



STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
STATE PROCUREMENT OFFICE

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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
FINANCE

February 27, 2024, 2:00 p.m.

HOUSE BILL 2496 HD1
RELATING TO PROCUREMENT

Chair Yamashita, Vice Chair Kitagawa, and members of the committee, thank you for the opportunity to submit testimony on House Bill 2496 HD1. The State Procurement Office (SPO) opposes the bill in its entirety and offers the following comments and recommendations.

Comments: Hawaii Administrative Rules (HAR), Chapter 3-122, already allow for and provide guidelines for **alternative procurement** methods in different situations, as listed below. Creating a different "alternative procurement" in statute is not necessary and would cause confusion.

- HAR 3-122-3 Contract Extensions
- HAR 3-122-35 Waiver to Competitive Sealed Bids
- HAR 3-122-59 Waiver to Competitive Sealed Proposals
- HAR 3-122-66 Waiver for Requirement for Procurement of Professional Services
- HAR 3-122-78 Electronic Procurement for Small Purchases

Instead of adding a different "alternative procurement" in statute, the SPO recommends amending Hawaii Revised Statutes (HRS) §103D-102. The SPO proposes that exemptions from HRS Chapter 103D should not be limited to goods and services.

There may be situations when it is not practicable or advantageous to competitively procure for a construction project. Therefore, the statute can be amended to allow the Chief Procurement Officer the ability to exempt construction procurement when it is not practicable or advantageous to competitively procure.

Recommendations: In order to achieve this flexibility, SPO recommends the following **statute changes**:

HRS §103D-102(b)(4)

“To procure the following goods ~~or~~ services, or construction which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:”

HRS §103D-102(b)(4)(L)

“Any other goods, ~~or~~ services, or construction which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State;”

The recommended changes would address construction projects that may be tied to federal statutes and federal regulations, or be federal special experimental or demonstration projects, with federal approval of an alternative process to be used.

Thank you.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



TESTIMONY BY:
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February 27, 2024
2:00 p.m.
State Capitol, Room 308

H.B. 2496
RELATING TO PROCUREMENT

House Committee on Finance

The Department of Transportation (DOT) **provides comments to** this measure and proposes recommendations.

Hawaii Revised Statutes (HRS) 103D-102(b)(4)(L) provides for an exemption to the procurement laws when it is not practicable or not advantageous to utilize existing methods of procurement for goods and services.

There may be situations when it is not practicable or advantageous to competitively procure construction. The recommendation is to amend the exemption statute to allow the Chief Procurement Officer authority to exempt construction procurement when it is not practicable or advantageous to competitively procure. Therefore, the DOT recommends the following amendments:

- **AMEND section §103D-102 Application of this chapter.**

Amend HRS §103D-102(b)(4) "To procure the following goods [ø], services, or construction which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:"

Exemptions from HRS Chapter 103D should not be limited to goods and services. Section (4) should mirror section (3), where the chapter does not apply to procurement of goods, services, or *construction* from a governmental body other than the University of Hawaii bookstores, from federal government, or from another state or its political subdivision.

- **AMEND section §103D-102 Application of this chapter.**

Amend HRS §103D-102(b)(4)(L) to "Any other goods, [ø] services, or construction which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State;"

Thank you for the opportunity to provide testimony.