

H.C.R. 358 Task Force
Report to the 25th Legislature

Submitted to: Representative Calvin K. Y. Say, Speaker of the House
Senator Colleen Hanabusa, President of the Senate

December 16, 2008

Introduction

A Task Force pursuant to H.C.R. 358, HD1 was established to solicit public input and examine methods other than the Public Procurement Code to oversee PEG expenditures and ensure proper checks and balances. Furthermore, the Task Force was to examine the selection process for PEG advisory board members, and in so doing, take into account the first amendment rights of PEG. H.C.R. 358, HD1 called for the Task Force to submit a report of suggested policy changes to the Legislature no later than 20 days prior to the convening of the Regular Session of 2009 (See Attachment "A").

Following the Legislative Session, members of the Task Force were appointed in accord with the requirement of the resolution and a facilitator was hired by the DCCA to support the work of the Task Force. The first Task Force meeting was held on June 30, 2008, and Eric Knutzen of the County of Kaua'i was nominated and selected by Task Force members to lead the Task Force. The group met continuously and diligently via videoconferencing until its final meeting on December 8, 2008.

The following section sets forth the five policy recommendations of the Task Force. The Task Force is additionally providing all its agendas, minutes, working papers, substantive Task Force group emails and all written input received from the public as supporting documentation to this report (See Attachment "B").

Task Force Recommendations:

Based upon public input received and its own analysis of the regulatory and legislative framework, the Task Force submits the following recommendations.

(1) The Legislature should exempt the designation of PEG access organizations from the provisions of the State Procurement Code.

(2) Should the designation of PEG access organizations not be exempted from the State Procurement Code, the Task Force recommends that the designation of PEG access organizations be exempt administratively from the competitive requirements of the State Procurement Code on the grounds that competitive procurement is not practicable or advantageous to the State.

(3) The Task Force recommends that in place of competitive procurement, the DCCA be charged with adopting Administrative Rules that guide a new process for the designation of PEG Access organizations in a manner that is similar to the process used by the DCCA for cable franchises, a process that is already well-understood by the DCCA and the public. This process should provide ample opportunity for input by the public on each island within the local franchise area and allow for interested parties to intervene. A sample set of draft rules is set

forth for consideration as Attachment “C”.

Additionally, the Task Force has reviewed the pertinent sections of the bylaws governing the selection of board members for each of the PEG Access organizations. The Task Force notes that these organizations are required to comply with laws governing non-profit organizations and believes that the DCCA should not have any authority to require a PEG Access organization to change its board selection process as a condition to designation. Therefore, the Task Force recommends that:

(4) The process for designation of PEG Access organizations should require each PEG Access organization to provide its processes for selection of board members and any changes proposed. This will be made available for public comment and reviewed as part of the renewal process, but the DCCA should not have any authority to require that an organization’s board selection process be changed.

Similarly, the Task Force has engaged in discussion regarding the first amendment rights of PEG and the expectation that non-discriminatory access be provided. The Task Force recommends that:

(5) PEG Access organizations should provide information regarding their past performance and proposed practices for ensuring that PEG Access supports the diversity of viewpoints and non-discriminatory first amendment rights of the people of the local communities they serve. This will be made available for public comment and reviewed as part of the renewal process.

H.C.R. 358 Task Force Members

Mr. Eric Knutzen, HCR 358 Task Force Chair, County of Kaua‘i

Mr. Roy K. Amemiya, Jr., Central Pacific Bank, ‘Olelo

Mr. Jay April, President and CEO, Akaku – Maui Community Television

Mr. Gilbert Benevides, County of Hawaii

Ms. MaBel Fujiuchi, Ho‘ike

Mr. Gregg Hirata, Office of the Mayor, City and County of Honolulu

Ms. Geri Ann Hong, State Department of Education

Mr. David Lassner, University of Hawaii

Ms. Shelley Pellegrino, Office of the Mayor, County of Maui

Mr. Keith Rollman, CAC Representative

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Mr. Clyde S. Sonobe, Cable Television Division, DCCA

Mr. Gerald Takase, Na Leo'o Hawai'i

Presentation of Report to Legislature

The Task Force through its Chair, Eric Knutzen, will seek to present supporting testimony at the Legislature as early in the next Legislative session as possible.

Attachments

Attachment "A" – H.C.R. 358 HD1 House Concurrent Resolution

Attachment "B" – Agendas, Minutes, Working Papers, Bylaws, Substantive Task Force Group Email, Written Testimony

Attachment "C" - Draft Rules

Contact

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