



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 9, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

COMMITTEE ON TRANSPORTATION

HOUSE BILL NO. 378

The Department of Transportation (DOT) **cannot support** this bill in its current form.

Like most other public airports, Hawaii's public airports have dramatically changed its security and regulatory requirements since the terrorist events of September 11, 2001. Further, in response to ongoing terrorist reports, security and regulatory requirements are classified, sensitive, and constantly evolving and changing as the Transportation Security Administration (TSA), the U.S. Department of Homeland Security, and other federal security agencies issue new Security Directives and impose new regulations and requirements for staffing, security, and other operational matters.

The DOT understands the intent of this bill, which is to allow the DOT to acquire security services through negotiations. The DOT appreciates the legislative acknowledgement that TSA security-sensitive requirements pose unique challenges to the procurement process. However, Chapter 103D authorizes the State Procurement Policy Board to adopt rules governing procurement; and the Policy Board has in fact adopted rules that allow the DOT to procure services when sealed competitive bids are not practical or advantageous. Sections 2-122-43 through 3-122-61.08 of the Hawaii Administrative Rules provide the process for the DOT to obtain services when the primary consideration in determining the award may not be price.

Moreover, we are currently coordinating with TSA to identify procedures to allow us to divulge sensitive information to potential bidders without jeopardizing security. Additionally, the DOT, in conjunction with the Department of the Attorney General, is working on procedures to solicit security contracts through the Request For Proposal process without violating any procurement regulations and without compromising competition through the bidding process.

Therefore, we cannot support this bill in its current form. However, we will continue to explore methods that will allow the DOT to procure security services at our airports without compromising security. Thank you for considering this testimony.

Memo

February 9, 2009



To: Honorable Joseph Souki
Chairman, Transportation Committee
House of Representatives
State of Hawaii

From: Sanj Sappal
Area Vice President
Securitas Security Services USA, Inc.

Re: HB 378 Airport Security

Chairman Souki and Honorable Committee Members:

My name is Sanj Sappal and I am the Area Vice President with Securitas Security Services USA, Inc.

Securitas supports this bill. We believe this is a very important bill that will seek to ensure that security at our public airports is not compromised.

Since security concession contracts are not on a list of airport contracts that can be negotiated, typically, such contracts have been awarded by sealed public bid; lowest bidder wins. Such contracts should be added to the list of contracts that can be negotiated since the terrorist events of September 11, 2001 and federal security requirements have dramatically changed the security at our public airports.

After the events of 9/11, TSA and other federal agencies have imposed requirements and confidential matters that cannot be attached to the public bid documents given their sensitive nature and to avoid disclosure to possible terrorist-type groups or individuals. As a result, the winning bidder is not made aware of all of the additional cost factors that it must bear as part of the winning bid until after it is awarded the contract, based on its lowest bid. This is obviously not good and could easily place a winning bidder in situation of either defaulting on its contract or cutting back on services to try and meet the added costs imposed by these federal requirements and confidential matters.

Security at our public airports should not be jeopardized. Allowing security contracts to be negotiated will seek to ensure this. A process of negotiation will allow the department to select a finalist in the negotiation process but not complete the terms of the contract until the cost factors associated with the federal requirements have been disclosed and negotiated. This process will seek to ensure that a winning bidder is fully apprised of all cost factors (particularly cost factors associated with federal requirements and confidentiality matters) prior to finalizing its contract. This process will provide your department with a peace of mind that the contractor will not default on its contract or cut back on services since its bid was too low because it was not made aware of various cost factors that could not be disclosed.

We urge to help to ensure that security at our public airports is not compromised by passing this bill. Thank you for allowing me to testify.

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