

SB445

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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEE
ON
EDUCATION AND HOUSING

February 4, 2009

1:15 P.M.

SB 445

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

Chair Sakamoto, Vice-Chair Kidani and committee members, thank you for the opportunity to testify on SB 445.

The State Procurement Office (SPO) submits written comments on SB 445 that recognizes the issues faced by the authority, and understands the intent of this bill is to provide a temporary exemption from HRS Chapter 103D limited to Kuhio park terrace and Kuhio homes in Kalihi.

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.

SB 445

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1:15 PM

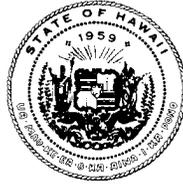
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The Code should not be viewed as an obstacle to a purchasing agency's mission, but rather as the single source of public procurement policy to be applied equally and uniformly. It was the legislature's intent for the Code to be a single source of public 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 authority 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 authority 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 agency.

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

Thank you.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
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Statement of
Chad K. Taniguchi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON HUMAN SERVICES & PUBLIC HOUSING

February 4, 2009 1:15 p.m.
Room 225, Hawaii State Capitol

In consideration of

S.B. 445

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY

The Hawaii Public Housing Authority (HPHA) supports S.B. 445, which exempts Hawaii Public Housing Authority from certain procurement code requirements in regard to improvements at Kuhio Park Terrace and Kuhio Homes.

This measure would be of great help to Hawaii Public Housing Authority in restoring habitability to a project in need of large amounts of rehabilitation. However, it must be noted that it could apply only to state funds, not the use of federal funds. Federal regulations require compliance with federal procurement rules when using federal funds.

If this measure passes we ask that it be amended to clarify that not only construction contracts be exempted, but also contracts for planning, design and equipment.

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Testimony in Support of SB 445; Relating to Hawai'i Public Housing Authority Hearing: 2/4/09, Conference Room 225 at 1:15 p.m.

Aloha Chair Sakamoto, Vice Chair Kidani, and Members of the Committee on Education and Housing:

Lawyers for Equal Justice (LEJ) is a non-profit law firm that advocates on behalf of low-income individuals and families in Hawai'i on civil legal issues of statewide importance. In December 2008, LEJ filed state and federal class action lawsuits against the Hawai'i Public Housing Authority (HPHA) and others regarding the hazardous conditions and discriminatory obstacles at Kuhio Park Terrace (KPT) and Kuhio Homes.

The hazardous conditions include nonfunctioning and dangerous elevators, leaking and bursting plumbing, lack of hot water, rat and roach infestations, overflowing and burning trash piles, toxic air filled with soot and other noxious particulate, and a lack of basic fire safety equipment. The HPHA has also failed to insure compliance with federal laws prohibiting discrimination against persons with disabilities. The lack of maintenance and repairs and the failure to provide reasonable accommodations to persons with disabilities at these public housing facilities violate state and federal law, including the warranty of habitability, the Americans with Disabilities Act, the Rehabilitation Act, the Fair Housing Act, and the U.S. Housing Act.

The immediacy of the required repairs, maintenance, and modifications to accommodate persons with disabilities warrants providing the HPHA a temporary exemption from Chapter 103 and 103D, Hawaii Revised Statutes. Absent an exemption, the health, safety, and welfare of KPT and Kuhio Homes residents will remain in severe jeopardy. For these reasons, we strongly support the passage of SB 445.

Mahalo Nui Loa,

Elizabeth M. Dunne
Senior Staff Attorney