



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 27, 2009

MEMORANDUM

TO: Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Lillian B. Koller, Director

SUBJECT: **H.B. 1642 – RELATING TO THE PURCHASES OF HEALTH AND HUMAN SERVICES**

Hearing: Friday, February 27, 2009, 2:00 PM.
Conference Room 308, State Capitol

PURPOSE: The purposes of this bill is to specify that proposals for purchases of health and human services must be submitted by duly licensed providers and for the exact amount to be expended by the State.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly opposes this bill because it is unfair to non-profit contracting entities and decreases fair competition among potential bidders.

This bill adds a barrier to fair competition in the bidding process by disadvantaging the entry of new insurers into the Hawaii market. Decreased competition negatively impacts the potential enrollees and the taxpayers.

DHS seeks fair competition to ensure the highest quality care for its clients and best value to the State taxpayers.

The licensure process can be time consuming and expensive. Bidders should not be required to have gone through that process ahead of time; however, if a contract is awarded,

then DHS ensures that ample time is provided for the winning bidder(s) to obtain appropriate licensure.

The Request For Proposal (RFP) specifies timelines for requiring licensure based on DHS' requirements. Since this issue is already addressed in the procurement process, there is no need to change procurement law. If the start date is expected to be shortly after the award, then DHS may require licensure at the time of bidding, but the timing should be designed to meet DHS needs without disincentivizing potential bidders.

The second part of the bill requiring proposals to list the exact amount to be expended by the State is unclear. Ignoring the return to the State through taxes creates an incomplete and unfair picture. For contracts with for-profit entities, the net amount expended by the State is the amount of the contract less the amount collected in taxes. This equals the pre-tax amount.

Further, this bill would, in fact, disadvantage non-profit entities. Because approximately 55% of the taxes collected by the State from for-profit entities is Federally funded, the net State expenditure is reduced and would be below the pre-tax amount.

However, if the intent is to create a barrier for for-profits to contract with the State by considering only contract expenditures and not consider tax revenue, then for-profits will be required to operate at a more than 4% discount compared to non-profits.

DHS has contracts with numerous for-profit small businesses. This provision, if applied as described in the previous paragraph, would substantially impact their ability to be competitive in a bidding process. As a result of this bill, people will likely lose jobs and many small businesses may go out of business.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
OFFICE OF YOUTH SERVICES
820 Mililani Street, Suite 817
Honolulu, Hawaii 96813

Phone: (808) 587-5700
Fax: (808) 587-5734

February 27, 2009

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Martha T. Torney, Executive Director

SUBJECT: **HB1642, RELATING TO THE PURCHASES OF HEALTH AND
HUMAN SERVICES**

Hearing: Friday, February 27, 2009, 2:00 p.m.
State Capitol, Conference Room 308

The Office of Youth Services does not support HB1642 as it would be costly to implement and not beneficial for the process of purchasing services. The OYS awards contracts for a variety of services for youth and families to multiple provider agencies for which there are currently no state licensing requirements. As written, this bill would greatly restrict the number of providers qualified to respond to a request for proposals issued by the OYS since the majority of current provider agencies would be prohibited from submitting proposals. The development of a licensing system for all service agencies could be very costly and not practical or prudent given the current economic situation.

The current procurement process requires the applicant propose a dollar amount to provide the proposed services and the State determines the amount of the award for the services based on the availability of funds and the quality of the proposal. During the contract negotiations, proposed budgets may be revised downward. It would not be in the best interest of the State to make contracts for the exact amount of the proposals submitted in response to a request for services.

Thank you for the opportunity to present this testimony.

LINDA LINGLE
GOVERNOR

AARON S. FUJIOKA
ADMINISTRATOR



PROCUREMENT POLICY BOARD
DARRYL W. BARDUSCH
LESLIE S. CHINEN
DARYLE ANN HO
KEITH T. MATSUMOTO
RUSS K. SAITO
PAMELA A. TORRES

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4700 Fax: (808) 587-4703
www.spo.hawaii.gov

TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEE
ON
FINANCE

February 27, 2009

2:00 PM

HB 1642

RELATING TO THE PURCHASES OF HEALTH AND HUMAN SERVICES.

Chair Oshiro, Vice-Chair Lee and committee members, thank you for the opportunity to testify on HB 1642. This bill proposes to amend HRS Chapter 103F by requiring proposals for purchases of health and human services to be submitted by duly licensed providers and for the exact amount to be expended by the State regardless of the tax status of the provider.

Requirements already exist with regards to licensing in the state. Licensing requirements are specific to the services being procured and should be addressed in the request for proposals solicitation document, as applicable. Many services do not require licenses while other services may require different licenses depending on the level of service needed. Whether it be business registration, insurance or professional/vocational licensing, providers must be licensed as required by the request for proposals, or as applicable by statutes.

As a public entity, the state must maintain an open, fair and equitable treatment of all providers who deal with the state's procurement system, maximize the purchasing value of public funds, and foster broad-based competition within the free enterprise system. The competitive procurement processes should not be restrictive and should insure that all potential providers are afforded the opportunity to compete for the required services.

The bill also proposes 'For the exact amount to be expended by the State', however, when contracting for various health and humans services, funding levels are determined by client needs. It is frequently not known in advance precisely the amount of services needed, thereby making it difficult to determine exact funding for a particular service. When that occurs, prices quoted in proposals may be based on specific types of 'units of service' identified in the solicitation document with the caveat that the exact number of units to be used may vary from estimates provided in the solicitation.

If the intent of this bill is to require all providers of health and human services to be in compliance with State laws, including business registration, labor and tax requirements, then the following amendment is offered, which is similar to requirements in HRS §103D-310(c).

~~"§103F- **Proposals. Responsibility of offerors.** Proposals subject to this chapter shall be:~~

~~—(1) Submitted by provider duly licensed in the State to conduct the business being sought by the request for proposals; and~~

~~—(2) For the exact amount to be expended by the State, regardless of the tax status of the provider. All providers, prior to award of contract, shall be in compliance with all laws governing entities doing business in the State, including chapters 237, 383, 386, 392, and 393; and shall provide documentation to the procurement officer to demonstrate compliance.~~

Thank you.



February 27, 2009
2:00pm
Conference room 308

To: Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair
House Finance Committee

From: Paula Arcena, Legislative and Community Liaison

Re: **HB1642 Relating to the Purchases of Health and Human Services**
(Specifies that proposals for purchases of health and human services must be submitted by duly licensed providers and for the exact amount to be expended by the State)

My name is Paula Arcena, I am the Legislative and Community Liaison for AlohaCare.

AlohaCare is a non-profit health insurance company, founded by community health centers, to serve the most medically fragile populations in Hawaii. These groups include low-income families, the aged, the disabled and many other groups. Serving the healthcare needs of the people of Hawaii with aloha is our mission. AlohaCare has more than 60,000 health plan members, 1,200 of which are Medicare members.

Thank you for the opportunity to testify in strong support of HB1642.

We support this measure because we believe it will provide transparency and clarity and correct problems that occurred in Department of Human Services bidding process for Medicaid contracts.

First, HB1642 would insure that entities contracted to provide health and human services are appropriately licensed to provide those services.

- Currently, one QUEST Expanded Access program insurer is operating under the indemnity license of its parent company.
- This is of concern because indemnity licensure requirements are less stringent than HMO licensure requirements.
- We believe that insurers for the aged, blind and disabled population served by the QUEST Expanded Access program, should be held to higher and more regulated standard such as those required by Health Maintenance Organization (HMO) licensure as defined by HRS Chapter 432D or a mutual benefit society licensed as defined HRS Chapter 432.

Second, HB1642 is important to insure that the State of Hawaii is collecting all taxes to which it is entitled, and further uphold the legislature's authority to tax or rebate a tax.

- This is supported by a Hawaii Supreme Court decision issued on December 18, 2008 on the case of Hawaii Insurers Council vs. Lingle (No. 27840). In that decision the Hawaii Supreme Court stated that only the Hawaii State Legislature is empowered to tax or not tax persons or entities, and that the Executive Branch does not have the power to waive or otherwise rebate taxes imposed by the Legislature.
- Despite this decision, DHS has rebated taxes to for-profit insurers contracted for the QUEST Expanded Access Program either with state excise tax or insurance premium taxes.
- This has resulted in a loss of tax revenue to the State of Hawaii. While the State is entitled to collect a premium tax in addition to Federal matching funds, DHS elected to forgive the premium tax and collect only the Federal match. The State of Hawaii can hardly afford to be giving for-profit entities tax breaks.
- This bill is necessary to prevent the Executive Branch from waiving or exempting the payment of existing or future tax levies and ensure that taxes are fully paid.

Thank you for this opportunity to testify.

Faxed Testimony: 2 copies + original to Room 306
FIN Hearing
2:00 p.m., Friday, February 27, 2009
HB 1642



Hawai'i Primary Care Association

345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347
www.hawaiipca.net

To: The House Committee on Finance
The Hon. Marcus R. Oshiro, Chair
The Hon. Marilyn B. Lee, Vice Chair

Testimony in Support of House Bill 1642
Relating to the Purchases of Health and Human Services
Submitted by Beth Giesting, CEO
February 27, 2009, 2:00 p.m. agenda, Room 308

The Hawaii Primary Care Association asks your support for this measure. Its objects are to

- a) require that Med-QUEST-contracted health plans have HMO or Mutual Benefit Society licensure, and
- b) prohibit the Department of Human Services from giving tax rebates to for-profit insurers.

Both these provisions strengthen our public institutions by requiring that all plans meet established standards and that our taxpayer dollars are paying for health care for the poor and not for corporate profits.

Thank you for the opportunity to support this bill.

To: Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair
House Finance Committee

**COMMUNITY
CLINIC
OF MAUI**



Where Aloha is more than just a word

48 Lono Ave
Kahului, HI 96732
(808) 871-7772
Fax (808) 872-4029

SATELLITE CLINICS

Ka Hale A Ke Ola
Resource Center
670-A Waiale Dr.
Wailuku, HI 96793

Lahaina Comprehensive
Health Center
15 Ipu Amakua Lane
Lahaina, HI 96761

**Testimony in Support of House Bill 1642
Relating to the Purchases of Health and Human Services
Submitted by Dana Alonzo-Howeth Executive Director
February 27, 2009, 2:00 p.m., Room 308**

I am the Executive Director for the Community Clinic of Maui and I am asking you to support HB 1642. As a safety net provider we want to ensure that the State's procurement process acts in the best interest of the patients who will be impacted by the services procured. One way is to ensure Health Insurers who serve our most needy must have Health Maintenance Organization licensure to ensure they are held to higher and more regulated standards. This also helps ensure the financial viability of safety net providers who depend on insurers to serve as partners in patient care.

In these tough economics times, the State's loss of tax revenue through for-profit premium tax breaks is simply not good financial stewardship.

We believe that through the passage of this bill, quality patient care will not be compromised, provider viability will not be jeopardized and tax revenue will not be unnecessarily lost.

Thank you for the opportunity to testify in strong support of this bill.

Philip H. Kinnicutt
341 Iliaina Street
Kailua, Oahu, HI 96734-1807
808-254-4534
Fax: 808-356-0554
LEAFISHING@AOL.COM

DATE: February 26, 2009

TO: Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair
House Finance Committee

FROM: «GreetingLine»
Board Chair, Waikiki Health Center
Board Member, AlohaCare

VIA FAX #: 808-586-8519

SUBJECT: Strong Support for HB 1642

I support this measure because I believe it will provide transparency and clarity and correct problems that occurred in Department of Human Services bidding process for Medicaid contracts.

First, HB1642 would insure that entities contracted to provide health and human services are appropriately licensed to provide those services.

* Currently, one QUEST Expanded Access program insurer is operating under the indemnity license of its parent company.

* This is of concern because indemnity licensure requirements are less stringent than HMO licensure requirements.

* I believe that insurers for the aged, blind and disabled population served by the QUEST Expanded Access program, should be held to higher and more regulated standard such as those required by Health Maintenance Organization (HMO) licensure as defined by HRS Chapter 432D or a mutual benefit society licensed as defined HRS Chapter 432.

Second, HB1642 is important to insure that the State of Hawaii is collecting all taxes to which it is entitled, and further upholds the legislature's authority to tax or rebate a tax.

