

Honolulu, Hawaii

Feb 12, 2010

RE: H.B. No. 2901  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, & Military Affairs, to which was referred H.B. No. 2901 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this bill is to increase competition and the qualifications of offerors for design-build contracts by establishing a discretionary two-step request for proposals procurement process for construction contracts in which:

- (1) The design-build process is used;
- (2) Proposals are submitted by not more than five offerors, selected on the basis of their experience, past performance, capacity to complete the work on time, and location and familiarity with project location; and
- (3) Stipends are paid to unsuccessful offerors who authorize the agency to use elements of their designs and waive the ability to protest the award.

The American Council of Engineering Companies of Hawaii; Coalition of Hawaii Engineering and Architectural Professionals; InSynergy Engineering, Inc.; Brown and Caldwell; Libbey Heywood, Inc.; SSFM International, Inc.; Gray, Hong, Nojima & Associates, Inc.; Bow Engineering & Development, Inc.; KAI Hawaii, Inc.; The Limtiaco Consulting Group; MOSS Engineering, Inc.; and



Kennedy/Jenks Consultants supported this bill. The Department of Accounting and General Services (DAGS) opposed this measure.

The preparation of a design-build proposal is a costly endeavor that may be too financially risky for most companies, particularly small and local businesses. For example, design-build teams have spent well over \$1,000,000 in developing proposals for the first segments of the Honolulu rail project.

The procedures in this bill will encourage the most qualified offerors to compete for the design-build contract, reduce procedural costs, and result in better-designed projects for Hawaii.

Your Committee has amended this bill based on the practice of other jurisdictions, and to respond to the concerns of DAGS by:

- (1) Reducing the stipend percentage from two percent to 0.5 percent based on information from other jurisdictions;
- (2) Increasing the lump sum portion of the stipend from \$5,000 to \$10,000, to make the stipend more reasonable for smaller projects;
- (3) Giving the purchasing agency discretion to increase the stipend percentage to 0.8 percent for complex or large contracts;
- (4) Capping stipends for any single contract at \$1,000,000; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee respectfully requests the Committee on Finance, to which this bill is next referred, to evaluate the financial impact of the stipend.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2901, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2901, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Revitalization, Business, &  
Military Affairs,



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ANGUS L.K. MCKELVEY, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

*HSCR 379-10*

**Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs**

| <b>Bill/Resolution No.:</b><br><i>HB 2901</i>  | <b>Committee Referral:</b><br><i>EBM, FIN</i> | <b>Date:</b><br><i>2/9/10</i> |      |          |
|--|---|-------------------------------|------|----------|
| <input type="checkbox"/> The committee is reconsidering its previous decision on the measure.  |   |                               |      |          |
| <b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold<br><input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit) |   |                               |      |          |
| EBM Members  | Ayes  | Ayes (WR)                     | Nays | Excused  |
| 1. McKELVEY, Angus L.K. (C)  | ✓   |                               |      |          |
| 2. CHOY, Isaac W. (VC)   | ✓   |                               |      |          |
| 3. BERG, Lyla B.   |   |                               |      | ✓        |
| 4. EVANS, Cindy  | ✓   |                               |      |          |
| 5. MANAHAN, Joey   | ✓   |                               |      |          |
| 6. TAKAI, K. Mark  | ✓   |                               |      |          |
| 7. TOKIOKA, James Kunane   | ✓   |                               |      |          |
| 8. TSUJI, Clift  | ✓   |                               |      |          |
| 9. WAKAI, Glenn  |   |                               |      | ✓        |
| 10. WOOLEY, Jessica  | ✓   |                               |      |          |
| 11. WARD, Gene   | ✓   |                               |      |          |
|  |   |                               |      |          |
|  |   |                               |      |          |
| <b>TOTAL (11)</b>  | <i>9</i>                                      |                               |      | <i>2</i> |
| <b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted<br>If joint referral, _____ did not support recommendation.<br><small>committee acronym(s)</small>  |   |                               |      |          |
| <b>Vice Chair's or designee's signature:</b> <i>Samuel Choy</i>  |   |                               |      |          |
| <b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO  |   |                               |      |          |