



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
KA 'OIHANA HO'ONA'AUAO  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/08/2023

**Time:** 03:00 PM

**Location:** CR 229 & Videoconference

**Committee:** Senate Education

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** SB 1518 RELATING TO THE DEPARTMENT OF EDUCATION.

**Purpose of Bill:** Provides procurement exemptions for the Department of Education for certain goods, services, and construction. Sunsets 6/30/2026.

**Department's Position:**

The Hawaii State Department of Education (Department) supports SB 1518.

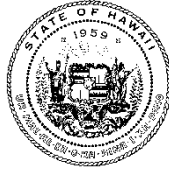
The Department supports the legislation and appreciates the amendment to subsection (b)(4) of 103D-102, Hawaii Revised Statutes (HRS). As the education landscape continues to evolve, the Department must ensure teachers have access to the appropriate instructional tools and resources necessary to provide our students with the education they need to succeed in the current and future workforce, whether they pursue college (including technical education), military, and/or employment after high school. The proposed amendment would provide the Department with the flexibility to procure educational materials most beneficial to students, educators, and schools in a more timely and less cumbersome manner. This will allow the Department to focus on innovating and engaging students through the use of technology and preparing students for the workforce by upgrading the equipment used in career and technical education courses to replicate the worksites in industry and meet industry standards.

The Department also appreciates the proposed additions to Chapter 302A, HRS. Over time, the cost of goods, services, and construction has risen. Over time, the different types of educational resources and materials that are used for learning opportunities have changed and are no longer limited to providing textbooks to students. The Department acknowledges that a change to the way we are able to procure goods,

services and construction to better meet the needs of our students and schools is needed.

The Department requests that to keep consistency with the proposed changes, page 8, line 18, of the bill be amended to replace the "\$100,000" figure with "\$100,000 for goods and services and \$250,000 for construction".

Thank you for the opportunity to provide testimony in support of this measure.



**STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I**  
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TESTIMONY  
OF  
BONNIE KAHAKUI, ACTING ADMINISTRATOR  
STATE PROCUREMENT OFFICE

SENATE COMMITTEE  
ON  
EDUCATION  
February 8, 2023, 3:00 P.M.

SENATE BILL 1518  
RELATING TO DEPARTMENT OF EDUCATION PROCUREMENT

Chair Kidani, Vice Chair Kim, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 1518. The State Procurement Office (SPO) opposes the additional language in Section 2, page 2, lines 11 to 20, and Section 3, page 3, lines 4 to 13, and provides the following comments and recommendations:

**Comments:** The SPO testifies that education goods, services, and construction small purchases procurements for the Department of Education (DOE) should be competitively procured pursuant to HRS chapter 103D, the Hawaii Public Procurement Code (Code), and should not be exempt from the requirement to conduct such procurement through an electronic procurement system (eProcurement).

The 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. The statutes and rules should apply uniformly for government entities and should not carve out a special process for the DOE. Procurement of education goods, services, and construction procurements should be treated no different than other procurements.

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 HRS chapter 103D conveys a sense of disproportionate equality in the law's application. Getting just three quotes for less than \$100,000 for goods and services, and \$250,000 for construction, could easily lead to parceling, which is the artificial division of purchase of same, like, or related items of goods, services, or construction into several small purchases or smaller quantities, in order evade the statutory competitive requirements. Additionally, obtaining quotes, without an electronic

procurement (eProcurement) system, may lead to the agency only going to the same vendors repeatedly, which would be in violation of HRS 103D-101(a)(6)(A), which states as follows:

- (6) Encourage economic competition by:
  - (A) Ensuring that all persons are afforded an equal opportunity to compete in a fair and open environment.

The National Association of State Procurement Officials states that “Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments.”

As these entities create their own procurement rules, it results in the harm above where businesses are forced to track their various practices. The SPO also comments that obtaining a minimum of three quotes is more labor intensive (i.e., manually posting solicitation notice, sending out emails/letters/phone calls to potential vendors, receiving and keeping track of paper document responses) than using an eProcurement system, which can lead to more efficiencies.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex, while other public bodies, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

**Recommendations:** The SPO recommends removing in its entirety, Section 2, page 2, lines 11 to 20 as stated below.

~~“302A ——— Education goods and services procurement; small purchases. (a) Notwithstanding section 103D-305(c) and any other law to the contrary, procurements of less than \$100,000 for goods and services for the department shall be exempt from the requirement to conduct such procurements through an electronic system and shall only be subject to:~~

- ~~(1) No less than three quotations for procurements of \$5,000 to less than \$15,000; and~~
- ~~(2) No less than three written quotations for procurements of \$15,00 to less than \$100,000.”~~

The SPO also recommends removing in its entirety, Section 3, page 3, lines 4 to 13 as stated below.

~~“302A ——— Education construction procurement; small purchases. (a) Notwithstanding section 103D-305(c) and any other law to the contrary, procurements of less than \$250,000 for construction for the department shall be exempt from the requirement to conduct such procurements through an electronic system and shall only be subject to:~~

- ~~(1) No less than three quotations for procurements of \$5,000 to less than \$15,000; and~~
- ~~(2) No less than three written quotations for procurements of \$15,00 to less than \$250,000.”~~

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Senate Committee on Education  
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Thank you.