

**Testimony of Kealii Lopez  
President and CEO of  
'Ōlelo Community Television on  
Proposed Amendment to Chapter 16-131 HAR  
October 10, 2008**

'Ōlelo Community Television does not agree with the proposed rule as written. First, the proposal contradicts the DCCA's previous position that contracts to provide Public, Educational and Governmental (PEG) Access services should not be awarded using the competed contract provisions of the State Procurement Code. However, item (b) of the DCCA's proposed rule states that the DCCA will comply with the State Procurement Code when designating and selecting a PEG Access provider. 'Ōlelo strongly objects to any reference to the Procurement Code in DCCA's proposed rule. We continue to assert that the process to procure PEG services should not be subject to the competed contract process within the Procurement Code.

We are not alone with respect to this position. In public hearings over the past several years, hundreds of people across this state have explained why the procurement of PEG services should be exempt from the Code's competed contract process. Without repeating all of their excellent reasons, we reiterate 'Ōlelo's position that it is not in the best interests of the State or the recipients of PEG services to apply the Procurement Code's competitive processes to the PEG access services contracts.

If this provision regarding 103D is removed from the proposed rules, it would still allow the DCCA the latitude to comply with State law. To include this provision would limit any latitude that may result from potential legislative action or court rulings. Additionally, we believe that the criteria listed under item (c) are far too broad in nature and would be open to inconsistent interpretation.

We further assert that if a rule is needed, this proposal is not only flawed—it is also premature. If adopted, the proposed rule would commit the DCCA to follow the Procurement Code, to the exclusion of procurement alternatives that might fall outside the Code. We anticipate that viable alternatives to the Procurement Code will be identified within the next few months by a special legislative task force created for this exact purpose.

The Task Force, which was created by the Legislature in HCR358, is currently examining alternatives to the Code's RFP process and will present its report to the Legislature before the end of the year. If any of the Task Force's alternatives are adopted by the Legislature, there would be a conflict with the DCCA's proposed rule. If anything, this rule—as proposed—could tie the hands of the Task Force.

We suggest that the DCCA let the Legislature's Task Force do its work. We strongly recommend that the DCCA postpone final decision making regarding the proposed rules, and work with the State Procurement Office to delay action on the pending RFP until the Task Force has submitted its report and the Legislature has had a chance to act.