

SB 145

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**WRITTEN COMMENTS
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE
SENATE COMMITTEE
ON
WAYS AND MEANS**

March 2, 2009

9:30 A.M.

SB 145, SD 1

RELATING TO EDUCATION.

Chair Kim, Vice-Chair Tsutsui and committee members, thank you for the opportunity to testify on SB 145 S.D.1

The State Procurement Office (SPO) submits written comments on SB 145, SD 1 limited to Part II, that recognizes the issues faced by the Department of Education, and understands the intent of this bill is to provide a temporary exemption from HRS Chapter 103D limited to expediting construction projects.

The Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part “. . . shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings, . . .” Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad based competition; and increases public confidence in public procurement.

Statutorily exempting an agency from the Code is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, and reliable set of rules and processes for award of contracts. The competitive procurement processes of the Code are to insure that all potential providers are afforded the opportunity to compete for the required services. To the extent agencies may need specific items to be exempted from Code requirements, the Code provides an exemption process.

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The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly. It was the legislature's intent for the Code to be a single source of public procurement policy. If individual agencies are exempted and allowed to develop their own individual processes, it becomes problematic and confusing to vendors, contractors and service providers that must comply with a variety of different processes and standards. Fairness, open competition, a level playing field, and government disclosure and transparency in the procurement and contracting process are vital to good government. For this to be accomplished, we must participate in the process with one set of statutes and rules.

However, if the Legislature deems that this bill will enable the department to meet their program requirements and the goals of public accountability and public procurement practices, the SPO requests that further clarification be provided to understand what exactly within the Code the department is unable to comply with. The SPO may be able to address these issues and provide solutions within the Code and its rules and not require legislative amendments specific to this department.

There needs to be one single source of public procurement policy.

Thank you.