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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
WAYS AND MEANS
February 28, 2024, 10:01 A.M.

SENATE BILL NO. 2536 SD1
RELATING TO PROCUREMENT PREFERENCES AND RECIPROCITY

Chair Dela Cruz, Vice Chair Moriwaki, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2536 SD1. The State Procurement Office (SPO) appreciates the intent to support Hawaii's economy, however, opposes Senate Bill 2536 SD1 in its entirety.

The SPO finds the additional language to Chapter 103D, Hawaii Revised Statutes (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." Giving a preference to Hawaii accounting service businesses over non-Hawaii accounting service businesses is neither equal nor fair treatment in an industry that does not require a physical presence to conduct business.

There is no purpose on creating a preference for accounting service businesses as accounting services are professional services, procured under HRS section 103D-304, where award is not based upon a low bid price. Instead, selection of the professional is made from a list of qualified persons. Each year, on behalf of the Department of Accounting and General Services (DAGS), the SPO issues a notice, pursuant to HRS section 103D-304, to invite persons engaged in providing Professional Accounting Services to submit current statements of qualifications and expressions of interest to support anticipated DAGS accounting requirements during the upcoming Fiscal Year that results in a "list" of qualified consultants for Professional Accounting Services to be utilized throughout the applicable fiscal year.

For Fiscal Year 2024, a total of seven qualifications were received, of which five were from local accounting firms licensed and based in the State of Hawaii. Applicants were required to meet minimum qualifications regarding Financial Reporting and Schedule Preparation, and based on

the aforementioned qualifications, all five of the local accounting firms were qualified by the Review Committee to provide professional accounting services statewide.

The two non-Hawaii-based financial firms submitted statements of interest; however, they did not meet the minimum qualifications. The California offeror did not have experience working with the State of Hawaii systems including FAMIS and FAMIS Datamart, or applicable departmental financial systems. The other Michigan offeror also did not have the same experience as the California offeror and also did not have a licensed Certified Public Accountant in the State of Hawaii.

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, as procurement professionals, preferences in procurement processes are viewed as increased cost to the state. Whether it is the award of the contract to the vendor with a preference or the procurement resources expended in applying, analyzing, and reviewing, preferences increase the cost of the contract. 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 list of qualified firms to provide professional accounting services statewide also included five local accounting firms licensed and based in Hawaii that did not require a local preference. This demonstrates that local accounting service businesses are not disadvantaged and do not need assistance to level the playing field. Local accounting service businesses can compete with both local and non-local companies, and all have the responsibility to submit a statement of interest that meets the minimum qualifications.

The SPO opposes Senate Bill 2536 SD1, as there is no necessity for creating a statute for a local preference for accounting service businesses. 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.

This preference appears to assist local professional businesses, however, due to the reciprocal preference laws of many states, this preference may hurt local professional businesses when they try and acquire work out-of-state.

The SPO strongly urges that this bill be held without further action.

Thank you.



Date: February 28, 2024

To: Chair Donovan M. Dela Cruz
Vice Chair Sharon Y. Moriwaki, and
Members of the Senate Committee on Ways and Means

From: Cory Kubota, Managing Partner
Accuity LLP

Re: S.B. 2536, S.D. 1 - Relating to Procurement Preferences and Reciprocity – **SUPPORT**

My name is Cory Kubota and I am the managing partner of Accuity LLP, a public accounting firm based in Honolulu. We have been in Hawaii since 1951, first as Baker & Gillette, then as the Honolulu office of PricewaterhouseCoopers, and as Accuity since 2006. Our vision is to develop the next generation of Hawaii's leaders. Accuity and its subsidiaries currently employ more than 100 people.

I am testifying in strong support of this measure, which establishes a procurement preference for Hawaii accounting service businesses. Under this measure, a "Hawaii accounting service business" is an accounting business that has a commercial place of business in the State. To qualify as a Hawaii accounting service business, the business must certify that that no less than 80% of the labor under the contract will be performed by Hawaii residents and that the business's commercial space is of sufficient size to accommodate these individuals who are performing services under the contract. This measure does not affect accounting contracts between accounting firms and their non-government clients.

There is a growing concern in Hawaii's accounting industry about a shortage of accountants due to a decrease in the number of University of Hawaii accounting graduates. This shortage of accountants could have significant implications for businesses and the economy, as the demand for accounting services continues to grow. One major reason for this trend is the lack of career opportunities for accounting graduates in Hawaii. The proposed procurement preference is an opportunity for the state and county governments to directly address the challenge of residents leaving or not returning due to a lack of career opportunities by incentivizing public accounting firms to operate locally.

It is important to note that the enactment of this measure is not a hindrance to competition as it does not prevent an out-of-state public accounting firm of any size from establishing an office in Hawaii and qualifying for this procurement preference. Furthermore, the enactment of this preference does not ensure that government accounting contracts will be awarded to Accuity or

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any specific accounting firm, however, the enactment is likely to result in Hawaii residents performing services under government accounting contracts.

This measure also expands the reciprocity exemption to apply to offers made in response to requests for proposals received under Hawaii Revised Statutes (HRS) §103D-303. Currently, the reciprocity exemption allows the state and county governments to consider procurement preferences enacted in the states where out-of-state bidders are domiciled in when evaluating bids received under HRS §103D-302 only. Applying the reciprocity preference to offers made in response to request for proposal will further support fair competition with other states and safeguard the interests of Hawaii businesses.

I strongly urge you to consider the positive long-term impact that this measure can have on our state's economy, job retention, and fostering local business growth. With respect to the proposed procurement preference, the benefit of employing Hawaii's residents far exceeds any additional cost that the state and county governments may incur in procuring accounting services.

We truly appreciate the Senate's willingness to advance this measure so that the conversation regarding the employment of Hawaii residents in our accounting industry may continue. Thank you for the opportunity to testify in support of this measure.