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TESTIMONY

OF

**SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

TO THE SENATE COMMITTEE

ON

WAYS AND MEANS

February 27, 2015; 1:00 P.M.

**SENATE BILL 1228, SD1
RELATING TO PROCUREMENT**

Chair Tokuda, Vice-Chair Kouchi, and members of the committee, thank you for the opportunity to submit testimony on SB 1228, SD1.

The State Procurement Office (SPO) is in **STRONG SUPPORT** of the measure with suggested revision set forth below.

SB 1228, SD1 creates a new section within Hawaii Revised Statutes chapter 103D to address what are called special innovative procurements. Among public procurement's guiding principles are value and transparency. Value ensures prudent use of taxpayer dollars. Transparency ensures accountability and system integrity, which in turn, fosters public confidence. These guiding principles are built into HRS chapter 103D, our State Procurement Code.

Special innovative procurements allow the State to procure when unusual or unique circumstances exist that require other than full competition, when standard procurement procedures would be contrary to the public interest. Unlike an exemption, special innovative procurements are an alternative process **within** the procurement code. This means that the State can effectively respond to unique needs or situations and maintain the accountability and transparency of the procurement and resulting management of the contract. In other words, special innovative procurements help to avoid costly and embarrassing missteps that can occur with exemptions. In fact, our research shows that several states currently apply similar statute, and the ABA 2000 Model Procurement Code recommends the use of special innovative procurements.

The language of SB1228, SD1 tracks the language found in the Alaska innovative procurements statute (AS § 36.30.308). Although aimed at flexibility to accommodate unique circumstances, special innovative procurement statutes have protections built in, which require a written determination by the CPO, notice, and a published record to be maintained. Such safeguards ensure the special innovative procurement will be utilized only in unusual or unique circumstances and only if advantageous to the state, best value can be achieved, and the public interest will be promoted in a manner not practicably realized under standard procurement procedures.

The SPO suggests the following revisions:

On page 3, line 15: "(b) The head of the purchasing agency shall submit ~~[any]~~ a . . ."

On page 4, lines 8 thru 11: ". . . purchasing agency at ~~[least]~~ least annually describing all determinations made since the last annual report. The report shall be transmitted to the A~~a~~dmistrator of the S~~s~~tate P~~p~~rocurement O~~e~~ffice who shall make the report ~~[publicly]~~ publically available."

On page 5, lines 4 thru 5: "SECTION 4. (a) The procurement policy board shall draft rules for special innovative procurements to include, but not be limited to, public-private partnership contracts."

On page 5, line 6: "(b) The rules for public private partnerships shall include but not be...."

On page 6, lines 18 thru 21: "(c) The procurement policy board shall...of the regular session of 201~~6~~ 7."

On page 7, lines 1 thru 9: "SECTION 5. There is appropriated out of the general revenues of the State of Hawaii... in the research and development of special innovative procurements and public-private partnership rules."

Explanation: Correct spelling and grammar. Include rulemaking also for special innovative procurements other than public private partnerships.

Thank you.



Email: communications@uluponoinitiative.com

SENATE COMMITTEE ON WAYS & MEANS
Friday, February 27, 2015 — 1:00 p.m. — Room 211

Ulupono Initiative Strongly Supports SB 1228 SD 1, Relating to Procurement

Dear Chair Tokuda, Vice Chair Kouchi, and Members of the Committee:

My name is Brandon Lee and I am the policy and public-private partnership associate of the Ulupono Initiative, a Hawai'i-based impact investment company that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally grown food, increase clean, renewable energy, and waste reduction. We believe that self-sufficiency is essential to our future prosperity, and will help shape a future where economic progress and environmental stewardship work hand in hand.

Ulupono strongly supports SB 1228 SD 1, which creates a new class within the procurement code that allows for an innovative competitive procurement process to achieve the best results. Two examples of where Ulupono sees great value in this proposed procurement process:

First, Ulupono has identified procuring more locally grown foods by governmental institutions such as prisons, hospitals, and schools can lead to more locally grown foods in Hawai'i. This bill would allow for flexibility within the procurement code to create a customizable procurement process for locally grown foods. Through a more customized procurement process, the goal is to provide more transparency and written contracts to allow for more opportunities for our local farmers to supply the bulk purchases that governmental institutions can provide.

Second, in these tight budgetary times, the State is looking at new and innovative ways to build and maintain infrastructure and services for the taxpayer. One method to obtain funding for these projects is a public-private partnership. However, these projects require flexibility for the private sector with accountability for the public sector. Under this proposed process, public-private partnership projects can be customized so that the parties needs can be better satisfied.

While procurement rules can be daunting, they exist to provide accountability through processes. Often, there are various efforts to exempt categories from the procurement code, some successful and some not. Regardless of an exemption's effectiveness, it creates a system where applicants and regulators need to navigate various procurement processes

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and jurisdictions to participate effectively. This increases costs for both businesses and the government. The special / innovative procurement class can create flexibility for key categories that require it while still keeping the overall management under the expert eyes of the procurement office. Furthermore, keeping procurement processes within the procurement office, helps to provide liability protection and contract management controls for the State.

Currently, at least 9 states currently have a program for special/innovative procurements, 39 states include options for other than full competition within the procurement code, and all states allow for exemptions of some kind outside of their procurement code.

As the issues we face in Hawai'i become more complex and challenging, there needs to be updated policies to address and overcome them. We appreciate this committee's efforts to look at new solutions.

We believe that working together we can help produce more local food, support an economically strong homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Brandon Lee
Policy and Public-Private Partnership Associate