



# GOV. MSG. NO. 1070

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 11, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 122 HD1 SD1 CD1

On July 10, 2007, House Bill No. 122 entitled "A Bill for an Act Relating to State Funds" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

This bill requires the Department of Budget and Finance to establish by January 1, 2009 a searchable website that the public can access at no cost for information regarding State grants, contracts, and other awards.

Although the intent of this legislation is in keeping with my Administration's overall theme of transparency and accountability about how government operates and how public funds are spent, this bill raises a number of concerns.

The State Procurement Office (SPO) uses the National Institute of Government Purchasing coding system for purposes of defining categories for Hawaii's electronic procurement system. This bill requires that each award be identified using the North American Industry Classification System code – a code not used by the Department of Budget and Finance or SPO. The value of requiring awards to be identified by this coding system is dubious, as compared to the burden on government agencies and awardees to learn the system.

The basic information required for public accountability with regard to procurement is presently available on the SPO's website. Expansion of SPO's existing website to include additional information on grants or other awards could be accomplished without legislation.

Because some of the information required is not presently captured under current procurement and grant processes, the requirement that subaward information be collected and posted online will increase costs to taxpayers of contracts and grants because the bill allows contractors, subcontractors, grantees, and subgrantees to allocate "reasonable costs" to comply with the subaward reporting requirements.

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Additionally, it should be pointed out that the responsibility for collecting and posting data of the type suggested in this bill is more appropriately a function of the Department of Accounting and General Services rather than the Department of Budget and Finance, as proposed in this measure.

For the foregoing reasons, I allowed House Bill No. 122 to become law as Act 272, effective July 10, 2007, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO STATE FUNDS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 36, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           "§36-    Full disclosure of entities receiving state  
5 awards.   (a) In this section, unless the context indicates  
6 otherwise:

7           "Entity":

8           (1) Includes, whether for profit or nonprofit:

9            (A) A corporation;

10           (B) An association;

11           (C) A partnership;

12           (D) A limited liability company;

13           (E) A limited liability partnership;

14           (F) A sole proprietorship;

15           (G) Any other legal business entity;

16           (H) Any other grantee or contractor that is not  
17 excluded by subparagraph (2) or (3); and

18           (I) Any state or county entity;



1       (2) On and after January 1, 2010, includes any  
2           subcontractor or subgrantee; and

3       (3) Does not include:

4           (A) An individual recipient of state public  
5           assistance; or

6           (B) A state employee.

7       "Searchable website" means a website that allows the public

8       to:

9           (1) Search state awards by any identifying element  
10           required by subsection (b);

11          (2) Ascertain through a single search the total amount of  
12          funding awarded to an entity by state award that is a  
13          grant, subgrant, loan, awards cooperative agreement,  
14          or other form of financial assistance, by fiscal year;

15          (3) Ascertain through a single search the total amount of  
16          funding awarded to an entity by a state award that is  
17          a contract, subcontract, purchase order, task order,  
18          or delivery order, by fiscal year; and

19          (4) Download data included in paragraph (1) included in  
20          the outcome from searches.

21       "State award" means state financial assistance and

22       expenditures that:



1        (1) Are grants, subgrants, loans, awards, cooperative  
2        agreements, other forms of financial assistance,  
3        contracts, subcontracts, purchase orders, task orders,  
4        and delivery orders;

5        (2) Do not include single transactions less than \$25,000;  
6        and

7        (3) Before October 1, 2009, do not include credit card  
8        transactions.

9        (b) Not later than January 1, 2009, the department of  
10      budget and finance, in accordance with this section, shall  
11      establish, implement, and maintain a single searchable website,  
12      accessible by the public at no cost, that includes for each  
13      state award:

14      (1) The name of the entity receiving the award;

15      (2) The amount of the award;

16      (3) Information on the award, including transaction type,  
17      funding agency, the North American Industry  
18      Classification System code, program source, and an  
19      award title descriptive of the purpose of each funding  
20      action;

21      (4) The full address of the entity receiving the award and  
22      the primary location of performance under the award;



- 1        (5) A unique identifier of the entity receiving the award  
2        and of the parent entity of the recipient, if the  
3        entity is owned by another entity; and  
4        (6) Any other relevant information specified by the  
5        department of budget and finance.

6        The website shall include data for fiscal year 2008 and  
7        each fiscal year thereafter.

8        The director of finance is authorized to designate one or  
9        more state agencies to participate in the development,  
10       establishment, maintenance, and support of the website. In the  
11       initial designation, or in subsequent instructions and guidance,  
12       the director may specify the scope of the responsibilities of  
13       each agency.

14       State agencies shall comply with the instructions and  
15       guidance issued by the director of finance and shall provide  
16       appropriate assistance to the director upon request, so as to  
17       assist the director in ensuring the existence and operation of  
18       the website.

19       (c) The website established under this section:

- 20       (1) Shall provide an opportunity for the public to provide  
21       input about the utility of the site and  
22       recommendations for improvements;



1       (2) Shall be updated not later than thirty days after the  
2           award of any state award requiring a posting; and

3       (3) Shall provide for separate searches for the state  
4           awards;

5       provided that, notwithstanding any provision under this section  
6       to the contrary, except for information that is disclosed in the  
7       aggregate, information on any state award that is tax related  
8       and authorized under title 14 shall be disclosed pursuant to  
9       taxpayer disclosure provisions under title 14.

10       (d) Not later than July 1, 2008, the director of finance  
11       shall establish and implement a pilot program to:

12       (1) Test the collection and accession of data about  
13           subgrants and subcontracts; and

14       (2) Determine how to implement a subaward reporting  
15           program across the state, including:

16       (A) A reporting system under which the entity issuing  
17           a subgrant or subcontract is responsible for  
18           fulfilling the subaward reporting requirement;  
19           and

20       (B) A mechanism for collecting and incorporating  
21           agency and public feedback on the design and  
22           utility of the website.



1 The pilot program shall terminate not later than January 1,  
2 2010.

3 (e) Based on the pilot program, not later than January 1,  
4 2010, the director of finance:

5 (1) Shall ensure that data regarding subawards are  
6 disclosed in the same manner as data regarding other  
7 state awards; and

8 (2) Shall ensure that the method for collecting and  
9 distributing data about subawards:

10 (A) Minimizes burdens imposed on state award  
11 recipients and subaward recipients;

12 (B) Allows state award recipients and subaward  
13 recipients to allocate reasonable costs for the  
14 collection and reporting of subaward data as  
15 indirect costs; and

16 (C) Establishes cost-effective requirements for  
17 collecting subaward data under block grants,  
18 formula grants, and other types of assistance to  
19 local governments.

20 For subaward recipients that receive state funds through  
21 county governments, the director of finance may extend the  
22 deadline for ensuring that data regarding such subawards are



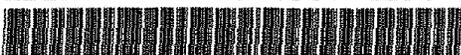
1 disclosed in the same manner as data regarding other state  
2 awards for a period not to exceed eighteen months, if the  
3 director determines that compliance would impose an undue burden  
4 on the subaward recipient.

5 (f) Any entity that demonstrates to the director of  
6 finance that the gross income, from all sources, for the entity  
7 did not exceed \$300,000 in the previous tax year of that entity  
8 shall be exempt from the requirement to report subawards under  
9 subsection (d), until the director determines that the  
10 imposition of such reporting requirements will not cause an  
11 undue burden on the entity.

12 (g) Nothing in this section shall prohibit the department  
13 of budget and finance from including through the website  
14 established under this section access to data that is publicly  
15 available in any other state database.

16 (h) The director of finance shall submit to the  
17 legislature not later than twenty days prior to the convening of  
18 each regular session an annual report regarding the website  
19 established under this section.

20 Each report shall include:



1       (1) Data regarding the usage and public feedback on the  
2       utility of the site (including recommendations for  
3       improving data quality and collection);

4       (2) An assessment of the reporting burden placed on state  
5       award and subaward recipients; and

6       (3) An explanation of any extension of the subaward  
7       reporting deadline, if applicable.

8       The director of finance shall make each report publicly  
9       available on the website established under this section.

10       (i) Nothing in this section shall require the disclosure  
11       of classified information."

12       SECTION 2. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$250,000 or so much  
14 thereof as may be necessary for fiscal year 2007-2008 for the  
15 purposes of this Act.

16       The sum appropriated shall be expended by the department of  
17 budget and finance for the purposes of this Act.

18       SECTION 3. New statutory material is underscored.

19       SECTION 4. This Act shall take effect on July 1, 2007.

