



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

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.

