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TESTIMONY
OF
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TO THE
HOUSE COMMITTEE
ON
ECONOMIC REVITALIZATION, BUSINESS
&
MILITARY AFFAIRS

February 9, 2010

8:30 AM

HB No. 2676

RELATING TO THE KAHO'OLAWE ISLAND RESERVE.

Chair McKelvey, Vice-Chair Choy, and committee members, thank you for the opportunity to testify on HB 2676.

The State Procurement Office (SPO) does not support the language to exempt the Kaho'olawe Island Reserve Commission (KIRC) from HRS chapter 103D, the Hawaii Public Procurement Code (Code) for certain commodities.

In the past years, the KIRC received several procurement exemptions from the SPO for the acquisition of food and fuel due to a lack of offerors meeting KIRC's specific needs. The Code already provides flexibility to address KIRC's situation. Specific purchases may be exempted when it is not advantageous or not practicable. Although there is currently a lack of competition, the situation in the future may change making competition feasible. A statutory blanket exemption from procurement would not be reviewed to determine the appropriateness of that exemption, which over a period of time may change. The current practice requires KIRC and SPO to document the reason justifying the exemption and is available for public scrutiny and posted on the SPO website.

The SPO is against statutorily exempting specific agencies from the Code, as it 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.

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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. 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.

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.

Thank you.