



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

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**TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE HOUSE COMMITTEE
ON
FINANCE
FEBRUARY 26, 2025, 10:50 AM**

**HOUSE BILL 1155
RELATING TO PROCUREMENT**

Chair Yamashita, Vice Chair Takenouchi, and members of the committee, thank you for the opportunity to submit testimony on House Bill 1155. The State Procurement Office (SPO) strongly supports HB 1155, which aims to amend Section 103D-102(b) of the Hawaii Revised Statutes to exempt specific construction projects from the requirements of the Hawaii Public Procurement Code under certain conditions. This legislation is a pragmatic approach to addressing challenges that arise in the procurement process for construction projects.

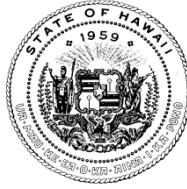
The key benefits of HB1155 are as follows:

1. **Increased Efficiency.** By allowing the Chief Procurement Officer to exempt projects where competitive procurement, under the traditional 103D method, is determined to be either not practicable or not advantageous to the State. This safeguard prevents misuse while providing room for adaptability.
2. **Enhanced Adaptability.** Construction projects often face unique challenges that may not align with traditional procurement methods. HB1155 ensures that procurement processes can be adapted to fit the specific needs of a project, reducing delays and promoting timely completion.
3. **Alignment with Public Interests.** By prioritizing practicality and efficiency without compromising oversight, this measure serves the public interest. It balances the need for competitive procurement with the flexibility required to address unique construction needs.

This bill reflects consideration of the complexities involved in government procurement for construction. It provides a balanced solution that maintains accountability while empowering agencies to act swiftly and effectively when circumstances demand.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



EDWIN H. SNIFFEN
DIRECTOR
KA LUNA HO'OKELE

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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
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February 26, 2025
10:50 a.m.
State Capitol
VIA VIDEOCONFERENCE
Conference Room 308

H.B. 1155
RELATING TO PROCUREMENT

The House Committee on Finance

The Department of Transportation (DOT) **supports** the bill amending subsection (b), of Section 103D-102, Hawaii Revised Statutes, to procure certain goods, services, or construction that are available from multiple sources, but for which procurement by competitive means is either not practicable or not advantageous to the State.

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 nor advantageous to procure construction using the usual methods in the procurement code. This bill would allow for innovative procurement methods. An example of an innovative procurement method is the construction manager general contractor (CM/GC) method of procurement, allowable in federal contracting. The CM/GC method of procurement follows this general process, the procurement agency procures the design engineer in the usual way through qualifications; the construction manager is procured in the usual way through qualifications. The construction manager is contractually responsible for price, schedule, quality during construction. The construction manager provides preconstruction advice to the procuring agency on constructability, pricing, scheduling, staging, and value engineering. The procuring agency, the designer, and the construction manager agree on a "Guaranteed Maximum Price" for construction, then the construction manager begins to function like the General Contractor and is responsible for completing the work on schedule at the guaranteed price.

The benefits to the State on allowable construction exemptions such as use of the CM/GC method is that it fosters innovation, mitigates risk, improves design quality, improves cost control, and optimizes construction schedules.

Thank you for the opportunity to provide testimony.



INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 1260 EMPOWERING THE PACIFIC

THIRTY-THIRD LEGISLATURE, 2025, Committee on Finance

HEARING DATE: Wednesday, February 26, 2025

TIME: 10:50 a.m.

PLACE: Room 308

RE: House Bill 1155 Relating to Procurement- IN STRONG OPPOSITION

Aloha Honorable Chair Yamashita, Vice-Chair Takenouchi, and Committee Members;

The International Brotherhood of Electrical Workers Local 1260 (IBEW1260) would like to offer the following testimony in **STRONG OPPOSITION** to **House Bill 1155** which proposes to exempt certain construction projects from the Hawaii Public Procurement Code by governmental bodies.

IBEW1260, is comprised of approximately 3,000 members throughout Hawaii and Guam and consists of a diverse and highly-skilled workforce that supports the electric utility infrastructure across our state as well as government service contracts and broadcasting. It's our duty and priority to serve and protect the well-being of our members, but beyond that, it is incumbent upon all of us to serve and protect the well-being of our island home.

Hawai'i's procurement laws are based upon the 1979 American Bar Association Model Code ("MPC"). In 1992, the State Auditor was tasked with undertaking a study to recommend changes to the procurement code and subsequently suggested Hawai'i enact revisions consistent with the 1979 Model Code. As a result, §103D was enacted in 1993 with some, but not all, of the MPC's innovations and continues to be revised as needed, with the MPC as a guide. 1993 Haw. Spec. Sess. Laws Act 8, at 37-82.

Article 1- General Provisions of ABA Model Procurement Code¹ lists its purposes and policies in part as follows:

"To provide for increased public confidence in the procedures followed in public procurement; to ensure the fair and equitable treatment of all persons who deal with the procurement system of the State; and to provide safeguards for the maintenance of a procurement system of quality and integrity."

The exemptions sought in HB1155 undermines our procurement process and opens it up to arbitrary decision-making and ambiguity which may lead to misuse, fraud, and abuse; and the unfair or unethical procurement and expenditure of public taxpayer dollars on public works.²³

The integrity of our procurement process is paramount to ensuring that the construction of public works and use of public taxpayer dollars is done so in the most efficient and fair way possible. The exemptions sought in HB1155 runs counter to the fundamental intent and purpose of procurement standards in public works and as such, we respectfully request that you **HOLD** this measure.

¹ The 2000 BA Model Procurement Code, The American Bar Association, July 2000

² <https://archives.starbulletin.com/2004/01/23/news/story5.html>

³ December 15 2003 News Release No. 2003_69 Airport Bid Rigging Investigation

SAH - Subcontractors Association of Hawaii

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February 26, 2025

Testimony To: House Committee on Finance
Representative Kyle T. Yamashita, Chair

Presented By: Tim Lyons, President

Subject: H.B. 1155 – RELATING TO PROCUREMENT.

Chair Yamashita and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. We are opposed to this bill.

The SAH represents the following ten separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS ASSOCIATION OF HAWAII

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL AND AIR CONDITIONING NATIONAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

HAWAII ARCHITECTURAL GLASS AND METAL ASSOCIATION

We have the firm belief that the Procurement Code was enacted in order to be sure that there is a somewhat of a level "playing field" for all bidders when it comes to the expenditure of taxpayers' money, the Procurement Code provides for that. We are also aware that there are certain situations that are difficult to fit the Procurement Code into, so we are not in total opposition to some exceptions, however we do believe that they need to be clearly defined. To say, as this bill does, that the exemption can apply when "procurement by competitive means is either not practical or not advantageous to the State" is not sufficient even if left up to the rulemaking authority of the Procurement Policy Board. What are the parameters of a situation where it is not practical or when it is not advantageous to the State? Since it is not defined, it would appear to us that it could be just about anything.

Based on the above and the ambiguity contained in this bill, we are opposed to its passage.

Thank you.