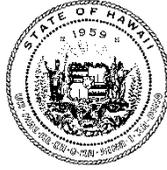


JOSH B. GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ADMINISTRATOR

DAYNA OMIYA
ASSISTANT ADMINISTRATOR

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TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY
February 11, 2026, 8:30 a.m.

HOUSE BILL 2598
RELATING TO THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION

Chair Ilagan, Vice Chair Hussey, and members of the committee, thank you for the opportunity to submit testimony on House Bill 2598, which requires the Hawaii Technology Development Corporation (HTDC) to establish Hawaii Made IT, aimed at certifying local Information Technology (IT) vendors for procurement by state and county agencies.

Comments

The SPO appreciates the bill's intent to support the involvement of Hawaii-based IT businesses in government procurement and to grow our local technology ecosystem and provides comments. Creating paths for local firms to compete for government contracts can help retain skilled workers in the state and build capacity among homegrown tech companies. While this focuses on local companies, it should consider whether the criteria is flexible enough to include promising startup firms in which certification alone may not be satisfactory for smaller local IT vendors. Also, providing support such as training or technical assistance that can help certify local IT vendors and improve their competitiveness in State and County procurements.

Recommendations

The SPO recommends revisions to Section 1, Page 1, lines 15-16 to read:

- (2) At least two-thirds of the vendor's employees shall be ~~[residents of]~~ domiciled in the State;

Additionally, to ensure transparency and accountability, the SPO recommends the addition of language to Section 1, Page 2, lines 8-9:

(6) Ensure the vendor is in compliance with the procurement requirements pursuant to §103D-310(c).

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



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 2598, RELATING TO THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION.

BEFORE THE:

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY

DATE: Wednesday, February 11, 2026 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 423

TESTIFIER(S): Anne E. Lopez, Attorney General,
Nicholas K.N. Kido or Christopher J.I. Leong,
Deputy Attorneys General

Chair Ilagan and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on this bill.

This bill would require the Hawaii Technology Development Corporation (HTDC) to establish the "Hawaii Made IT" program to certify local information technology vendors for use by state and county agencies in procurement, and to establish eligibility requirements and conditions for participation in that certification program.

The Dormant Commerce Clause, which derives from the Commerce Clause (U.S. Const. art. I, § 8, cl. 3), prohibits state action that discriminates against or unduly burdens interstate commerce, including procurement-related measures that favor in-state economic actors over out-of-state competitors absent a recognized constitutional justification. See *Granholm v. Heald*, 544 U.S. 460, 472 (2005) (citing *Oregon Waste Sys., Inc. v. Dep't of Env'tl. Quality of Ore.*, 511 U.S. 93, 99 (1994)).

Proposed section 206M- (a)(1) (page 1, lines 9–14) would require vendors seeking certification to maintain headquarters in the State and to employ a workforce composed of at least two-thirds state residents. The certification program is expressly intended for use by state and county agencies in procurement (page 1, lines 5–8). The bill further authorizes HTDC to confer "competitive advantages" and "operational benefits" on certified vendors (page 2, lines 8–12), and permits the assessment of fees

to "promote certified vendors" and "educate procurement offices on the benefits of hiring certified vendors" (page 2, lines 13–16). Taken together, these provisions could operate to favor in-state vendors in public contracting. Conditioning procurement-related advantages on geographic location and workforce residency raises concerns under the Dormant Commerce Clause.

In addition, conditioning procurement-related certification on non-price, non-performance criteria raise concerns under existing state and county procurement laws, which emphasize open and competitive bidding. Absent clear statutory authorization, agencies may be unable to lawfully apply such certification requirements in procurement without undermining competitive procurement principles.

The bill further requires certified vendors to commit one percent of state contract awards to tax-deductible nonprofit digital literacy and equity programs (page 2, lines 5–7). This mandatory contribution is unrelated to contract performance, program administration, or vendor qualifications, and operates as a compelled financial subsidy to third-party private programs as a condition of accessing procurement-related certification. Conditioning access to government-conferred procurement advantages on compelled financial support for unrelated private activities raises concerns under unconstitutional-conditions principles, which prohibit the State from leveraging government benefits to impose conditions it could not require directly, and implicates issues of indirect public spending outside the Legislature's normal appropriations process. See *Perry v. Sindermann*, 408 U.S. 593, 597 (1972); *Agency for Int'l Dev. v. Alliance for Open Society Int'l*, 570 U.S. 205, 214–15 (2013).

Addressing these concerns would require revisions to the bill, including decoupling the certification program from use in public procurement, eliminating residency-based eligibility requirements, and/or removing mandatory financial contributions as a condition of certification.

Thank you for the opportunity to provide comment.

Written Statement of
Trung Lam, Executive Director

before the
House Committee on Economic Development & Technology

Wednesday, February 11, 2026
08:30 am
Conference Room 423 & Videoconference

In consideration of
HB 2598
RELATING TO THE HAWAII TECHNOLOGY DEVELOPMENT CORPORATION

Chair Ilagan, Vice Chair Hussey, and Members of the Committee.

As the state agency charged with advancing Hawai'i's technology sector, the Hawai'i Technology Development Corporation (HTDC) is committed to fostering innovation and economic growth within the local technology ecosystem. HB2598 is significant to HTDC's mission as it seeks to establish the Hawai'i Made IT Program, which would certify local information technology vendors for use by state and county agencies. This initiative aligns with HTDC's goal to strengthen technology-based economic development and support local businesses in the information technology sector.

The certification program proposed in HB2598 has the potential to increase opportunities for Hawai'i-based IT vendors, ensuring that public sector procurement can more readily access local expertise. By establishing clear vendor requirements and a formal certification process, the bill encourages the growth of a competitive and innovative local IT industry. This approach is consistent with best practices in other jurisdictions that have implemented similar programs to support local businesses and foster a robust technology sector.

HTDC asks that the program require some type of renewal process to ensure companies continue to be in compliance with all requirements, and that requirement for consecutive years of tax compliance be reduced to three years so that new companies can quickly benefit from the program.

HTDC stands ready to collaborate on the development and implementation of the Hawai'i Made IT Program to ensure it effectively supports the growth of Hawai'i's technology sector.



TO: HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY

FROM: Frank Mancini | Owner, Malolo Consulting

DATE: 10 February 2026

RE: TESTIMONY IN SUPPORT WITH MAJOR AMENDMENTS – H.B. NO. 2598

Aloha Chair, Vice Chair, and Members of the Committee,

I am the owner of Malolo Consulting, a Hawaii-based micro-business in the Geospatial IT sector. As part of a new generation of Hawaii tech professionals trying to establish a foothold in our state's procurement system, I strongly support the intent of HB 2598 to prioritize local IT vendors.

However, as currently drafted, the proposed certification requirements would unintentionally exclude new Hawaii startups and micro-businesses, effectively entrenching established firms and branches of large national companies over local innovators. That outcome conflicts with the goal of building independent local capacity.

Barriers to Entry for Local Startups

- **Risk of a Two-Tier Market:** If certification becomes a de facto requirement for IT procurement, local firms that cannot meet the current "gatekeeping" requirements, despite having technical expertise, will be permanently relegated to a disadvantaged second tier in the local market.
- **Experience Catch-22:** Proposed requirements mandate three completed government projects for certification. For a new business, this creates an impossible loop: we need the certification to be competitive for state contracts, but we cannot get certified without having already won three of them.
- **Arbitrary 5-Year Requirement:** Requiring five consecutive years of tax compliance ignores high-growth startups that are ready to perform but are less than five years old.
- **6.5% Fee Stack:** The 1% digital literacy fee, combined with the 4.712% GET and the 0.75% HlePRO fee, creates a 6.5% revenue drain that hurts micro-businesses with thin margins more than large firms.

I respectfully propose the following amendments to make HB 2598 a true ladder for local growth:

- **Lower the Tax Barrier:** Replace the five-year tax compliance requirement with a requirement to be "in good standing" and "compliant since formation" with the Hawaii Department of Taxation and the DCCA.
- **Create an “Emerging Vendor” or "Micro-Business" Tier:** Establish a certification pathway for firms with fewer than 10 employees and less than 5 years in business that allows certification using alternative evidence such as private sector references and demonstrated experience of key personnel. Cap or waive program fees for Emerging and Micro Vendors.
- **Local Subcontracting Requirement:** Require larger vendors to subcontract at least 15% of awarded work to Emerging and Micro certified local vendors to help them gain the necessary government project history.
- **Path to Certification:** Use program fees to fund an “Emerging Vendor Pipeline” that provides pre-certification and early-stage support to Hawaii-based micro businesses, including procurement readiness training, proposal clinics and one-on-one office hours, teaming matchmaking and mentor-protege support, standardized subcontracting templates, and post-award delivery coaching.
- **Privacy Protections:** Require salary and ALICE data to be reported in the aggregate to protect the privacy of small teams where individual salaries could otherwise be easily identified.
- **Harmonize with HB 1772:** Ensure this program aligns with the Small Business Procurement Program in HB 1772, which seeks to reduce, not increase, barriers for underserved entrepreneurs.

HB 2598 can be a strong tool for growing Hawaii’s IT capacity if it is designed to expand the vendor pipeline, not narrow it. I respectfully request that the Committee support HB 2598 with major revisions to ensure emerging local firms can participate, build past performance, and become long term contributors to Hawaii’s technology ecosystem.

Respectfully submitted,

Frank Mancini

Owner, Malolo Consulting