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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
GOVERNMENT REFORM
FEBRUARY 16, 2022, 9:30 AM

HOUSE BILL 1909 HD1
RELATING TO PROCUREMENT

Chair McKelvey, Vice Chair Wildberger, and members of the committee, thank you for the opportunity to submit testimony on House Bill 1909 HD1. The State Procurement Office (SPO) appreciates the intent to support Hawaii's economy, however, opposes HB1909 HD1 in its entirety.

HB1909 HD1 proposes to add the following section to Chapter 103D, Hawaii Revised Statutes:

"§103D- Purchasing card program; contracts; preference. In establishing a purchasing card program to provide government agencies with a state procurement card, the state procurement office shall give preference for contracting with a bank or credit union domiciled in the State to provide services for the program."

The SPO finds this additional language to Chapter 103D, HRS, will unnecessarily limit the field of competition and is unwarranted with the current state of technology. Section 103D-101, HRS, "Requirement of ethical public procurement," states that all public employees shall conduct and participate in public procurement in an ethical manner and shall encourage economic competition by "ensuring all persons are afforded an equal opportunity to compete in a fair and open environment." Restricting the pCard program to only Hawaii domiciled financial institutions is neither equal nor fair treatment in an industry that does not require a physical presence to conduct business.

As the contract for the state's pCard program was expiring, the SPO issued a solicitation for the current pCard program in 2019 as a request for competitive sealed proposal (RFP) and received a total of eight proposals, of which two were from local financial institutions. The stringent evaluation criteria were based on Proposers' Technical Scope of Work, Oral Presentation, Organizational Experience, Size & Qualifications, Transition/Implementation Plan, Training Requirements, Rebates/Incentives, Past Performance, and Cost & Fees. Based on the

aforementioned criteria, the contract was awarded to the highest scoring, responsible, responsive, technically acceptable offeror which has experience with sixteen (16) state-wide programs (Florida, Georgia, South Carolina, North Carolina, Virginia, New Jersey, Vermont, New Hampshire, Massachusetts Louisiana, Oklahoma, Arkansas, New Mexico, Nevada, Idaho, and Alaska), five (5) large public sector programs (in Texas, Arizona, California, Washington, and Oregon), and 130 colleges and universities, just to name a few. In addition, the awarded contractor's purchase cards are in compliance with all Payment Card Industry (PCI) standards and is reviewed annually by an external third-party Qualified Security Assessor. Additionally, the contractor offered the highest rebate of all the vendors submitting a proposal.

Two Hawaii-based financial institutions submitted proposals, however, they were not in the top three priority listed vendors based on the evaluation criteria. One of the two Hawaii offerors did not have a commercial card program and would have to partner with a non-local financial institution to provide a purchasing card program for the State of Hawaii. The other offer did not demonstrate having the most current technology for commercial purchasing cards.

In a National Association of State Procurement Officials (NASPO) briefing paper on In-State Preferences, implementation of a local preference may lead to unintended consequences, such as less competition, higher prices, and impacts on our government procurement process. For example, if the SPO had awarded the pCard contract to one of the Hawaii-based financial institutions, the award would result in the state receiving approximately **\$195,000 to \$500,000 LESS** in rebates than the awarded vendor is projected to provide. Historically, NASPO has opposed purchasing policies for in-state preferences. The National Institute of Governmental Purchasing (NIGP) has also opposed all types of preference laws and practices and views them "as impediments to the cost effective procurement of goods, services and construction in a free enterprise system."

The previous contractor of the State of Hawaii pCard program was a Hawaii-chartered bank that submitted their proposal in response to a competitive solicitation that did not require a local preference. This demonstrates that local banks or credit unions are not disadvantaged and do not need assistance to level the playing field. Local financial institutions can compete with both local and non-local companies, and all have the responsibility to submit a proposal that is the most beneficial to the State.

The SPO opposes HB1909 HD1, as there is no necessity for creating a statute for a local preference for financial institutions and the State pCard program. As the SPO has emphasized in numerous testimonies, 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. Chapter 103D, HRS, the Hawaii Public Procurement Code, is the State's 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.

Thank you.

HB-1909-HD-1

Submitted on: 2/15/2022 9:33:03 AM

Testimony for GVR on 2/16/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ian Chan Hodges	Individual	Support	Yes

Comments:

Thank you for the opportunity to testify in support of HB 1909. The bill raises important concerns about the State Procurement Office contracting with Bank of America (BoFA) to implement the new State of Hawaii Purchasing Card (pCard) Program. On October 7, 2021, the Acting Administrator of the State Procurement Office sent a memo to all state department heads and the chief procurement officers of all four counties announcing the transition of to the statewide pCard from First Hawaiian Bank to Bank of America. The memo also states that the Bank of America Purchasing Card Program was scheduled to be completed by the end of 2021.

What the State Procurement Office did not address is how the pCard program was awarded to Bank of America despite the fact this bank — as this bill points out — has a history in Hawaii of broken promises and unfulfilled commitments. The Hawaii state senate and all four counties have passed resolutions highlighting the fact that Bank of America hundreds of million of dollars to the Hawaiian people. Gov. Ige has written to Bank of America requesting that senior Bank of America executives travel to Hawaii to reach a fair and final settlement to its outstanding obligations to Hawaii. Bank of America has not done so and is now being awarded a lucrative contract by the state.

HB-1909-HD-1

Submitted on: 2/16/2022 8:39:51 AM

Testimony for GVR on 2/16/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Brandon Maka'awa'awa	Na Po'e Kokua	Support	No

Comments:

Aloha my name is Brandon Maka'awa'awa and I am the President of Na Po'e Kokua and I am testifying in support of HB1909.

I believe that we need governmental transparency in light of the recent news of corruption impacting this very legislature. This bill was written to address the fact that the state's lucrative P Card contract has been awarded to Bank of America rather than one of the many local banks. Hawai'i needs to focus on creating local business opportunities not supporting one of the world's biggest banks that has engaged in predatory lending practices nationwide and even here in Hawai'i.

Na Po'e Kokua has been engaged in a 28-year battle with Bank of America to fulfill an outstanding debt to the Hawaiian people in the form of \$150 million in unfulfilled home loans to DHHL beneficiaries. I request that the legislature look into how this contract was formed and why no local banks were awarded the contract. The state has been focused on sustainability and building local business opportunities and this seems like a huge missed opportunity.

This contract should have gone to one of the many local banks here first rather than a big bank with a track record of discriminatory and predatory lending practices that have hurt many people of color nationwide, including Hawaiians and Filipinos in Hawai'i. And so, I am in support of HB1909 and encourage the legislature to research the origin of this contract and future contracts that take away vital economic opportunities for local business.

HB-1909-HD-1

Submitted on: 2/16/2022 12:55:41 PM

Testimony for GVR on 2/16/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Keoni DeFranco	Individual	Support	No

Comments:

I am submitting testimony in favor of HB1909