



STATE OF HAWAII
STATE PROCUREMENT OFFICE

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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS
February 4, 2021, 3:00 p.m.

SENATE BILL 789
RELATING TO PROCUREMENT

Chair Moriwaki, Vice-Chair Dela Cruz, and members of the committee, thank you for the opportunity to submit testimony on SB789. The State Procurement Office (SPO) offers the following comments and recommendation.

Chapter 103D, Hawaii Revised Statutes (HRS), Hawaii Public Procurement Code (Code), is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

The American Bar Association 2002 ABA Model Procurement Regulations includes a procurement method under the Code that may be utilized during certain limited instances. The Chief Procurement Officer or the head of a Purchasing Agency may with prior public notice initiate a procurement above the small purchase when it is determined that an unusual or unique situation exists that makes the application of all requirements of competitive sealed bidding or competitive sealed proposals contrary to the public interest. The method further describes that any special procurement under such section shall be made with such competition as is practicable under the circumstances.

The "Special Procurements" method is based on the versions of the Code adopted by the States of Alaska and Arizona. Alaska Statutes authorizes the use of an innovative procurement process under certain conditions to purchase new or unique state requirements, new technologies, or to achieve best value and Arizona Revised Statutes authorizes under its

emergency procurement authority, a waiver for competitive sealed bidding or competitive sealed proposals when doing so is in the State's best interests.

This bill proposes to create a new procurement method in HRS 103D and proposes absence of full competition. The bill further proposes that use of the Special Procurement process shall be in accordance with rules adopted by the procurement policy board.

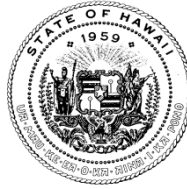
The SPO sees two potential problems and recommend the following amendments to the bill:

1. If the method is absent of full competition, it contradicts the purpose of the Code. 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. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.
2. If the procurement policy board provides rules that do not meet the requirements of the new or unique need for goods or services, the method may not be usable.

RECOMMENDATION:

Amend the language on Page 2, Section 2, Lines 6-10

"§103D- Special procurement. (a) Contracts for goods and services may be awarded, ~~absent full competition,~~ through competition as is practicable under the circumstances, using a special procurement process in accordance with ~~this section and procedures set forth in rules adopted by the procurement policy board~~ the detailed written steps in conducting the procurement, approved by the chief procurement officer-



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 4, 2021
3:00 P.M.
State Capitol
Conference Room 016
VIA VIDEO CONFERENCE

S.B. 789
RELATING TO PROCUREMENT

Senate Committee on Government Operations

The Department of Transportation (DOT) **supports** the intent of the bill to establish a special procurement process for the procurement of goods and services; requires the procurement policy board to establish procedures for the use of the special procurement process by rules; requires the head of the purchasing agency to prepare a procurement plan and submit the plan to the Attorney General or corporation counsel; requires the head of the purchasing agency to electronically post, for at least a year, public notice of special procurement contracts within seven days of the contract award.

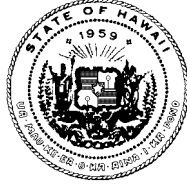
In order to respond timely and appropriately to changing and challenging economic times, new and innovative ways of maintaining and improving state services and infrastructure, while ensuring prudent and cost-effective expenditure of public monies, are needed.

Greater flexibility in the procurement of respective goods and services to accommodate and address varying unique needs and circumstances will improve the State's responsiveness to better serve the people of the State.

Thank you for the opportunity to provide testimony.

LATE

DAVID Y. IGE
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CATHY BETTS
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DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 4, 2021

TO: The Honorable Senator Sharon Y. Moriwaki, Chair
Senate Committee on Government Operations

FROM: Cathy Betts, Director

SUBJECT: **SB 789 – RELATING TO PROCUREMENT.**

Hearing: Thursday, February 4, 2021, 3:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this measure and provides comments.

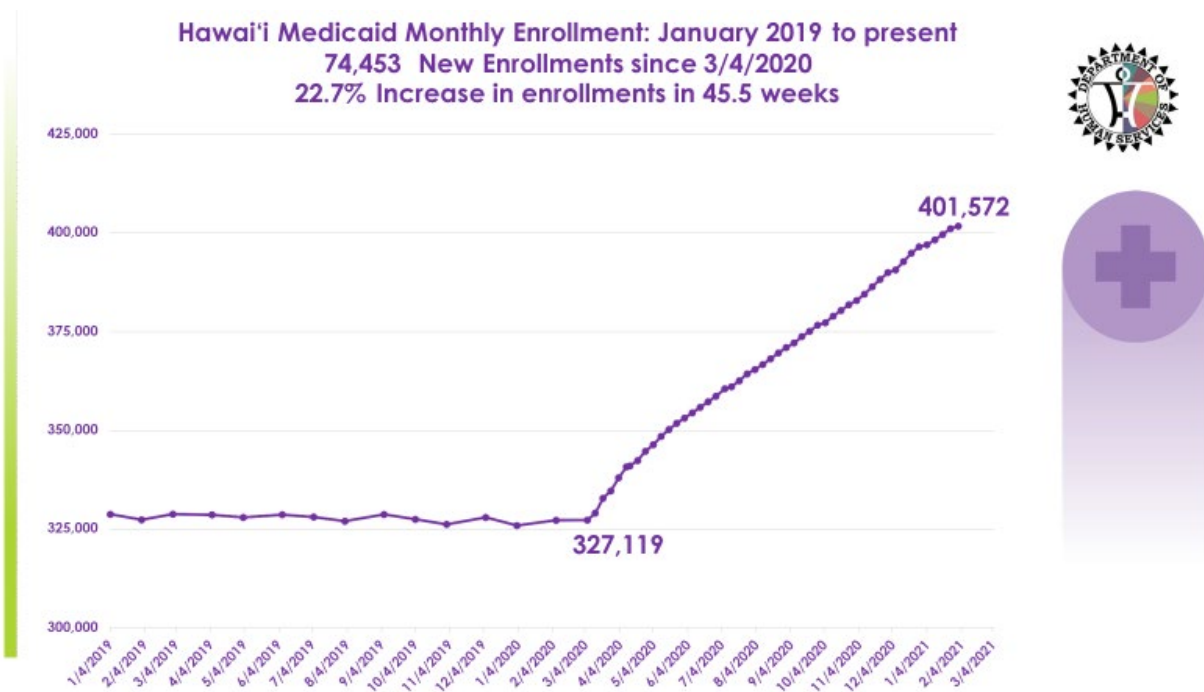
PURPOSE: The purpose of the bill establishes a special procurement process for the procurement of goods and services through innovative and flexible mechanisms. Requires the procurement policy board to establish procedures for use of the special procurement process by rules. Requires the head of a purchasing agency to prepare a procurement plan and submit the plan to the Attorney General or corporation counsel. Requires that the chief procurement officer determine in writing that it is advantageous to the State to use the special procurement process to address new or unique requirements of the State; or procure new technologies, or public-private partnerships to achieve best value. Requires the head of a purchasing agency to electronically post, for at least one year, public notice of special procurement contracts within seven days of the contract award.

The foundation of the Department's rapid response to the health and safety requirements and the economic challenges wrought by COVID-19 was the Affordable Care Act (ACA) of 2010. The ACA's significant investment in IT modernization of the Medicaid eligibility

system, our continuing IT modernization efforts of other DHS programs and systems, the examination and transformation of our business processes, departmental strategic planning, and the engagement of the DHS workforce in the 'Ohana Nui multigenerational approach to become an integrated and modern human services system, prepared DHS to pivot to a telework environment, while maintaining access to benefits and services by Hawaii's residents who suddenly found themselves unemployed, without cash or health care.

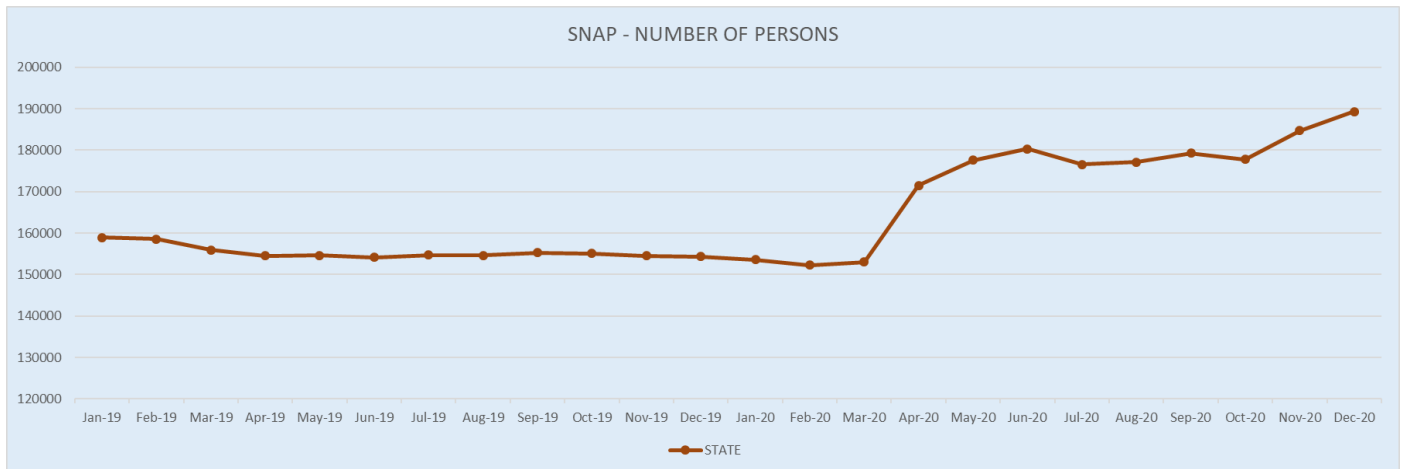
To support dispersed staff and a telework IT infrastructure with vastly increased surface area, DHS maximized its use of 'Cooperative Purchasing Agreements' available from National Association of State Procurement Officials (NASPO) ValuePoint, U.S. General Services Administration (GSA) Schedules, and State-administered/State-managed contracts like SPO 12-12. These cooperative agreements are competitively bid at the national level to ensure best possible price to government purchasers.

With these enhancements, as of February 1, 2021, we have **401,572** Hawaii residents enrolled in Medicaid, a **22.7%** increase since March 4, 2020.



Through the exemption provisions of Act 9, SLH 2020, DHS engaged a local IT provider with an existing contract with the agency, to develop an online application for the Supplemental Nutrition Assistance Program (SNAP) and for all financial assistance programs. The flexibility and newly available CARES Act funds allowed the quick adaptation to an online process that had for decades been an entirely paper-intensive process. This development decreased application wait times and DHS processed approximately 100,000 applications for SNAP and financial benefits to date through this site ensuring that eligible residents received necessary benefits in a timely basis, while maintaining pandemic mitigation protocols.

The table below shows the change in case load since January 2019 through December 2020: As of December 2020, SNAP enrollees have increased to nearly **190,000** residents.



Enrollment in all cash assistance programs also dramatically increased:

Program	Description	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Percent Increase
TANF	Assistance for families with minor children	9,473	9,814	12,297	13,649	14,150	14,400	14,606	14,919	15,488	15,990	69%
TAONF	Assistance for families with minor children/mixed citizenship households	1,785	1,826	3,056	3,985	4,406	4,667	4,820	5,007	5,243	5,68	218%

Program	Description	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Percent Increase
AABD	Assistance for aged (65+), blind & disabled, not eligible for SSA benefits	917	903	949	973	1,000	1,027	1,016	1,006	981	1,001	9%
GA	Temporary disability for adults without dependent minor children	5,201	5,472	5,977	6,647	7,015	7,094	6,946	6,802	6,814	6,732	29%

With CARES Act funds, DHS worked with the USDA FNS, the Department of Education, and Charter Schools to issue **\$61,188,488** in two rounds of Pandemic EBT (nutrition) benefits to families of children who attend public or charter schools and receive free or reduced lunch or attend a public school with free lunch.

Pandemic EBT (P-EBT)			
	Round 1	Round 2	
SNAP-Households			
Number of Students:	44,202	51,608	
Number of families:	23,264	31,406	
Benefit amount:	\$15,792,331	\$14,662,607	
Non-SNAP Households			
Number of Students:	49,327	46,380	
Number of families:	28,823	33,465	
Benefit amount:	\$17,644,919	\$13,088,631	
Total Benefits:	\$33,437,250	\$27,751,238	\$61,188,488

Through Act 9 (SLH 2020), DHS also received CARES Act funds to assist child care providers to reopen and meet the child care needs of Hawaii's families. With the procurement flexibility and collaboration of legislative members, DHS partnered with Hawaii Community Foundation (HCF) in a grant making process to ensure that child care facilities had access to the CARES Act funds. HCF's experienced staff and expertise in grant making, facilitated grant applications and funding awards to child care providers to meet the increased health and safety protocols and continue to provide child care to working families. DHS also maximized the use of available federal funds by shifting pending grant proposals to the HCF process to distribute CARES Act Funds that would lapse to the State general fund on December 28, 2020.

We support the effort of the Legislature to address streamlining procurement processes. We encourage expanded use of cooperative purchasing agreements, transparent exemptions processes, and collaborative partnerships with private sector partners with the organizational capacity and expertise to deliver services quickly and efficiently. We request the Legislature's continued support of DHS staff and our continuing work to modernize our IT infrastructure and processes to improve our effectiveness and access to vital and essential benefits and services by Hawaii's residents.

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