting as additional costs to doing business with state government. DHS is concerned that this additional reporting requirement will impact smaller community based organizations, or small businesses, like child care providers, printers, or language interpreters, from seeking government contracts or grants.

DHS suggests the Legislature continue to fund training programs like it did in Act 162, (Session Laws of Hawaii 2019), to build community and organizational capacity to become better government contractors. However, given the revenue shortfall, we ask that any appropriation not replace or reduce budget priorities identified in the executive biennium budget, and we ask that the effective date give organizations sufficient time to address their own pandemic related fiscal shortfalls.

Lastly, it is unclear how a review of annual reports or audits will impact a procurement decision; these documents may complicate a procurement process and subsequent protests, especially if the decision was based upon the content of an annual report or audit.

Thank you for the opportunity to provide comments on this measure.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

February 15, 2021

TO: Rep. Mark M. Nakashima, Chair  
Rep. Scot Z. Matayoshi, Vice Chair  
Members of the House Committee on Judiciary & Hawaiian Affairs

FROM: Christy MacPherson, Director, PHOCUSED

SUBJECT: Testimony: Relating to Mandatory Reporting

Hearing: February 16, 2021 at 2:00 pm  
Via videoconference

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee on Judiciary & Hawaiian Affairs,

Thank you for the opportunity to provide testimony in strong **OPPOSITION** to HB314, HD1.

PHOCUSED is a nonpartisan project of Hawai'i Appleseed Center for Law and Economic Justice and comprises health and human service organizations and the people they serve across the State of Hawai'i. We have been collaborating on advocacy pertaining to critical procurement and service delivery issues that directly impact our providers.

Our providers have serious concerns about this bill:

- They are already required to provide documents to the state through the AG's office. For example, providers are required by DHS to submit their annual A-133 financial and performance audits for review as part of their contract work.
- The bill is unclear. What are considered criminal acts? For example, jaywalkers are seen all the time.
- Providers are already mandated reporters for CWS (Child Welfare Services) and APS (Adult Protective Services).
- Most importantly, clients/consumers will not trust providers if they are always turning people in and "policing." A very good example of this is if a household in public housing has someone living there who is not on their lease. Should a provider report that, it could have very devastating effects and jeopardize the provider's ability to continue working effectively with the family.

Thank you for the opportunity to submit testimony on this issue.

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# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai'i Appleseed Center for Law & Economic Justice  
In Opposition to HB 314 HD1 – Relating to Mandatory Reporting  
Housing Committee on Judiciary and Hawaiian Affairs  
Tuesday, February 16, 2021, 2:00 PM, in conference room 325

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Dear Chair Nakashima, Vice Chair Matayoshi, and members of the Committee:

Thank you for the opportunity to provide testimony in **OPPOSITION to HB 314 HD1** which would require health and human service providers to annually file certain reports with all agencies with which the providers hold contracts. The requirement is largely duplicative of existing requirements. It places an additional administrative burden on providers that would detract from serving people in need, while doing nothing to create any real accountability or benefit (e.g., providers must provide the records, but there are no requirements that agencies to do anything with them).

Hawai'i Appleseed does not have service contracts and would not be subject to the requirements set out in the bill. However, we are concerned about the efficient and effective operation of social services and use of government funds.

The bill would require that service providers annually submit to each government agency with which they have a contract: (1) their 990 tax return (the annual IRS return required for nonprofits) and (2) an audit report, if such a report is required by a governmental authority. The bill targets nonprofits. It does not appear to apply to for-profit businesses that provide services to the government.

The bill's requirements are largely duplicative of the requirements contained in Haw. Rev. Stat. Chapter 467B, which governs organizations that solicit funds from the public. Under Chapter 467B, Charitable organizations are required to:

- register with the Hawai'i State Department of Attorney General (with limited exceptions outlined in Haw. Rev. Stat. Sec. 467B-11.5) (HRS 467B-2.1);
- annually submit their 990 tax return (HRS 467B-6.5(a));
- annually submit an audit report (for organizations with "gross revenue" in excess of \$500,000) (HRS 467B-6.5(b));
- keep "true and accurate records as to its activities in a form that will accurately provide support for the information required by [Chapter 467B]" (HRS 467B-5).

Not only does the State already have access to 990s since they are filed with the Attorney General's Office, but they are readily available to members of the general public online at <https://www.irs.gov/charities-non-profits/search-for-tax-exempt-organizations>. If an agency wants to obtain a copy of a nonprofit's 990, it can do so.

This raises another concern with the bill—it does not address what is to be done with the information

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*The Hawai'i Appleseed Center for Law and Economic Justice is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.*

once it is submitted. If agencies want or need this information, they can include it as a requirement in a Request for Proposal. If agencies do not intend to use or review the information, it makes no sense to require service providers to waste precious resources submitting it. This is especially true given that State government contracts, as a rule, provide reimbursement/compensation that is inadequate to cover the true costs of providing the contracted services, forcing nonprofits to secure funding through other means (e.g., donation solicitation) to support government functions.

While the bill may have the intent of promoting accountability and greater efficacy in the provision of services, that goal could be better accomplished through the development of a coordinated interagency system for the filing and maintenance of documents that are frequently required by government contracts. Nonprofit service providers are often contracted by multiple State and county agencies, which often require the same documents to be submitted as part of the procurement and contracting process. Creation of a common document repository that all agencies could readily access would create greater efficiency while more consistently ensuring accountability, allowing both agencies and providers to focus on what truly matters—serving Hawai‘i’s people.

For the above reasons, we respectfully oppose HB 314 HD1, and ask that you not pass the bill. Thank you for your consideration of this testimony.