

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2997

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2997, entitled "A Bill for an Act Relating to Procurement."

This bill would provide exemptions from the Hawaii Public Procurement Code for the High Technology Development Corporation, the Hawaii Strategic Development Corporation, and the Natural Energy Laboratory of Hawaii Authority. This bill also exempts from the Procurement Code contracts for services by a legislative agency for the purpose of preparing a study or report for submission to the Legislature.

This bill is objectionable because the Procurement Code promotes transparency, fair treatment, competition, and public confidence in the government's procurement of goods, services, and construction. It is intended to protect against waste, fraud, and abuse. Absent compelling reasons, any governmental agency with the authority to expend public funds should be in compliance with the Procurement Code.

The ostensible reason for exempting the above-mentioned agencies from the Procurement Code is that they are involved in cutting-edge technology in a time-sensitive, market-driven, volatile investment environment, thus requiring the agencies to have the flexibility to make procurements in an expeditious manner. The reason for exempting contracts for legislative reports is that the procurement process impinges on the agencies' ability to timely comply with their reporting requirements to the Legislature.

The Procurement Code, however, already allows various

source selection methods. In addition to invitations for bids and requests for proposals, the Procurement Code allows an informal process for small purchases, sole source selections, emergency purchases, and exemptions from the Procurement Code by law, by rules, or by written determinations of the Chief Procurement Officer. Given the existing flexibility, there is no basis for exempting these agencies from the Procurement Code. Moreover, the purposes of the Procurement Code -- the promotion of transparency, fairness, competition, and public-confidence and the protection against waste, fraud, and abuse -- should not be sacrificed absent compelling reasons or for the convenience of the agencies.

For the foregoing reasons, I am returning Senate Bill No. 2997 without my approval.

Respectfully,

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

LINDA LINGLE
Governor of Hawaii