

DAVID Y. IGE  
GOVERNOR



BONNIE KAHAKUI  
ACTING ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

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TESTIMONY  
OF  
BONNIE KAHAKUI, ACTING ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO  
THE SENATE COMMITTEES  
ON  
GOVERNMENT OPERATIONS  
AND  
JUDICIARY  
AND  
WAYS AND MEANS

APRIL 8, 2021, 10:00 A.M.

HOUSE BILL 882, HD1, SD1  
AND  
PROPOSED HOUSE BILL 882, HD1, SD2  
RELATING TO PROCUREMENT

Chair Moriwaki, Chair Rhoads, Chair/Vice Chair Dela Cruz, Vice Chair Keohokalole, Vice Chair Keith-Agaran, and members of the committees, thank you for the opportunity to submit testimony on both HB 882, HD1, SD1 and the proposed HB 882, HD1, SD2.

The State Procurement Office (SPO) strongly supports Part I, Sections 1-5 of both the SD1 version and proposed SD2. The SPO appreciates the intent of Part II in the proposed SD2 to address protests expeditiously.

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  
Honolulu, Hawaii 96809-0339

April 6, 2021

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

The Honorable Senator Karl Rhoads, Chair  
Senate Committee on Judiciary

The Honorable Senator Donovan M. Dela Cruz, Chair  
Senate Committee on Ways & Means

FROM: Cathy Betts, Director

SUBJECT: **HB 882 HD1 SD1 Proposed SD2 – RELATING TO PROCUREMENT.**

Hearing: April 8, 2021, 10:00 a.m.  
Via videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of the Proposed SD2, Part II, and respectfully opposes the Proposed SD2 for the reasons addressed in testimony submitted for the different iterations of SB1329. DHS provides comments.

**PURPOSE:** Requires purchasing agencies to make a written determination that the amount of a contracting action for purchases of health and human services is fair and reasonable. Amends the selection process and composition of the procurement policy board. Amends the circumstances for when treatment services may be purchased and the procedure to purchase such services. Increases the small purchase threshold. Repeals the establishment of the community council on purchase of health and human services. Requires the chief procurement officer or designee to address protests as expeditiously as possible. Creates time

limits to resolve protests to the awards of competitive sealed proposal contracts and procurements of professional services ~~if the protest is not resolved by mutual agreement.~~ Specifies that a protest shall prevail if the protest is not resolved by mutual agreement and ~~within the established time limits.~~ Effective 7/1/2112. (Proposed SD2)

DHS acknowledges that it is difficult to establish a set time frame to disposition, and depending upon the breadth and complexity of the procurement, or if more than one protest is received, the chief procurement officer or the designee needs enough time to sufficiently review and respond to the protest. In the event that the decision of the chief procurement officer or designee is forced or rushed to remain within the mandated time frame, the decision will likely result in a fair hearing request as provided by sections 103D-701(e) and 103D-709, Hawaii Revised Statutes (HRS).

We also consider that section 103D-701(e), HRS, provides,

" In addition to any other relief, when a protest is sustained and the protestor should have been awarded the contract under the solicitation but is not, then the protestor shall be entitled to the actual costs reasonably incurred in connection with the solicitation, including bid or proposal preparation costs but not attorney's fees."

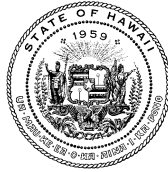
The right to administrative review in section 103D-701(c), HRS, and the available remedy in section 103D-701(e), HRS, are the most likely reasons why certain decisions take as long as they do in protests that were not resolved by mutual agreement.

We are concerned that the 75 day plus 30 day time frame may encourage protests and act as a disincentive for smaller community-based organizations from submitting a proposal when they do not have the wherewithal to fully engage in the protest process; consequently, this may reduce competition and community capacity, and may likely increase the overall costs of procurement and services.

Additionally, if agencies do not have enough staff to address procurement issues, resolution of procurement protests will continue to be delayed.

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

DAVID Y. IGE  
GOVERNOR



CURT T. OTAGURO  
COMPTROLLER  
AUDREY HIDANO  
DEPUTY COMPTROLLER

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY  
OF  
CURT T. OTAGURO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE SENATE  
COMMITTEE ON GOVERNMENT OPERATIONS  
COMMITTEE ON JUDICIARY  
COMMITTEE ON WAYS AND MEANS

THURSDAY, APRIL 08, 2021, 10:00 A.M.  
CONFERENCE ROOM 211, STATE CAPITOL & VIDEOCONFERENCE

HB 882, H.D. 1, S.D. 2 Proposed

RELATING TO PROCUREMENT.

Chairs Moriwaki, Rhoads, and Dela Cruz , Vice Chairs Dela Cruz, Keohokalole, and Keith-Agaran, and Members of the Committees, thank you for the opportunity to submit testimony on H.B. 882, H.D. 1, S.D. 2 Proposed. Although the Department of Accounting and General Services (DAGS) agrees that procurement protests can be lengthy, establishing a deadline for the resolution of protests would not significantly expedite the process and can have unintended adverse effects. We offer the following strong concerns and comments.

- **We recommend against the inclusion of this purpose in Part II of this legislative bill, which was originally intended to focus on Hawaii Revised Statutes Chapter 103F procurements. In its current form, the protest-related language does not limit its applicability to this chapter and, instead, impacts all governmental procurement. Many affected entities may not be tracking legislation for HRS 103F and would therefore not have the opportunity to comment.**

- **The imposition of time limits on the resolution of protests may compromise fair and just resolutions in the best interest of the State. This is especially true for construction procurements.**

There are several factors, beyond the control of the State, which adversely impact an agency's ability to address a protest for a project within a specified deadline. For example:

- The number and complexity of issues involved in a single protest.
  - The complexity of the procurement. Protests involving construction projects may involve contractor licensing issues, issues of interpretation of the plans and specifications, etc.
  - The number of protests received for a project.
  - The current overall caseload of protests.
- **The current wording of the bill does not confine the application of these time limits to the competitive sealed proposal and professional services methods of procurement in accordance with the stated intent of this legislation as identified on page 10, lines 7-9.**

Therefore, we suggest amending the wording on page 10, lines 13 through 14, as follows to align with the stated intent of this bill:

“If the protest is not resolved for section 103D-303 or 103D-304, Hawaii Revised Statutes, procurements by mutual agreement, the chief procurement officer or a designee shall [~~promptly~~] issue a...”

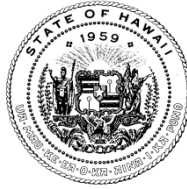
- **We stress the importance of ensuring that the integrity of the protest process and the best interests of the State are preserved by ensuring that the time limitations and processes are both realistic and reasonable.**

- The initial time period in line 17 on page 10, must be reasonable, realistic, and account for the fact that many aspects impacting the time it takes to address a construction-related protest are beyond the control of the State. We strongly advise that the time limit be based on the experience of Hawaii agencies experienced in addressing construction protests. Based on research of DAGS' own past protests, the current time limit proposed in this legislation is not reasonable for construction procurements. DAGS recommends that the initial protest resolution time limit be changed from 75 days to 105 calendar days.
- Time extensions should be allowed based on a test of reasonableness given the circumstances, as opposed to "extenuating" circumstances.
- Care should be taken to ensure that the approval process for obtaining time extensions is not onerous and time consuming, such that it doesn't create a bottleneck in the process and further prolongs the protest process.
- The duration of time extensions in line 19 on page 10 must be well considered. If the period of a time extension is too short, the need to apply for repeated extensions will further complicate the process and lengthen the time it takes to respond to a complex protest. Here, based on our experience, we recommend the time extension be revised from 30 days to 45 calendar days.
- We also advise that the number of such time extensions remain uncapped.

**We suggest that Part II of this legislation be deferred to obtain more feedback from government agencies currently addressing construction protests to guide the development**

**of time limitations and processes which are workable and do not compromise the best interests of the State.**

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



JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

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

April 8, 2021  
10:00 A.M.

State Capitol, Teleconference



**HB 882, H.D. 1, S.D. 1, Proposed S.D. 2  
RELATING TO PROCUREMENT**

Senate Committee(s) on Government Operations, Judiciary, and Ways & Means

The Department of Transportation (DOT) **supports** Part II of this bill that proposes to require the chief procurement officer or designee to resolve any protest as expeditiously as possible, namely, within seventy-five calendar days of receipt of the protest unless extenuating circumstances require additional time, which shall not exceed an additional thirty calendar days.

While the research and fact finding involved in verifying the protestor's concerns do take time, the purpose for the DOT in procuring goods, services, and construction is to serve the community by providing safer infrastructure enhancements for all users including pedestrians, bicyclists, transit users and motorists. Protests, at times, hinder the timely delivery of infrastructure enhancements to the detriment of our communities.

The State Procurement Code was established with fairness, to increase public confidence, to foster broad-based competition, fiscal responsibility and efficiency in the procurement process. Unfounded and frivolous protests impact procuring agencies by project delays, lapsed funding, and project cost increases. The DOT submits for consideration, a revision to Hawaii Revised Statutes 103D-709(e), amending the current cap on the protest bond amount.

Notably, page 10, Section 6, beginning on line 7 to be revised to read,

"The purpose of this part is to create time limits to resolve protests to the awards of competitive sealed proposal contracts and procurements of professional services, to revise the protest bond amount, and to repeal the protest bond cap for estimated contract value of \$1,000,000 or more."

Moreover, the following is proposed to be added to page 11, after Section 7, beginning on line 4,



SECTION 8. Section 103D-709, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The party initiating a proceeding falling within subsection (d) shall pay to the department of commerce and consumer affairs a cash or protest bond in the amount of:

- (1) ~~\$1,000 for a contract with an estimated value of~~ One-half of one percent of the estimated value of the contract if the estimated value of the contract is less than \$500,000;
- (2) One percent of the estimated value of the contract if the estimated value of the contract is ~~\$2,000 for a contract with an estimated value of~~ \$500,000 or more, but less than \$1,000,000; or
- (3) Two ~~One-half~~ percent of the estimated value of the contract if the estimated value of the contract is \$1,000,000 or more; ~~provided that in no event shall the required amount of the cash or protest bond be more than \$10,000.~~

Page 11, line 5, “SECTION 8” be revised to read, “SECTION 9”

Page 11, line 7, “SECTION 9” be revised to read, “SECTION 10”

When a project solicitation or project award is protested, the government agency replies either denying or sustaining the protest. The protester then has an opportunity to appeal the government agency’s decision to the Department of Commerce and Consumer Affairs, Office of Administrative Hearings (OAH). Under the current law, if the contract has an estimated value over \$1,000,000,000.00 a protest bond of one-half percent capped at \$10,000.00 is required. If the protester prevails, the \$10,000.00 bond is returned, if the protester does not prevail, the \$10,000.00 bond is deposited into the general fund.

For the DOT, protests delay our delivery of Highway, Airport, and Harbor improvements. Delays potentially may increase the cost of the project.<sup>1</sup> From 2012 to 2019, the DOT received and responded to one hundred twenty-five (125) protests. The average calendar day delay from receipt of protest to protest resolution was one hundred fifteen (115) days.

From 2015 to 2019, there have been four (4) DOT protest decisions that went through the OAH administrative hearing process. In each, the protestors did not prevail in the administrative hearing and therefore, each of the \$10,000.00 protest bond was deposited into the general fund. The estimated contract value was \$11,877,594.00<sup>2</sup>; \$169,948,741.00<sup>3</sup>; \$10,460,000.00<sup>4</sup>; and \$46,000,000.00<sup>5</sup>. Should the cap on the protest bond be repealed, and the protest bond amount revised from one-half percent to two-percent for an estimated contract value over \$1,000,000.00 using the examples above, the amount deposited in the general fund instead of \$40,000.00 might have been \$4,765,727.00.

As mentioned above, the DOT received and responded to one hundred twenty-five (125) protests since 2012. During this time, four (4) protests were sustained in the protestor's favor and one hundred twenty-one (121) were denied. Seven (7) of the one hundred twenty-one (121) denied protests were appealed to the OAH. The OAH decision in each were dismissed in favor of the DOT.

Thank you for the opportunity to provide testimony.

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<sup>1</sup> The Procurement Code allows only for award to be made at the original lowest responsive, responsible bid (in other words, the increased costs may either be absorbed by the contractor or passed on to the DOT through change orders).

<sup>2</sup> Two percent equals \$237,552.

<sup>3</sup> Two percent equals \$3,398,975.

<sup>4</sup> Two percent equals \$209,200.

<sup>5</sup> Two percent equals \$920,000.

# Nan Inc

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636 Laumaka Street  
Honolulu, Hawaii 96819  
Telephone: (808) 842-4929  
Facsimile: (808) 841-8281

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April 6, 2021

Testimony to: Senate Committee on Government Operations  
Chair Sharon Y. Moriwaki

Presented By: Nan Chul Shin, Director

Subject: H.B. 882, HD1, SD2, Proposed – RELATING TO PROCUREMENT

Chair Moriwaki and Members of the Committee:

Nan, Inc. (“Nan”) supports H.B. 882, HD1, SD2, Proposed and the time limitations under which the Procurement Officer (“PO”) shall issue a decision within seventy-five days. Any delay in the procurement process not only increases costs to the government but also on the parties involved in the bid and protest process. Nan believes that H.B. 882, HD1, SD2, Proposed appropriately sets a deadline on agencies to move bid protests along in a timely manner.

Additionally, Nan believes that the 30-day extension should address any concerns regarding whether the PO can properly address the merits of the protest in a timely matter. Substantial written testimony has been submitted regarding the imposition of time limits on the resolution of protests may compromise fair and just resolutions in the best interests of the State. However, the amount of time suggested in the current version of H.B. 882, HD1, SD2, Proposed is more than enough time especially when considering the time limits already being imposed in the procurement process on the bidder/aggrieved party (**5 days**), the Department of Commerce and Consumer Affairs, Office of Administrative Hearings (“OHA”) (**45 days**) and the circuit courts (**30 days**) as further detailed below.

Currently, HRS § 103D-701 requires that the bidder/aggrieved party submit a protest to the PO within **5 days** of an award or having knowledge of being aggrieved. HAR § 3-126-42

Chair Sharon Y. Moriwaki  
H.B. 882, HD1, SD2, Proposed – RELATING TO PROCUREMENT  
April 6, 2021

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requires that the bidder/aggrieved party to file an appeal with the OAH within **7** calendar days after decision from PO. HRS § 103D-709 requires that a hearing with the OHA commence within **21** calendar days after receipt of appeal notice. Often times, the OAH sends all parties a scheduling conference the same day the appeal is filed to be held within 3 days due to the **45**-day requirement to render a decision under HRS § 103D-709. HAR § 3-126-78 imposes a **10**-day deadline to file an appeal to the circuit court to seek judicial review after the OAH renders its written decision. Under HRS § 103D-710, the circuit court shall issue a decision no later than **30** days from the filing of the application for judicial review.

The 75-day deadline along with the 30-day extension on the PO is more than a reasonable timeframe and comparatively much longer than any of the time limitations the law currently places on the contractors, the OAH, or the court.

H.B. 882, HD1, SD2, Proposed clearly furthers the goal of preventing delays in public works projects thereby moving the process along in this way will have an immediate impact on this process and ensure that bid protests do not go on forever without resolution. Timely resolution benefits both the State as well as the public.

Thank you for the opportunity to provide testimony.



**LATE**

**Testimony to the Senate Committees  
on Government Operations, on Judiciary, and on Ways and Means  
Senators Sharon Moriwaki, Karl Rhoads, and Donovan Dela Cruz, Chairs  
Senators Donovan Dela Cruz, Jarrett Keohokalole,  
and Gilbert Keith-Agaran, Vice-Chairs  
Thursday, April 8, 2021, 10:00 a.m.  
Via Videoconference  
HB 882, HD1, SD1, Proposed SD2, Relating to Procurement**

Dear Chairs Moriwaki, Rhoads, and Dela Cruz, Vice-Chairs Dela Cruz, Keohokalole, and Keith-Agaran and members of the GVO, JDC, and WAM Committees:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like to provide the following comments on HB882, HD1, SD1, Proposed SD2, Relating to Procurement.

Hawai'i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i. Our member organizations provide essential services to every community in the state.

While Section 2 of the bill reduces the number of members representing the health and human services on the State Procurement Policy Board from two to one member, HANO supports the added language that specifies that the member shall represent HANO, PHOCUSED, or a similar organization. HANO believes this additional language will better ensure experienced and able representation for the health and human services sector on the Policy Board.

HANO also supports Section 4 of the bill which would increase the threshold for small purchases under Chapter 103F, HRS, from \$25,000 to \$100,000. This change would allow for more efficient procurement of relatively small contracts for health and human services.

HANO has no comments on the other sections of this bill. Mahalo for the opportunity to provide written testimony.

Lisa Maruyama  
President and CEO



**LATE**

## **HB882 HD1 SD2 Procurement Council**

COMMITTEE ON GOVERNMENT OPERATION

- Sen. Sharon Moriwaki, Chair; Sen. Donovan Dela Cruz

COMMITTEE ON JUDICIARY

- Sen. Karl Rhoads, Chair; Sen. Jarreet Keohokalole, Vice Chair

COMMITTEE ON WAYS AND MEANS

- Sen. Donovan Dela Cruz, Chair; Sen. Gilbert Keith-Agaran

Thursday, Apr. 8, 2021: 10:00: Videoconference

## **HSAC Supports HB882 HD1 SD2 with it's Proposed Recommendations:**

*ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.*

## **SD2 RECOMMENDATIONS that HSAC Supports:**

- 1. Structured the Procurement Council to address that the recent changes at the Department of Health to ensure providers and community have a voice.**
- 2. Makes a written determination that the amount of a contracting action for purchases of health and human services is fair and reasonable;**
  - **Prioritizes that the financial security and viability of mental health and addiction treatment providers** so that valuable providers who use evidenced-based practices survive.
  - **Facilitates the implementation of nationally recognized level of care standards** for addiction treatment programs and new standards for recovery residences.
  - **Understands that it is important to improve training for healthcare professionals** who care for patients with mental health and substance use disorders in communities across Hawai'i.
  - **Ensure that rates are adequate to build a robust Substance Use Disorder and Co-occurring Mental Health disorder workforce**, which is critical and should be a cornerstone of any state response.

3. **Performs a cost or price analysis to determine that the amount of the contracting action is a fair and reasonable price;**
4. **Adds HANO to the composition of the Procurement Policy Board** and makes associated changes to the number of members who cannot otherwise be full-time government employees, who must be appointed by the Governor, and who serve on the nominating committee;
5. **Amends the circumstances for when treatment services may be purchased** and the procedure to purchase treatment services, including allowing for heads of purchasing agencies to publish notice describing the types of treatment services needed, form an initial review committee for each profession, and negotiate contracts;
6. **Increasing the small purchase threshold** from less than \$25,000 to less than \$100,000

We appreciate the opportunity to provide testimony and are available for questions.



## CATHOLIC CHARITIES HAWAII

### COMMENTS on HB 882, HD1, SD1 SD2: RELATING TO PROCUREMENT

TO: Senate Committees on Government Operations, Judiciary, and Ways and Means  
FROM: Rob Van Tassell, President and CEO, Catholic Charities Hawai'i  
Hearing: **Thursday, April 8, 2021; 10:00 am; via videoconference**

Chair Moriwaki, Chair Rhoads, Chair Dela Cruz, and Members, Committees on Government Operations, Judiciary and Ways and Means.

Thank you for the opportunity to provide **Comments on HB 882, HD1, SD2** which repeals the community council on purchase of health and human services, and adds a representative from either HANO or PHOCUSED to the Policy Board, among other changes including adding language from SB 1329. I am Rob Van Tassell, with Catholic Charities Hawai'i.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 70 years. CCH has programs serving elders, children, families, homeless, and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i. Catholic Charities Hawai'i has a long history of working in the areas of affordable housing and homelessness.

Catholic Charities Hawai'i finds the SD 2 to be confusing with the addition of the language from SB 1329. How would departments determine a fair price for contracts when human service agencies may have different intensities of services and different costs. It seems that businesses and contractors have many issues with procurement resulting in Part II being added. It is unclear how these changes would impact on health and human service agencies since the Community Council, which dealt only with 103F services and contracting, is being eliminated. **We suggest that the bill clarify which requirements apply to 103E (health and human services contracts) and which apply to 103D (other contractors).**

We continue to support a stronger commitment to work with the networks of health and human service providers on procurement issues. **We strongly support the amendment in Part I requiring that a representative from either HANO or PHOCUSED, or similar organization, be a member of the Policy Board.** This would ensure that service providers have an avenue to share insights and make recommendations regarding procurement.

We also note that prior testimony from the State Procurement Office reported the difficulty to recruit experienced people in health and human services for this Board position. By networking with HANO and PHOCUSED, experienced people may be recruited in a timely manner. This is important to allow the work of the Policy Board to include the voice of providers as well as for the Board to have adequate quorum to take timely actions.

Non-profit service providers are a huge segment of the Hawai'i economy. We thank you for your consideration of how to improve the procurement process for these much needed services. Please contact our Legislative Liaison, Betty Lou Larson at (808) 373-0356 or [bettylou.larson@catholiccharitieshawaii.org](mailto:bettylou.larson@catholiccharitieshawaii.org) if you have any questions.







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

April 8, 2021

TO: Senator Sharon Y. Moriwaki, Chair  
Senator Donovan M. Dela Cruz, Vice Chair  
Members of the Senate Committee on Government Operations

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
Members of the Senate Committee on Judiciary

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Members of the Senate Committee on Ways and Means

FROM: Christy MacPherson, Director, PHOCUSED

SUBJECT: Testimony: Relating to Procurement

Hearing: April 8, 2021 at 10:00 am  
Via videoconference

Chairs, Vice Chairs, and Members of the Joint Senate Committee on Government Operations, Judiciary and Ways and Means,

Thank you for the opportunity to provide testimony with **comments** on HB882, HD1 SD1.

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.

**We strongly support the amendment in SD1 requiring that a member of either HANO or PHOCUSED, or similar organization, be a member of the policy board.** This will ensure that Hawai'i's health and human service providers have an avenue for providing regular input and insight into the procurement process.

We also request **clarification about which procurement requirements apply to 103F (health and human service contracts) and which apply to 103D (other contractors)** in the final version of the bill.

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PHOCUSED IS A PROJECT OF HAWAII APPLESEED

733 BISHOP STREET, SUITE 1180 • HONOLULU, HI 96813 • (808) 587-7605 • PHOCUSED.ORG

Thank you again for the opportunity to submit testimony on HB882, HD1 SD1.

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcawhawaii.org](mailto:info@gcawhawaii.org)  
Website: [www.gcawhawaii.org](http://www.gcawhawaii.org)



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

April 7, 2021

TO: HONORABLE SHARON MORIWAKI, CHAIR, HONORABLE DONOVAN DELA CRUZ, VICE CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS. HONORABLE KARL RHOADS, CHAIR, HONORABLE JARRETT KEOHOKALOLE, VICE CHAIR, COMMITTEE ON JUDICIARY. HONORABLE DONOVAN DELA CRUZ, CHAIR, HONORABLE GILBERT S.C. KEITH-AGARAN, VICE CHAIR, COMMITTEE ON WAYS AND MEANS.

SUBJECT: **COMMENTS ON H.B. 882 HD1 SD2 PROPOSED, RELATING TO PROCUREMENT.** Requires purchasing agencies to make a written determination that the amount of a contracting action for purchases of health and human services is fair and reasonable. Amends the selection process and composition of the procurement policy board. Amends the circumstances for when treatment services may be purchased and the procedure to purchase such services. Increases the small purchase threshold. Repeals the establishment of the community council on purchase of health and human services. Requires the chief procurement officer or designee to address protests as expeditiously as possible. Creates time limits to resolve protests to the awards of competitive sealed proposal contracts and procurements of professional services.

#### HEARING

DATE: Thursday, April 8, 2021  
TIME: 10:00 a.m.  
PLACE: Capitol Room 211

Dear Chairs Moriwaki, Rhoads, and Dela Cruz, Vice Chairs Dela Cruz, Keohokalole, and Keith-Agaran, and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (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. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA provides **comments** to H.B. 882 HD1 SD2 Proposed. The Policy Procurement Board is established under Chapter 103D, which is the General Procurement Code for construction and goods and services. Purchases of Health and Human Services are governed under Chapter 103F. GCA wants to ensure that the Board adequately represents the chapter in which it is created under. Specifying specific organizations is unnecessary. Instead, GCA suggests that the measure

specify that the members have 103D and 103F experience. The organizations named in the measure will qualify as a member with 103F experience.

We suggest the following amendment:

"(b) The policy board shall consist of [~~seven~~] six members. Notwithstanding the limitations of section 78-4, the members of the board shall include:

(1) The comptroller;

(2) A county employee with significant high-level procurement experience; and

(3) [~~Five~~] Four persons who shall not otherwise be full-time employees of the State or any county; provided that at least one member shall have significant experience [~~be a certified professional~~] in the field of procurement relating to construction under HRS Chapter 103D, at least one member shall have significant high-level, federal procurement experience, and at least [~~two members shall have significant experience in the field of health and human services.~~] one member shall have significant experience in the field of health and human services under HRS Chapter 103F."

Additionally, the Policy Procurement Board has a problem with quorum. Reducing the number of members from seven to six will only exacerbate that issue because you will still need four members for quorum. GCA suggests that the committee keep the number of members at seven.

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