

LATE TESTIMONY

NEIL ABERCROMBIE
GOVERNOR



BRUCE A. COPPA
Comptroller

RYAN OKAHARA
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
BRUCE A. COPPA, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
ECONOMIC REVITALIZATION & BUSINESS
ON
March 22, 2011
S.B. 779, S.D. 2

RELATING TO PROCUREMENT

Chair McKelvey and members of the Committee, thank you for the opportunity to testify on S.B. 779, S.D. 2.

The Department of Accounting and General Services supports S.B. 779, S.D. 2 and defers to the State Procurement Office testimony.

Thank you for the opportunity to testify on this matter.



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4700 Fax: (808) 587-4703
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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEE
ON
ECONOMIC REVITALIZATION & BUSINESS

March 22, 2011

8:00 AM

SB 779, SD 2

RELATING TO PROCUREMENT.

Chair McKelvey, Vice Chair Choy and committee members, thank you for the opportunity to testify on SB 779, SD 2. This bill amends §103D-303 on competitive sealed proposals, or commonly known as requests for proposals (RFP) procurement method, to create an optional process for design-build contracts by combining design and construction into a single request for proposal.

The SPO supports the intent of this bill, however, proposes the attached changes for your consideration, to clarify the proposed amendments to the section.

Thank you.

"§103D-303 **Competitive sealed proposals.** (a) Competitive sealed proposals may be ~~[utilized]~~ used to procure goods, services, or construction ~~[designated in rules adopted by the procurement policy board as goods, services, or construction which are]~~ that are either not practicable or not advantageous to the State to procure by competitive sealed bidding. ~~[Competitive sealed proposals may also be utilized when the head of a purchasing agency determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State.]~~

(b) Proposals shall be solicited through a request for proposals~~[-]~~; provided that for construction projects the procurement officer may ~~procure services using~~ determine to use the design-build method; provided further that:

- (1) The cost of preparing proposals is high in view of the size, estimated prices, and complexity of the procurement;
- (2) A request for proposals is issued to ~~initially request pre-qualification of~~ prequalify offerors, ~~in order to select from among them~~ a short list of up to ~~three~~ five responsible offerors; ~~provided that a second request for proposals shall be issued to the pre-qualified offerors selected for the short list~~ prior to submittal of proposals or discussions and evaluations pursuant to subsection (f); ~~provided further~~ that the number of short-listed proposals shall be stated in the request for proposals and ~~prompt public~~ notice shall be given to all offerors as to which proposals have been short-listed; and
- (3) Nonselected offerors who were pre-qualified and selected for the short list may be paid a conceptual

design fee; provided that the amount of the fee and the terms under which the fee is to be paid shall be stated in the request for proposals.

(c) Notice of the request for proposals shall be given in the same manner as provided in section 103D-302(c).

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the evaluation process [~~of negotiation~~]. A register of proposals shall be prepared [~~in accordance with rules adopted by the policy board~~] and shall be open for public inspection after contract award.

(e) The request for proposals shall state the relative importance of price and other evaluation factors.

(f) Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for a contract award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(g) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

(h) In cases of awards made under this section, nonselected offerors may submit a written request for debriefing to the [~~chief~~] procurement officer [~~or designee~~] within three working days after the posting of the award of the contract. Thereafter, the [~~head of the purchasing agency~~] procurement officer shall provide the [~~requester~~] nonselected offeror a prompt debriefing [~~in accordance with rules adopted by the policy board~~]. Any protest by the [~~requester~~] nonselected offeror pursuant to section 103D-701 following debriefing shall be filed in writing with the [~~chief~~] procurement officer [~~or designee~~] within five working days after the date that the debriefing is completed."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on ~~July 1,~~
~~2010~~ January 1, 2012.

JUSTIFICATION:

Limit the short-list to 'up to five' responsible offerors so that all potential offerors are not impacted in preparing the RFP proposal, and there is a sufficient pool of offerors.

As these steps are still within the competitive sealed proposal (aka request for proposal) process, notice is limited to the Offerors. Upon award of a contract, a public notice of award is made.

The effective date for this bill be delayed to allow for development of interim rules to implement this section.



March 21, 2011

Senate Committee on Economic Revitalization and Business
Hearing Date: Tuesday, March 22, 8:00 a.m., Conference Room 312

Honorable Chair Angus McKelvey, Vice Chair Isaac Choy, and Members of the House Committee on Economic Revitalization and Business

Subject: **SB 779, SD 2, Relating to Procurement**
TESTIMONY IN SUPPORT

Dear Chair McKelvey, Vice Chair Choy, and Committee Members:

Engineering Concepts, Inc. strongly supports SB 779, SD 2, Relating to Procurement. The revised bill would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions. This bill is the companion to HB985, which this Committee earlier passed out with a HD1.

The purpose of the bill is to put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (no more than three) that would then proceed to the second proposal stage. The two-step process serves to reduce industry costs in responding to requests for design-build proposals, to encourage the most qualified design-builders to participate by increasing their chances of success, and to reduce the cost to the agency of reviewing the proposals.

The bill would also provide for the granting of a conceptual design fee to the unsuccessful short-listed teams. The design-build situation is completely different than the normal design-bid-build process, because the designers must prepare partial design documents as part of the proposal process. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million to prepare their proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to participate. In Hawaii, many of our local Architect and Engineering firms are small businesses, and many do not participate in design-build procurements because of the high cost of preparing the partial design documents. Providing a conceptual design fee would encourage more of our small firms to participate in design-build projects.

We would ask that the bill be amended to remove the defective date and to make the bill effective January 1, 2012.

We appreciate the opportunity to provide testimony regarding this measure. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,


Executive Vice President

LATE TESTIMONY**AMERICAN INSTITUTE OF ARCHITECTS**ERB
3.22.11
8:00 am

March 22, 2011

Honorable Angus McElvey, Chair
House Committee on Economic Revitalization & BusinessRe: **Senate Bill 779 SD 2**
Relating to Procurement

Dear Chair McElvey and Members of the Committee,

My name is Daniel Chun, Government Affairs Chair of the American Institute of Architects (AIA) Hawaii State Council. **AIA SUPPORTS SB 779 SD2.**

Allow me to offer a perspective as the owner of a Hawaii-based small business. I have over 30 years of practice experience as an architect. I have managed my small business in Hawaii for nearly the same amount of time. I have direct past experience in state design-build procurement being a team member for the following requests for proposals: University of Hawaii Stan Sheriff Center, the Hawaii Convention Center, the Kapolei State Office Building, the State Judiciary Public Information Center.

I have "won" only one of these, which is considered a good average. I have "lost" three of these competitions with the resulting increase in my small business overhead operating costs. Senate Bill 779 remedies some of the more onerous aspects of current design-build procurement in the following ways:

- Requires a two-phase process beginning with Qualifications Based Selection or QBS criteria modeled on HRS 103D-304.
- Authorizes payment of conceptual design fee to unsuccessful offerors who submit a technically responsive proposal.

Payment to unsuccessful offerors promotes continuing competition for design-build projects. No payment will ultimately limit offerors to an ever-decreasing number of contractors/design professionals who can afford the high business overhead cost of losing a competition.

The state of Hawaii will receive the benefit of multiple design solutions to choose from. The state gets to "test drive" several designs before having to buy one. This choice has substantial value to the state and the state needs to be willing to pay for the choice. Thank you for this opportunity to **SUPPORT Senate Bill 779 SD 2.**



LATE TESTIMONY

WRITTEN TESTIMONY ONLY

Date: 03/22/2011

Committee: House Economic Revitalization
& Business

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 0779,SD2(sscr707) RELATING TO PROCUREMENT.

Purpose of Bill: Establishes discretionary request for competitive sealed proposal procedures using the design-build process where not more than three offerors selected on their qualifications submit proposals. Defines design-build. Authorizes the procurement officer to pay a conceptual design fee to unsuccessful offerors. Clarifies process of short-listing of offerors for purposes of nonselection. Effective 7/1/2050. (SD2)

Department's Position: The DOE supports this bill as amended. It is important, especially in this challenging economic climate, for the state to encourage competition and innovation in pursuit of the 'best value' in state contracts. In situations where it is determined that a Design-Build solicitation will provide the state with the best value, the DOE believes that the requirements of this bill, providing the guidelines for Design-Build solicitations, will be an important option for the state to consider when determining the best method to procure a project.

Thank you for the opportunity to provide testimony.

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Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 22, 2011

LATE TESTIMONY

TO: THE HONORABLE REPRESENTATIVE AUNGUS L.K. MCKELVEY, CHAIR AND MEMBERS OF THE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

SUBJECT: S.B.779, SD2 RELATING TO PROCUREMENT.

NOTICE OF HEARING

DATE: Tuesday, March 22, 2011
TIME: 8:00 AM
PLACE: Conference Room 312

Dear Chair McKelvey and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and eighty (580) general contractors, subcontractors, and construction related firms, **supports passage** of S. B. 779, SD2 Relating To Procurement, and suggests amendments as noted in the attached.

S.B. 779 SD2 proposes to enact a design build (D-B) procurement process modeled on the 2000 Model procurement Code of the American Bar Association. The proposed bill will give the procurement officer important minimal guidelines when using the design build process for procuring construction services that include:

1. Delineating a two-step D-B process
2. Selecting up to only 3 offerors for step two, the most costly part of competing in the D-B process
3. Providing for a conceptual design fee to help defray costs of the step two proposals to encourage quality proposals

The attached suggested amendments put the D-B process in a subsection of HRS Section 103D-303 that does not preclude using the rest of the section for other innovative procurement processes.

The GCA believes that the implementation of this two step procedure for the procurement of design build construction projects as proposed in S.B. 779 SD2 will result in enhanced proposal quality and provide the State with the most innovative and cost effective proposals.

The GCA recommends that the Committee pass S.B. 779.

Thank you for the opportunity to testify on this matter.

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the current
2 procurement process for design-build project contracts requires
3 offerors to prepare, in most instances, conceptual design
4 drawings as part of their proposals. This requires a
5 considerable initial investment and may prevent many local firms
6 from submitting proposals for design-build contracts. As a
7 result, purchasing agencies may experience a decrease in
8 competition, an increase in prices, and may potentially be
9 forced to sacrifice design and construction creativity.

10 The purpose of this Act is to provide for the selection of
11 the most qualified offerors for design-build projects and to
12 encourage the participation of Hawaii-based companies, including
13 local small firms, in the design-build proposal process.

14 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
15 amended by adding a new definition to be appropriately inserted
16 and to read as follows:



1 "Design-build" means a project delivery method in which
2 the procurement officer enters into a single contract for design
3 and construction of an infrastructure facility."

4 SECTION 3. Section 103D-303, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§103D-303 Competitive sealed proposals. (a) Competitive
7 sealed proposals may be [utilized] used to procure goods,
8 services, or construction [~~designated in rules adopted by the~~
9 ~~procurement policy board as goods, services, or construction~~
10 ~~which are]~~ that are either not practicable or not advantageous
11 to the State to procure by competitive sealed bidding.

12 [~~Competitive sealed proposals may also be utilized when the head~~
13 ~~of a purchasing agency determines in writing that the use of~~
14 ~~competitive sealed bidding is either not practicable or not~~
15 ~~advantageous to the State.]~~

16 (b) Proposals shall be solicited through a request for
17 proposals ~~[-];~~ provided that for construction projects the

18 procurement officer may procure services using the design-build
19 method; provided further that:

- 20 (1) The cost of preparing proposals is high in view of the
21 size, estimated prices, and complexity of the
22 procurement;



1 ~~(2) A request for proposals is issued to initially request~~
2 ~~pre-qualification of offerors, in order to select from~~
3 ~~among them a short list of up to three responsible~~
4 ~~offerors; provided that a second request for proposals~~
5 ~~shall be issued to the pre-qualified offerors selected~~
6 ~~for the short list prior to submittal of proposals or~~
7 ~~discussions and evaluations pursuant to subsection~~
8 ~~(f); provided further that the number of short-listed~~
9 ~~proposals shall be stated in the request for proposals~~
10 ~~and prompt public notice shall be given to all~~
11 ~~offerors as to which proposals have been short-listed;~~
12 ~~and~~
13 ~~(3) Nonselected offerors who were pre-qualified and~~
14 ~~selected for the short list may be paid a conceptual~~
15 ~~design fee; provided that the amount of the fee and~~
16 ~~the terms under which the fee is to be paid shall be~~
17 ~~stated in the request for proposals.~~

18 (c) Notice of the request for proposals shall be given in
19 the same manner as provided in section 103D-302(c).

20 (d) Proposals shall be opened so as to avoid disclosure of
21 contents to competing offerors during the evaluation process [ef
22 negotiation]. A register of proposals shall be prepared [~~in~~



1 ~~accordance with rules adopted by the policy board]~~ and shall be
2 open for public inspection after contract award.

3 (e) The request for proposals shall state the relative
4 importance of price and other evaluation factors.

5 (f) Discussions may be conducted with responsible offerors
6 who submit proposals determined to be reasonably susceptible of
7 being selected for a contract award for the purpose of
8 clarification to assure full understanding of, and
9 responsiveness to, the solicitation requirements. Offerors
10 shall be accorded fair and equal treatment with respect to any
11 opportunity for discussion and revision of proposals, and
12 revisions may be permitted after submissions and prior to award
13 for the purpose of obtaining best and final offers. In
14 conducting discussions, there shall be no disclosure of any
15 information derived from proposals submitted by competing
16 offerors.

17 (g) Award shall be made to the responsible offeror whose
18 proposal is determined in writing to be the most advantageous,
19 taking into consideration price and the evaluation factors set
20 forth in the request for proposals. No other factors or
21 criteria shall be used in the evaluation. The contract file
22 shall contain the basis on which the award is made.



1 (h) In cases of awards made under this section,
 2 nonselected offerors may submit a written request for debriefing
 3 to the [~~chief~~] procurement officer [~~or designee~~] within three
 4 working days after the posting of the award of the contract.
 5 Thereafter, the [~~head of the purchasing agency~~] procurement
 6 officer shall provide the [~~requester~~] nonselected offeror a
 7 prompt debriefing [~~in accordance with rules adopted by the~~
 8 ~~policy board~~]. Any protest by the [~~requester~~] nonselected
 9 offeror pursuant to section 103D-701 following debriefing shall
 10 be filed in writing with the [~~chief~~] procurement officer [~~or~~
 11 ~~designee~~] within five working days after the date that the
 12 debriefing is completed."

13 SECTION 4. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2050.

Insert "(i)...." here



Report Title:
Procurement; Design-build Contracts

Description:

Establishes discretionary request for competitive sealed proposal procedures using the design-build process where not more than three offerors selected on their qualifications submit proposals. Defines design-build. Authorizes the procurement officer to pay a conceptual design fee to unsuccessful offerors. Clarifies process of short-listing of offerors for purposes of nonselection. Effective 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Proposed Design Build Insert into SB779 and HB985

Dated: 03-20-2011

(i) Design-Build Procurement - Construction projects may be procured using the design-build method that follows the minimum requirements of the two-step process described below and includes the requirements of subsections (a) through (h) not in conflict with this subsection:

- (A) In step one, a Request for Qualifications is issued in advance of the Request for Proposals to initially pre-qualify offerors, selecting a short list of up to three (3) responsible offerors based on qualification proposals submitted among them; provided that the number of proposals that will be short listed is stated in the Request for Qualifications and prompt public notice shall be given to all offerors as to which proposals have been short listed.
- (B) In step two, selected offerors from step one will be issued a Request for Proposals that include design requirements and that solicit proposal development documents with evaluation factors clearly delineated in the Request for Proposals; provided that non-selected offerors in step two who submit technically responsive proposals may be paid a conceptual design fee; provided further that the amount of such conceptual design fee and the terms under which said fee will be paid are stated in the Request for Qualifications and the Request for Proposals.



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

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Honolulu, Hawaii 96819

T: 808.839.9002
F: 808.833.5971

License No. ABC-457
Founded in 1962

March 22, 2011

LATE TESTIMONY

TO: THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR AND MEMBERS OF THE
HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

SUBJECT: SB779, SD2 RELATING TO PROCUREMENT.

NOTICE OF HEARING

DATE/TIME: Tuesday, March 22, 2011, 8:00 AM
PLACE: Conference Room 312

Dear Chair McKelvey and Members of the Committee:

My name is Lance Inouye, President of Ralph S. Inouye Co., Ltd. (RSI), a Hawaii General Contractor since 1962 and member of the General Contractors Association of Hawaii (GCA). RSI supports passage of SB779, SD2 Relating to Procurement, but suggests amendments as noted in the attached.

SB779, SD2 provides a design build procurement process for construction modeled after the 2000 Model procurement Code of the American Bar Association. The proposed bill will give State procurement officers essential minimum requirements to follow when using the design build process for procuring construction services that include:

1. Delineating a two-step design build process;
2. Selecting up to only 3 offerors for step two, the most costly part of competing in the design build process; and
3. Providing for a conceptual design fee to help defray costs of the step two proposals to encourage quality proposals

The attached suggested amendments to SD2 are intended to put the design build process in a subsection of HRS §103D-303 that does not preclude using the rest of the section for other innovative procurement processes.

RSI believes that the implementation of this two step procedure for the procurement of design build construction projects as proposed in SB779 SD2 will result in enhanced proposal quality and provide the State with the most innovative and cost effective proposals.

RSI recommends that the Committee pass SB779 SD2 and suggests incorporating the attached amendments. Thank you for the opportunity to testify on this matter.

Sincerely,

RALPH S. INOUE CO. LTD.

Lance M. Inouye, President & CEO

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the current
2 procurement process for design-build project contracts requires
3 offerors to prepare, in most instances, conceptual design
4 drawings as part of their proposals. This requires a
5 considerable initial investment and may prevent many local firms
6 from submitting proposals for design-build contracts. As a
7 result, purchasing agencies may experience a decrease in
8 competition, an increase in prices, and may potentially be
9 forced to sacrifice design and construction creativity.

10 The purpose of this Act is to provide for the selection of
11 the most qualified offerors for design-build projects and to
12 encourage the participation of Hawaii-based companies, including
13 local small firms, in the design-build proposal process.

14 SECTION 2. Section 103D-104, Hawaii Revised Statutes, is
15 amended by adding a new definition to be appropriately inserted
16 and to read as follows:



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2 the procurement officer enters into a single contract for design
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Report Title:
Procurement; Design-build Contracts

Description:
Establishes discretionary request for competitive sealed proposal procedures using the design-build process where not more than three offerors selected on their qualifications submit proposals. Defines design-build. Authorizes the procurement officer to pay a conceptual design fee to unsuccessful offerors. Clarifies process of short-listing of offerors for purposes of nonselection. Effective 7/1/2050. (SD2)

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Proposed Design Build Insert into SB779 and HB985

Dated: 03-20-2011

(i) Design-Build Procurement - Construction projects may be procured using the design-build method that follows the minimum requirements of the two-step process described below and includes the requirements of subsections (a) through (h) not in conflict with this subsection:

- (A) In step one, a Request for Qualifications is issued in advance of the Request for Proposals to initially pre-qualify offerors, selecting a short list of up to three (3) responsible offerors based on qualification proposals submitted among them; provided that the number of proposals that will be short listed is stated in the Request for Qualifications and prompt public notice shall be given to all offerors as to which proposals have been short listed.
- (B) In step two, selected offerors from step one will be issued a Request for Proposals that include design requirements and that solicit proposal development documents with evaluation factors clearly delineated in the Request for Proposals; provided that non-selected offerors in step two who submit technically responsive proposals may be paid a conceptual design fee; provided further that the amount of such conceptual design fee and the terms under which said fee will be paid are stated in the Request for Qualifications and the Request for Proposals.

LATE TESTIMONY

Kennedy/Jenks Consultants

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March 21, 2011

Senate Committee on Economic Revitalization and Business

Hearing Date: Tuesday, March 22, 8:00 a.m., Conference Room 312

Honorable Chair Angus McKelvey, Vice Chair Isaac Choy, and Members of the House Committee on Economic Revitalization and Business

Subject: **SB 779, SD 2, Relating to Procurement
TESTIMONY IN SUPPORT**

Dear Chair McKelvey, Vice Chair Choy, and Committee Members:

Our company strongly supports SB 779, SD 2, Relating to Procurement. The revised bill would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions. This bill is the companion to HB985, which this Committee earlier passed out with a HD1.

The purpose of the bill is to put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (no more than three) that would then proceed to the second proposal stage. The two-step process serves to reduce industry costs in responding to requests for design-build proposals, to encourage the most qualified design-builders to participate by increasing their chances of success, and to reduce the cost to the agency of reviewing the proposals.

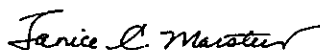
The bill would also provide for the granting of a conceptual design fee to the unsuccessful short-listed teams. The design-build situation is completely different than the normal design-bid-build process, because the designers must prepare partial design documents as part of the proposal process. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million to prepare their proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to participate. In Hawaii, many of our local Architect and Engineering firms are small businesses, and many do not participate in design-build procurements because of the high cost of preparing the partial design documents. Providing a conceptual design fee would encourage more of our small firms to participate in design-build projects.

We would ask that the bill be amended to remove the defective date and to make the bill effective January 1, 2012.

We appreciate the opportunity to provide testimony regarding this measure. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

Kennedy/Jenks Consultants



Janice Marsters, Ph.D., LEED AP
Senior Environmental Engineer

AMERICAN INSTITUTE OF ARCHITECTS

ERB
3.22.11
8:00 am

March 22, 2011

Honorable Angus McElvey, Chair
House Committee on Economic Revitalization & Business

Re: **Senate Bill 779 SD 2**
Relating to Procurement

Dear Chair McElvey and Members of the Committee,

My name is Daniel Chun, Government Affairs Chair of the American Institute of Architects (AIA) Hawaii State Council. **AIA SUPPORTS SB 779 SD2.**

Allow me to offer a perspective as the owner of a Hawaii-based small business. I have over 30 years of practice experience as an architect. I have managed my small business in Hawaii for nearly the same amount of time. I have direct past experience in state design-build procurement being a team member for the following requests for proposals: University of Hawaii Stan Sheriff Center, the Hawaii Convention Center, the Kapolei State Office Building, the State Judiciary Public Information Center.

I have "won" only one of these, which is considered a good average. I have "lost" three of these competitions with the resulting increase in my small business overhead operating costs. Senate Bill 779 remedies some of the more onerous aspects of current design-build procurement in the following ways:

- Requires a two-phase process beginning with Qualifications Based Selection or QBS criteria modeled on HRS 103D-304.
- Authorizes payment of conceptual design fee to unsuccessful offerors who submit a technically responsive proposal.

Payment to unsuccessful offerors promotes continuing competition for design-build projects. No payment will ultimately limit offerors to an ever-decreasing number of contractors/design professionals who can afford the high business overhead cost of losing a competition.

The state of Hawaii will receive the benefit of multiple design solutions to choose from. The state gets to "test drive" several designs before having to buy one. This choice has substantial value to the state and the state needs to be willing to pay for the choice. Thank you for this opportunity to **SUPPORT** Senate Bill 779 SD 2.



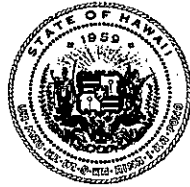
From: David.J.Rodriguez@hawaii.gov
Sent: Tuesday, March 22, 2011 8:45 AM
To: ERBtestimony
Cc: Michael.Ng@hawaii.gov; Jadine.Urasaki@hawaii.gov; Jan.Gouveia@hawaii.gov
Subject: LATE LATE ERB Tue Mar22
Attachments: SB779 SD2(competitive sealed bids).doc

For the record, the DOT submits very late testimony for SB779.

URL> http://www.capitol.hawaii.gov/session2011/hearingnotices/HEARING_ERB_03-22_-11_.HTM

Thank you for considering our late comments.

David J. Rodriguez
Department of Transportation
869 Punchbowl Street, Suite 504
Honolulu, Hawaii 96813
(808) 587-2165



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
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Deputy Directors
FORD N. FUCHIGAMI
JAN S. GOUVEIA
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:

MARCH 22, 2011

LATE TESTIMONY

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

SENATE BILL NO. 779 , S.D.2

The Department of Transportation (DOT) supports the intent of this bill, however we cannot support the passage of the bill as currently written. The following are our concerns and recommended revisions:

1. We continue to recommend that the language be amended with respect to the conceptual design fee. We recommend that if the non-selected qualified offeror(s) accepts the conceptual design fee reimbursement, it relinquishes any right to file any protest against the State on the project and second, that the non-selected qualified offeror(s) proposals become the property of the State.
2. We also recommend that the bill acknowledge waivers from the requirement that a design-build offeror(s) be a contractor licensed under Chapter 444, HRS. On occasion, the DOT gets waivers from the Department of Commerce and Consumer Affairs Contractors Licensing Board to hire a consultant instead of a licensed contractor. This would be for projects where there is minimal construction work like pulling of cables, or installation of electronic devices.

March 21, 2011
11E-100

House Committee on Economic Revitalization and Business

**TESTIMONY IN SUPPORT
SB 779, SD 2, Relating to Procurement
Hearing Date: Tuesday, March 22, 8:00 a.m., Conference Room 312**

Dear Chair McKelvey, Vice Chair Choy, and Committee Members:

Belt Collins Hawaii Ltd. strongly supports SB 779, SD 2, Relating to Procurement. The revised bill would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

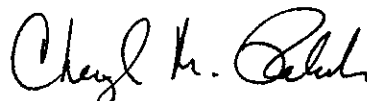
The purpose of the bill is to establish a two-stage process for public design-build projects. The first stage would be a qualification process for the team relative to the specific project. The public agency selection committee would short-list the most qualified teams, preferably a maximum of three, which would then proceed to the second, proposal, stage. The two-step process reduces the cost to the agency reviewing the design-build proposals; reduces industry costs in responding to proposal requests; and encourages qualified design-builder teams to participate by increasing their chances of success.

Under the revised bill a stipend, or conceptual design fee, would be paid to the unsuccessful short-listed teams. The design-build situation is much different than the design-bid-build process, because the designers must prepare partial construction documents during the proposal process. Preparation of a design-build proposal is costly and teams can spend more than \$1 million in preparing their proposals. Studies have shown that providing even a nominal fee to the unsuccessful teams encourages more teams to participate. In Hawai'i, many of the local design firms are small businesses and many do not participate in design-build procurements because of the exceedingly high cost. Providing a conceptual design fee would encourage more of Hawai'i small firms to participate in the design-build process.

We appreciate the opportunity to provide testimony regarding this measure. Please contact me if you have any questions regarding this testimony.

Very truly yours,

BELT COLLINS HAWAII LTD.



**Cheryl M. Palesh, P.E., LEED AP
Chairman / Director of Engineering**

CMP:jdk