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STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
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WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEES ON WAYS AND MEANS/JUDICIARY

WEDNESDAY, MARCH 3, 2021, 10:35 A.M.
CONFERENCE ROOM 211 VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 1207, S.D. 1

RELATING TO PROCUREMENT.

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and members of the Committees, thank you for the opportunity to submit testimony in **support** of S.B. 1207, S.D. 1 which proposes to amend section 103D-307, Hawaii Revised Statutes, Emergency Procurements, to add equipment failures, repairs to public property to protect against further loss of, or damage to, public property, to prevent or minimize serious disruption in continued functioning of government services.

By expanding the use of emergency procurements, the proposed bill will allow government agencies to procure necessary goods, services, and construction more quickly and efficiently for those smaller and more localized emergency situations. This will allow vital facilities to keep

operating and essential government services to continue to be delivered to the public with less disruption, thereby helping preclude potential negative impacts.

Eliminating the Chief Procurement Officer's approval will also further expedite the emergency procurement process, particularly if specialized knowledge and experience is required to gauge the gravity of the emergency. We believe the report to the Legislature due within sixty days at the end of the fiscal year and documenting the use of the emergency procurement process will provide adequate safeguards against misuse.

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

Painting Industry of Hawaii Labor Management Cooperation Trust Fund

Hawaii Tapers Market Recovery Trust Fund

Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889
AFL-CIO Stabilization Trust Fund

Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund

Re: The Senate Committee on Ways and Means and the
Senate Committee on Judiciary
Joint Hearing on Senate Bill 2207, SD1, Relating To Procurement
Hearing Date : March 3, 2021
Time : 10:35 a.m.

Chairs Dela Cruz, Rhodes and Members of the Committees:

Thank you for this opportunity to submit testimony on behalf of the Painting Industry of Hawaii Labor Management Cooperation Trust Fund, Hawaii Tapers Market Recovery Trust Fund, Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund, and Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund in **strong opposition** to Senate Bill 1207, SD1. The aforesaid organizations are labor management cooperation funds between the Painters Union, Tapers Union, Glaziers Union, and Carpet and Soft Tile Layers Union and their signatory contractors.

Senate Bill 1207, SD1 broadly expands the emergency procurement provisions of Hawaii Revised Statutes 103D-307 to encompass vague and undefined circumstances like "equipment failures" and "repairs to public property" which may not truly be emergencies. This measure also removes immediate oversight and prior approval of this method of procurement from the State Procurement Office.

The changes to emergency procurement in Hawaii made by this measure is a significant concern inasmuch as the procurement code provides transparency and accountability in the expenditure of government funds and, among other things, protects specialty contractors from the unethical practice of bid shopping. The proposed language of this bill allows a procurement agency to declare almost any situation an "emergency," even though that situation may not truly be an emergency as that term is commonly understood, and thereby skirt the requirements of the procurement code. This bill would also make it possible for a government entity to consciously choose not to make regular and necessary repairs and maintenance to buildings or equipment, allowing them to fall into a state of disrepair and dysfunction. The government entity could then simply declare an "emergency" which might seriously disrupt its functioning and remedy the problem by emergency construction procurement. Ironically, the inaccurate titling of this bill ("Procurement" instead of "Emergency Procurement") may well accurately express an ulterior motive of supporters of this measure to make emergency procurement the norm.

Broadening the scope of emergency procurement powers means removing or reducing the protections of the procurement code and, as such, must be carefully scrutinized. Bypassing the procurement code should only be allowed in situations which could not have reasonably been foreseen and which are true emergencies, and should not be the norm. The removal of immediate and meaningful oversight also significantly raises the potential for abuse and mismanagement of public funds. All of these concerns are clearly set forth in the extensive written testimony submitted by the State Procurement Office ("SPO") in the Government Operations Committee hearing, and in SPO's testimony on this matter in previous sessions.

We therefore ask for your kind assistance in **deferring this measure indefinitely**. Thank you again for this opportunity to share our concerns.