



GOV. MSG. NO. 699

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 7, 2010

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

Dear Madam President and Members of the Senate:

Re: House Bill No. 2283 HD2 SD1 CD1

On July 6, 2010, House Bill No. 2283, entitled "A Bill for an Act Relating to Public Procurement" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to require public employees, and actual or prospective bidders, offerors, contractors, and businesses, when participating in public procurements, to do so in an ethical manner. The bill provides for specific ethical standards.

I support ethical practices in public procurement. This measure is redundant of existing administrative rules. Similar standards of ethical behavior are already required of public procurement participants by Hawaii Administrative Rule section 3-131-1.02. Consequently, this bill is another example of unnecessary legislation.

For the foregoing reasons, I allowed House Bill No. 2283 to become law as Act 207, effective July 6, 2010, without my signature.

Sincerely,

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO PUBLIC PROCUREMENT.

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

1 SECTION 1. Section 103D-101, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§103D-101[+]~~ ~~[Requirement]~~ Requirements of ~~[good~~
4 ~~faith.]~~ ethical public procurement. (a) All public employees
5 shall conduct and participate in public procurement in an
6 ethical manner. In conducting and participating in procurement,
7 public employees shall:

- 8 (1) Act as a fiduciary and trustee of public moneys;
- 9 (2) Remain independent from any actual or prospective
10 bidder, offeror, contractor, or business;
- 11 (3) Act only in the public interest;
- 12 (4) Abide by the statutes and administrative rules
13 relating to public procurement;
- 14 (5) Identify and maximize efficiencies in the public
15 procurement process;
- 16 (6) Encourage economic competition by:



- 1 (A) Ensuring that all persons are afforded an equal
2 opportunity to compete in a fair and open
3 environment; and
- 4 (B) Researching innovative goods and services to meet
5 the public's needs;
- 6 (7) Avoid the intent and appearance of unethical behavior;
7 (8) Avoid social interactions with any actual or
8 prospective bidder, offeror, contractor, business, or
9 other interested parties during the procurement
10 process;
- 11 (9) Maintain confidentiality in a manner that ensures a
12 fair procurement process;
- 13 (10) Remain impartial in dealings with any actual or
14 prospective bidder, offeror, contractor, business, or
15 other interested parties; and
- 16 (11) Identify and eliminate any conflicts of interest.
- 17 (b) Any actual or prospective bidder, offeror, contractor,
18 or business taking part in the conduct of public procurement,
19 shall act in good faith to practice purchasing ethics, and when
20 applicable, display business integrity as a responsible offeror
21 through the public procurement process, including but not
22 limited to the following:



- 1 (1) Avoiding the intent and appearance of unethical
- 2 behavior or business practices;
- 3 (2) Refraining from any activity that would create the
- 4 appearance of impropriety or conflicts of personal
- 5 interest and the interests of the State or counties;
- 6 (3) Identifying and eliminating any conflicts of interest;
- 7 and
- 8 (4) Ensuring that all persons are afforded an equal
- 9 opportunity to compete in a fair and open environment.
- 10 (c) All parties involved in the negotiation, performance,
- 11 or administration of state contracts shall act in good faith."

12 SECTION 2. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 3. This Act shall take effect upon its approval.

APPROVED this day of , 2010

GOVERNOR OF THE STATE OF HAWAII

