

SB 779

RELATING TO PROCUREMENT

Establishes discretionary request for competitive sealed proposal procedures using the design-build process where not more than five offerors selected on their qualifications submit proposals. Authorizes the chief procurement officer to pay a conceptual design fee to technically-responsible unsuccessful offerors or to technically-responsive offerors if the procurement is cancelled.

NEIL ABERCROMBIE
GOVERNOR



AARON S. FUJIOKA
ADMINISTRATOR

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STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEE
ON
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS

February 12, 2011

10:00 AM

SB 779

RELATING TO PROCUREMENT.

Chair Espero, Vice-Chair Kidani, and committee members, thank you for the opportunity to testify on SB 779. 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. If the committee believes this bill is in the best interest of the State, then SPO requests that the implementation date for this bill be delayed to allow for notice to affected departments and agencies and development of interim rules to implement this requirement.

Thank you.

SB 779

Senate Committee on Public Safety, Government Operations, & Military Affairs

February 12, 2011

10:00 AM

Page 2

ATTACHMENT

Justification: Add new definition to §103D-104 for 'design-build' as provided by the *2000 Model Procurement Code for State and Local Governments*, issued by the American Bar Association.

§103D-104 Definitions. "Design-build" means a project delivery method in which the procurement officer enters into a single contract for design and construction of an infrastructure facility.

Justification: Amend §103D-303 by replacing the word "negotiation" with "evaluation"; delete unnecessary language for rulemaking as §103D-211 on procurement rules already provides for this requirement; clarify procurement officer responsibility; and add process for design-build as provided by the *2000 Model Procurement Code for State and Local Governments*, issued by the American Bar Association.

"§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] used 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, and for construction projects, the procurement officer may procure services using design-build method; provided 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 prequalification of offerors to select a short list of up

SB 779
Senate Committee on Public Safety, Government Operations, & Military Affairs
February 12, 2011
10:00 AM
Page 3

ATTACHMENT

to five responsible offerors prior to submittal of proposals or discussions and evaluations pursuant to subsection (f), provided the number of proposals that will be short listed is stated in the request for proposals and prompt public notice is given to all offerors as to which proposals have been short-listed; and

(3) Unsuccessful offerors may be paid a conceptual design fee, provided the amount of the fee and the terms under which fee will be paid are 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

SB 779
Senate Committee on Public Safety, Government Operations, & Military Affairs
February 12, 2011
10:00 AM
Page 4

ATTACHMENT

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 [~~ex 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 [~~ex designee~~] within five working days after the date that the debriefing is completed.

~~(i) At the discretion of the head of the purchasing agency, construction projects may be procured using the design-build process of combining design and construction into a single contract, provided that:~~

SB 779

Senate Committee on Public Safety, Government Operations, & Military Affairs

February 12, 2011

10:00 AM

Page 5

ATTACHMENT

- ~~(1) A design-build offeror shall be a contractor licensed under chapter 444;~~
- ~~(2) Submission of proposals shall entail the two-phased approach described as follows, or as specified in the solicitation in accordance with subsection (c):~~
- ~~(A) Each interested offeror shall submit a statement of qualifications. This phase shall be considered the request for qualifications phase;~~
- ~~(B) The chief procurement officer shall designate an evaluation committee composed of qualified, impartial, independent members who shall evaluate each offeror's statement of qualifications and develop a list of no more than five offerors who are deemed to be the most highly qualified, based upon the following criteria:~~
- ~~(i) Experience and qualifications of the offeror's team relevant to the project type;~~
- ~~(ii) Past performance on projects of similar scope for public agencies or private industry;~~
- ~~(iii) Capacity to accomplish the work in the required time; and~~
- ~~(iv) Location of the principal office and familiarity with the locality of the project;~~
- ~~provided that the names of the members of the evaluation committee shall be placed into the contract file; and~~
- ~~(C) Offerors selected by the committee may submit proposals to be considered for award of the contract. This phase shall be considered the request for proposal phase;~~
- ~~(3) At the onset of the request for proposal phase, the purchasing agency shall determine and include a statement of the maximum number of offerors who will be selected to submit proposals, and the amount of the conceptual design fee that will be provided to offerors who submit a technically responsive offer;~~
- ~~(4) If the procurement officer cancels the contract, responsive offerors, including the selected design-build offeror, shall receive the conceptual design fee; and~~
- ~~(5) The conceptual design fee shall be paid within ninety days from the award of the contract or from the day of the decision to cancel the contract."~~

SECTION 5. This Act shall take effect on ~~July 1, 2011~~ January 1, 2012.

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
SENATE COMMITTEE
ON
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS
ON
February 12, 2011

S.B. 779

RELATING TO PROCUREMENT

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

The Department of Accounting and General Services (DAGS) supports the intent of the bill, however we cannot support the bill as currently written. The following are our concerns and recommended revisions:

1. We recommend the deletion of the language (line 7 and 8 of page 4) that requires the design-build offeror to be a contractor licensed under Hawaii Revised Statutes Chapter 444. The reason for this recommendation is that there will be situations when an entity other than a construction contractor is better suited to make the offer, such as a developer. "Design-build" procurements could solicit proposals for, but not limited to: design-build-finance/lease back agreements; design-build-

finance-operate agreements, power purchase agreements, and other forms of development agreements.

2. We have concerns with the language (line 9 of page 4) that requires a two phased approach for all design-build procurements. The reason for this is that a two-phased or multi-step process may not always be the best approach or method for all design-build procurements. However, we do agree that a multi-step process can be used and may be the best method for certain design-build procurements.
3. We recommend the language shown on the attachment below.

Thank you for the opportunity to testify on this matter.

"§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] used 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, and for construction projects, the procurement officer may determine to use the design-build method.

a. A multi-step process may be used for the submission of proposals such as, but not limited to:

(1) The qualification phase in which each interested offeror shall submit a statement of qualifications and any other relevant qualification information required by the solicitation documents.

(2) The technical and price proposal phase in which offerors determined to be qualified in the qualification phase shall submit its technical design and cost proposal and any other relevant information required by the solicitation documents."

b. At the onset of the request for proposal, the procurement officer shall determine and include a statement of the maximum number of offerors who may be selected to proceed onto the next phase.

c. For design-build projects, the procurement officer may pay stipends to unsuccessful offerors, provided that the amount of the stipend and the

terms under which stipends will be paid are 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.

~~(i) At the discretion of the head of the purchasing agency, construction projects may be procured using the design-build process of combining design and construction into a single contract; provided that:~~

- ~~— (1) A design-build offeror shall be a contractor licensed under chapter 444;~~
- ~~— (2) Submission of proposals shall entail the two-phased approach described as follows, or as specified in the solicitation in accordance with subsection (e):~~
 - ~~— (A) Each interested offeror shall submit a statement of qualifications. This phase shall be considered the request for qualifications phase;~~
 - ~~— (B) The chief procurement officer shall designate an evaluation committee composed of qualified, impartial, independent members who shall evaluate each offeror's statement of qualifications and develop a list of no more than five offerors who are deemed to be the most highly qualified, based upon the following criteria:~~
 - ~~— (i) Experience and qualifications of the offeror's team relevant to the project type;~~
 - ~~— (ii) Past performance on projects of similar scope for public agencies or private industry;~~
 - ~~— (iii) Capacity to accomplish the work in the required time; and~~
 - ~~— (iv) Location of the principal office and familiarity with the locality of the project; provided that the names of the members of the evaluation committee shall be placed into the contract file; and~~
 - ~~— (C) Offerors selected by the committee may submit proposals to be considered for award of the contract. This phase shall be considered the request for proposal phase;~~
- ~~— (3) At the onset of the request for proposal phase, the purchasing agency shall determine and include a statement of the maximum number of offerors who will be selected to submit proposals, and the amount of the conceptual design fee that will be provided to offerors who submit a technically responsive offer;~~
- ~~— (4) If the procurement officer cancels the contract, responsive offerors, including the selected design-build offeror, shall receive the conceptual design fee; and~~
- ~~— (5) The conceptual design fee shall be paid within ninety days from the award of the contract or from the day of the decision to cancel the contract.”~~

SECTION 5. This Act shall take effect on ~~July 1, 2011~~ January 1, 2012.



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

FEBRUARY 12, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

COMMITTEE ON PUBLIC SAFETY,
GOVERNMENT OPERATIONS, & MILITARY AFFAIRS

SENATE BILL NO. 779

The Department of Transportation (DOT) 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 have concerns with the language that requires a two-phased approach for all design-build procurements. The reason for this is that a two-phased or multi-step process may not always be the best approach or method of all design-build procurements. However, we do agree that a multi-step process can be used and may be the best method for certain design-build procurements.
2. We also 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.
3. 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.

Date: 02/12/2011

Committee: Public Safety, Government
Operations, and Military Affairs

Department: Education

Person Testifying: Kathryn Matayoshi, Superintendent of Education

Title: SB 779 RELATING TO PROCUREMENT.

Purpose: Establishes discretionary request for competitive sealed proposal procedures using the design-build process where not more than five offerors selected on their qualifications submit proposals. Authorizes the chief procurement officer to pay a conceptual design fee to technically-responsive unsuccessful offerors or to technically-responsive offerors if the procurement is cancelled.

Department's Position: The DOE supports the intent of this bill. However, the DOE recommends that the requirement that the offeror be a contractor licensed under Hawaii Revised Statutes Chapter 444 be deleted. The reason for this is that there will be situations when an entity other than a construction contractor is better suited to make the offer, such as a developer. "Design-build" procurements could solicit a variety of different types of proposals. These include design-build-finance/lease back agreements; design-build-finance-operate agreements, power purchase agreements, and other forms of development agreements. Requiring that the offeror be a licensed contractor only may limit the ability of the DOE to apply this Design-Build method.

Thank you for the opportunity to provide testimony.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



MICHAEL R. HANSEN
ACTING DIRECTOR

February 10, 2011

The Honorable Will Espero, Chair
and Members
The Senate
Committee on Public Safety, Government Operations, and Military Affairs
The Twenty-Sixth State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill No. 779 Relating to Procurement, Competitive Sealed Proposal Procedures

The City & County of Honolulu opposes S.B. 779 which proposes to codify specific procedures for competitive sealed proposals using the design-build process. We believe that the Hawaii Public Procurement Code must remain flexible to meet the procurement needs of the City. For example, evaluation criteria other than that specified in the bill may be more appropriate to certain procurements or there may be a need to consider more than the five firms provided by the bill. Codifying a rigid process would be disadvantageous.

Furthermore, the procedures provided in the bill, including the design build process and provision for payment of fees to offerors, are not prohibited by the existing statute. Accordingly, a government agency may currently follow the process outlined by the bill if desired. Therefore, the bill is unnecessary. We stand opposed to S.B. 779.

Sincerely,

A handwritten signature in cursive script that reads "Michael R. Hansen".

Michael R. Hansen, Acting Director
Budget & Fiscal Services



BELT COLLINS®

February 10, 2011
11E-044

**Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229**

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Belt Collins Hawaii very much **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to compensate the losing short-listed design-build teams for their conceptual designs. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare their conceptual design and 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 Architectural and Engineering firms are small businesses, and providing a conceptual design fee would encourage more small firms to participate in design-build projects.

Belt Collins Hawaii appreciates the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding this testimony.

Respectfully submitted,

BELT COLLINS HAWAII LTD.



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

CMP:aca

ASCE American Society of Civil Engineers

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February 12, 2011

Honorable Will Espero, Chair
Honorable Michelle Kidani, Vice Chair
Honorable Members of the Senate Committee on Public Safety, Governments
Operations and Military Affairs

I am testifying in support for Senate Bill 779, Relating to Procurement, on behalf of the Hawaii Section of the American Society of Civil Engineers.


The American Society of Civil Engineers was established in 1852 and is the oldest professional engineering organization in the United States. The Hawaii Section of ASCE was established in 1937 and is comprised of more than 1,000 civil engineers from both the public and private sectors of our state.

At the national level, the ASCE Board of Direction adopted a policy strongly supporting the two-phase process for design-build contracts for the competitive selection of construction services. A copy of Policy Statement 400, approved on July 10, 2010 is attached.

The traditional method of construction has been the three-step design-bid-build process. In the last decade, the design-build (DB) method of contracting has been increasing steadily. Since 1982, the volume of domestic DB contracts nationwide has grown from \$6 billion to \$56 billion and now represents 23 percent of the nonresidential U.S. market. Both private and public owners are using this method to accrue savings in both costs and time by streamlining the project delivery process. In Hawaii the federal government has been the leading advocate of DB and report savings in time and cost on their projects.

ASCE urges the DB process require the qualifications-based selection process for DB team. In addition, reimbursement for the consultants' cost for the preparation of proposals should be provided by the owner. These features are contained in HB 2901, HD 1.

Thank you for the opportunity to testify on this measure. I urge your passage of HB 2901, HD 1 and would be happy to respond to any questions you may have.


Owen Miyamoto, PE, FASCE
Local Legislative Affairs Liaison

Attachment



Civil Engineers -- Designers and Builders of the Quality of Life



Policy Statement 400 - Design-Build Procurement

Home / Issues & Advocacy / Public Policies & Priorities

Approved by the Engineering Practice Policy Committee on May 3, 2010
 Approved by the Policy Review Committee on May 7, 2010
 Adopted by the Board of Direction on July 10, 2010

Policy

The American Society of Civil Engineers (ASCE) strongly supports the use of Qualifications-Based Selection (QBS) criteria when using the two-phase competitive source-selection process required by the Federal Acquisition Reform Act of 1996 (Pub. L. 104-106) for design-build contracts awarded by government agencies. The Act clearly contemplates retaining the essential QBS concepts embodied in the Brooks Act and requires that the contracting agency ("owner") devote sufficient architectural and engineering (A/E) services to prepare the design-build solicitation (which must identify the disciplines needed in the design-build team), and to represent the owner's interests throughout the project duration. The contract between the owner and the design-build team must establish a means for direct communications between the owner and the designer, as well as communication with other team members. The owner may, and on complex projects must, provide predetermined reimbursement to the firms selected to submit complete design-build proposals.

Issue

Design-build is a project delivery system whereby both design and construction responsibilities are consolidated into a single contract in order to better achieve the owner's objectives with regards to cost, quality, and schedule. However, this approach presents certain challenges which must be addressed if quality is not to be arbitrarily sacrificed in favor of cost or schedule. These challenges include:

- Ensuring that the design-build team is highly qualified in *both* the construction and the design fields. This requires ensuring that QBS is rigorously applied throughout the two-phase selection process, particularly with respect to the design element of the design-build team. In practice, the outcome of the second selection phase is largely, often almost entirely, driven by price, potentially obviating the intent of QBS. For this reason, A/E firms come under intense pressure during phase two proposal development to cut costs which, at some point, undoubtedly impacts design quality.
- Providing a contractual mechanism enabling the designer to fulfill its professional and ethical obligations to the owner and the general public. Although the construction cost element is invariably much larger than the design portion in a design-build project, the design element cannot be materially subordinated if professional standards are to be maintained; and
- Keeping excellent A/E firms enthusiastic about, or at least interested in, design-build projects. Given the extensive cost involved in preparing two-phase project proposals, with the final result largely beyond the A/E firm's influence (as it becomes essentially cost-driven in Phase 2) the best A/E firms may choose to avoid design-build projects and concentrate on traditional Brooks Act design-bid-build projects where QBS is much more influential in the selection of designers. This could be offset by more frequent and generous use of stipends for A/E firms selected to prepare Phase 2 proposals. Such stipends are specifically authorized in the Federal Acquisition Reform Act, but generally used very sparingly by federal agencies.

Rationale

Some would argue that design quality can be assured without relying on QBS by requiring additional warranties, guarantees, or other insurance-type instruments against design flaws or failures. ASCE opposes this approach, because such measures are a costly, dangerous, and ineffective way to remedy the impacts of low-bid, marginally qualified designs, provide a false sense of security, and are not in the best interests of the public. ASCE believes that there are more effective ways of ensuring public safety and efficient construction, operation, and maintenance of federal infrastructure, such as:

- Qualifications Based Selection of A/Es,
- Emphasis on life-cycle costing during the design process;
- Adequately funding maintenance instead of breakdown repairs;

- Streamlining planning, right-of-way acquisition, design, and construction processes;
- Encouraging innovation in technology and management,
- Properly allocating risk at the outset of a project, for example by using an Engineers' Joint Contract Documents Committee (EJCDC) Agreement;
- Enhancing and simplifying minimum design standards; and
- Allowing owners greater latitude to exceed the minimum design standards

See also ASCE Policy Statement 304 "Qualifications Based Selection of Professional Engineers."

ASCE Policy Statement 400
First Approved in 1992



February 10, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

Subject: SB 779, Relating to Procurement
TESTIMONY IN SUPPORT

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Our company strongly supports **SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,
CHARLES PANKOW BUILDERS, LTD.
A California Limited Partnership

Michael R. Betz, Vice President
Pankow Operating Inc., General Partner

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2011 FEB 10 PM 4:00:00

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www.browncaldwell.com

February 10, 2011



Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

Subject: SB 779, Relating to Procurement
TESTIMONY IN SUPPORT

Dear Chair Espero, Vice Chair Kidani, and Committee Members:

Brown and Caldwell strongly supports **SB 779, Relating to Procurement**. SB 779 would facilitate the procurement of design-build (D-B) teams in a manner used by the Federal Government and many other States and government entities.

SB 779 would provide for a two-step process for procuring D-B teams. At the first stage, potential D-B offerors would submit their statement of qualifications (SOQs) in response to the request for qualifications for a specific project. A selection committee would then review the SOQs and select the most qualified D-B teams (no more than five offerors) that would then be invited to participate in a second stage of providing a detailed proposal for the project. This two-step procurement process serves to reduce industry costs in responding to requests for proposals by allowing qualified D-B teams to provide a more focused effort once they are short-listed on a project, and encourage the most qualified design-builders to participate, as their chances of success is greatly increased once they reach the second stage of procurement. The two-step process also reduces the cost to the agency reviewing the proposals, as the SOQs provided during the first stage are more concise, and there are fewer detailed proposals from short-listed firms to review during the second stage.

SB 779 also allows the procurement officer the option to pay the short-listed D-B teams for their conceptual designs. Preparation of a D-B proposal is an onerous and costly task, and D-B teams can spend a significant amount of time and money to prepare their conceptual design and proposal. Studies have shown that providing even a nominal fee to the short-listed teams encourages more D-B teams to compete. We feel that providing a conceptual design fee for short-listed firms would encourage their participation because they would at least be partially compensated for their efforts, and would allow them to pursue more D-B solicitations.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,

Brown and Caldwell

A handwritten signature in black ink, appearing to read 'Douglas B. Lee'.

Douglas B. Lee, P.E.
Vice President



ECS, INC.

615 Piikoi Street, Suite 207
Honolulu, Hawaii 96814
(808) 591-8181 Fax: (808) 591-9098

February 10, 2011

EMAILED TESTIMONY TO: PGMTestimony@Capitol.hawaii.gov

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

My name is Timothy Higa and I am a principal for a small Hawaii-owned electrical engineering consulting firm. Our company strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success..

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

A handwritten signature in black ink that reads "Timothy S. Higa".

Timothy S. Higa, P.E.
Principal
ECS, Inc.



THE LIMTIACO CONSULTING GROUP
CIVIL ENGINEERING AND ENVIRONMENTAL CONSULTANTS

February 10, 2011

EMAILED TESTIMONY TO: PGMTestimony@Capitol.hawaii.gov

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

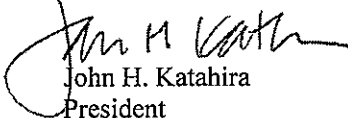
The Limtiaco Consulting Group, a small and local business, **strongly supports SB 779, Relating to Procurement**. SB 779 will promote fair and engaging design-build procurement procedures consistent with agencies highly experienced with design-build projects, such as the federal government.

SB 779 promotes a two-step process for procuring design-build teams. Design-build teams will submit their qualifications particular to the proposed project in the first phase. An agency-developed selection committee will then select a short list of the most qualified teams (typically three, but may be up to five) for the second phase where conceptual designs and fee proposals are prepared. The selection committee then selects the highest ranked team. A nominal fee (for conceptual design services) would be awarded to the short listed teams not awarded the contract.

Without SB 779, all design-build teams are required to participate all the way through the conceptual and fee proposal phase. This effort is significant, expensive, and too financially risky for most engineering companies, particularly our small and local businesses. As a result, highly-qualified firms will not be able to afford to participate in applicable design-build projects. This will have negative impacts on infrastructure and facility projects. In the end, SB 779 will end up saving the State of Hawaii money and will result in better designs due to better competition.

We appreciate the opportunity to provide testimony regarding SB 779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Best always,
The Limtiaco Consulting Group, Inc.


John H. Katahira
President

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

President

Sheryl Nojima, Ph.D., P.E.
Gray Hong Nojima & Assoc.
Ph: (808) 521-0306

President-Elect

Douglas Lee, P.E.
Brown and Caldwell
Ph: (808) 523-8499

Treasurer

Terrance Arashiro, P.E.
Austin, Tsutsumi & Assoc.
Ph: (808) 533-3646

Secretary

Mike Street, P.E.
Bowers+Kubota Consulting
Ph: (808) 836-7787

Past President

John Katahira, P.E.
The Limtiaco Consulting Group
Ph: (808) 596-7790

National Director

Jon Nishimura, P.E.
Fukunaga & Assoc.
Ph: (808) 944-1821

Directors

Beverly Ishii-Nakayama, P.E.
Shigemura, Lau, Sakanashi,
Higuchi & Assoc.
Ph: (808) 942-9100

Joel Yuen, P.E.

Insynergy Engineering
Ph: (808) 521-3773

Robin Lim, P.E.

Geolabs
Ph: (808) 841-5064

Ginny M. Wright

Executive Director
P.O. Box 88840
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Ph: (808) 234-0821
Cell: (808) 741-4772
Fx: (808) 234-1721
Email: gwright@acechawaii.org
Website: www.acechawaii.org

February 10, 2011

**Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229**

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

The American Council of Engineering Companies of Hawaii (ACECH) represents 67 member firms with over 1,300 employees throughout Hawaii, most of which are small businesses. We are comprised of the most highly qualified engineers, land surveyors, scientists, and other specialists. ACECH strongly supports SB 779, Relating to Procurement, with the following revision on page 4, lines 18 - 20 to read as follows:

“conceptual design fee that will be provided to unsuccessful offerors who submit a technically-responsive offer;”

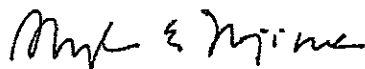
SB 779 would put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (minimum of 3 and no more than five) that would 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success.

We appreciate the opportunity to provide testimony regarding SB 779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Sincerely,

AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII



Sheryl E. Nojima, PhD, PE
President

**COALITION OF HAWAII ENGINEERING AND ARCHITECTURAL
PROFESSIONALS**

February 10, 2011

EMAILED TESTIMONY TO: PGMTestimony@Capitol.hawaii.gov

**Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229
Senate Committee on Public Safety, Government Operations, and Military Affairs**

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

Subject: **SB 779 Relating to Procurement**

Honorable Chair Espero, Vice Chair Kidani and Committee Members,

The Coalition of Hawaii Engineering & Architectural Professionals represents several professional Engineering and Architectural organizations including American Council of Engineering Companies Hawaii; Hawaii Chapter of the American Society of Civil Engineers; American Public Works Association Hawaii Chapter; Structural Engineering Association of Hawaii; and the Hawaii Society of Professional Engineers.

We are in **Strong Support of SB 779 Relating to Procurement** and to provide a nationally recognized procurement process for the procurement of Design Build construction projects.

This bill develops a two part process for the procurement of Design-Build construction. The first part will be qualification phase where the agency selects up to five highly qualified teams. The second part, short listed qualified teams will be allowed to compete in the costly and time consuming proposal phase developing the detailed scope of work and conceptual design, construction schedules and cost proposals. This 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.

We have included a requirement to allow the procurement officer to compensate the losing short-listed teams in their efforts to prepare conceptual design documents. Note: the preparation of a design-build proposal is a very costly endeavor to the Design Build teams competing to the final stage. Recent examples include Honolulu Rail first segments where DB teams have spent well over \$1 million dollars putting together very detailed proposals and conceptual designs, also the State Convention Center, and Ford Island Bridge all very costly endeavors.

We urge you to support SB 779 Relating to Procurement.

Sincerely,
Coalition of Hawaii Engineering & Architectural Professionals
Lester H. Fukuda, P.E., FACEC

Lester Fukuda

MOSS Engineering, Inc.

1357 Kapiolani Blvd., Suite 830

Electrical / Lighting Engineers

Honolulu, Hawaii 96814

Richard M. Moss, P.E., LEED® AP

February 10, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

MOSS Engineering, Inc. strongly supports **SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

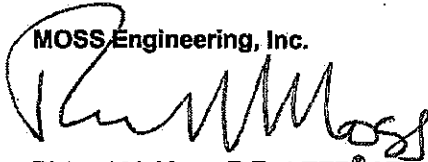
SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design, only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and 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 A/E firms are small businesses, and we feel that providing a conceptual design fee would encourage more of our small firms to participate in design-build projects.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,

MOSS Engineering, Inc.



Richard M. Moss, P.E., LEED® AP
President

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Supporting AutoCAD and Revit Platforms

TEL: (808) 951-6632

mail@moss-engineering.net

FAX: (808) 941-0917

Design Build Institute of America Western Pacific Region

5855 E. Naples Plaza, Suite 301, Long Beach, CA 90803 Phone 562-434-0516 Fax 562-434-9378 www.dbiawp.org



February 11, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,


The Design-Build Institute of America, Western Pacific Region, and the Hawaii Chapter offers our support of **SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

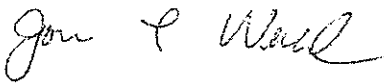
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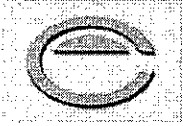
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We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,


Alan R. Levy
Chair, Hawaii Chapter
Board of Directors
DBIA-Western Pacific Region


Jon C. Wald
Chair, Legislative Committee
Board of Directors
DBIA-Western Pacific Region



ENGINEERING CONCEPTS, INC.
Consulting Engineers

February 10, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

Subject: SB 779, Relating to Procurement
TESTIMONY IN SUPPORT

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Our company strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

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We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,

Myron Nomura
President



ENGINEERING CONCEPTS, INC.
Consulting Engineers

February 10, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

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Subject: **SB 779, Relating to Procurement**
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We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,

A handwritten signature in cursive script that reads "Craig S. Arakaki".

Craig Arakaki
Vice President



ENGINEERING CONCEPTS, INC.
Consulting Engineers

February 10, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

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

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SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,

Kenneth Ishizaki
Executive Vice President



February 11, 2011

EMAILED TESTIMONY

**Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229
Senate Committee on Public Safety, Government Operations, and Military Affairs**

Honorable Senators Will Espero, Chair, Michelle Kidani, Vice Chair, and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Pacific Geotechnical Engineers, Inc. strongly **supports SB 779, Relating to Procurement**. SB 779 would 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 (not more than five) that would then proceed to the second proposal stage. The second step is issuance of a request for proposals and evaluation of technical and price proposals from the pre-qualified/short-listed teams.

This two-step process will encourage highly qualified design-builders to participate in requests for design-build proposals by increasing their chances of success and reducing industry costs. The two-step process also reduces the cost to the agency of reviewing the proposals by ensuring the agency reviews a select number of proposals from the most highly qualified teams. It should not significantly increase time needed for the procurement process, as the initial request for qualifications can be a shorter time period, and limiting the proposals to only the most qualified teams means fewer proposals for an agency to review.

SB 779 also provides for the granting of a stipend to the losing short-listed teams. Preparation of a design-build proposal is an onerous one, and studies have shown that the use of stipends encourage competition by allowing more firms to participate.

We appreciate the opportunity to provide testimony in **support of SB 779**. Please do not hesitate to contact me at (808) 678-8024 if you have any questions regarding this testimony.

Respectfully submitted,

PACIFIC GEOTECHNICAL
ENGINEERS, INC.

Glen Y.F. Lau, P.E.
President

Kennedy/Jenks Consultants
98-1268 Kaahumanu Street, Suite 204
Pearl City, Hawaii 96782
P: 808.488.0477 F: 808.488.3776

February 9, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

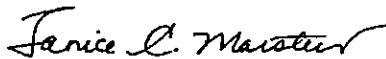
Our company strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (up to five) 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.

SB 779 also provides for the granting of a conceptual design fee to the losing short-listed teams. 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 A/E firms are small businesses, and we feel that providing a conceptual design fee would encourage more of our small firms to participate in design-build projects.

We appreciate the opportunity to provide testimony regarding SB779. 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

Kennedy/Jenks Consultants

Engineers & Scientists

Formerly ENGINEERING SOLUTIONS, INC.
98-1268 Kaahumanu Street, Suite 204
Pearl City, Hawaii 96782
808-488-0477
FAX: 808-488-3776

February 10, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
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TESTIMONY IN SUPPORT

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Our company strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,
KENNEDY/JENKS CONSULTANTS



Richard E. Frey, P.E.
Vice President



February 11, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
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Subject: **SB 779, Relating to Procurement**
TESTIMONY IN SUPPORT

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

I would like to offer our support of **SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,
MARYL GROUP, INC.

Colleen M. Mizuno
Vice President, Preconstruction/Business Development

55 Merchant Street, Suite 2900
Honolulu, Hawaii 96813
Tel: 808.545.6464 • Fax: 808.545.6475

www.maryl.com
888.627.9544

75-1000 Henry Street, Suite 200
P.O. Box 1928, Kailua-Kona, Hawaii 96745
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KAI HAWAII
STRUCTURAL & FORENSIC ENGINEERS

Ken K. Hayashida, P.E.
Michael P. Hunnemann, P.E.

February 9, 2011

Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Our company strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

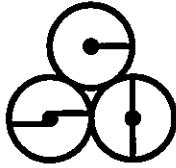
SB 779 would put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (minimum of 3 and no more than five) that would 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design, only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and 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 A/E firms are small businesses, and we feel that providing a conceptual design fee would encourage more of our small firms to participate in design-build projects.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

Ken Hayashida, President
KAI Hawaii, Inc.



**CONSULTING
STRUCTURAL HAWAII, INC.**

931 Hausten Street, Suite 200
Honolulu, Hawaii 96826
Phone: (808) 945-0198 • Fax: (808) 944-1177
e-mail: cs@consultingstructuralhawaii.com

February 10, 2011

**Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229**

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Consulting Structural Hawaii, Inc. strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success. Consulting Structural Hawaii, Inc. has become very selective and we are often very reluctant on being on a contractor's design-build team since the percentage is very small on being on the winning team. We will definitely be more willing to provide the effort to being on a contractor's design-build team if conceptual design fees are provided.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,
Roy K. Yamashiro, P.E., Principal
Consulting Structural Hawaii, Inc.

PGM
2.12.11
10:00 am

February 12, 2011

Honorable Will Espero, Chair
Senate Committee on Public Safety, Government Operations, & Military Affairs

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

Dear Chair Espero 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.

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.

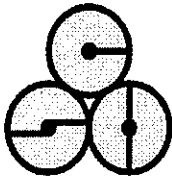
I have "won" only one of these, which is considered a good average. I have "lost" three of these competitions with the resulting increase in my small business overhead operating costs. Senate Bill 779 remedies some of the more onerous aspects of current design-build procurement in the following ways:

- Requires a two-phase process beginning with Qualifications Based Selection or QBS criteria modeled on HRS 103D-304.
- Requires 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. The current practice of 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.





**CONSULTING
STRUCTURAL HAWAII, INC.**

Structural Engineers

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Phone: (808) 945-0198 • Fax: (808) 944-1177

Email: csh@consultingstructuralhawaii.com

February 10, 2011

**Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229**

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members,

Our company strongly **supports SB 779, Relating to Procurement**. SB 779 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

SB 779 would 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 (minimum of 3 and no more than five) 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.

SB 779 also allows the procurement officer the option to pay the design-build team for the conceptual design only for the losing short-listed teams. Preparation of a design-build proposal is an onerous task, and teams can spend more than \$1 million on large projects to prepare the conceptual design and proposal. Studies have shown that the providing even a nominal fee to the losing teams encourages more teams to compete. In Hawaii, many of our local engineering design firms are small businesses, and we feel that providing a conceptual design fee would encourage their participation because they are more comfortable with their chances of success.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

Gary S. Suzuki, President, S.E.
CONSULTING STRUCTURAL HAWAII, INC.

1955 Main Street, Suite 200
Wailuku, Hawaii 96793
Tel: 808-244-7005
Fax: 808-244-9026
www.browncaldwell.com

February 10, 2011



Senate Committee on Public Safety, Government Operations, and Military Affairs
Hearing Date: Saturday, February 12, 10:00 a.m., Conference Room 229

Honorable Senators Will Espero, Chair; Michelle Kidani, Vice Chair; and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

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

Dear Chair Espero, Vice Chair Kidani, and Committee Members:

Brown and Caldwell strongly **supports SB 779, Relating to Procurement**. SB 779 would facilitate the procurement of design-build (D-B) teams in a manner used by the Federal Government and many other States and government entities.

SB 779 would provide for a two-step process for procuring D-B teams. At the first stage, potential D-B offerors would submit their statement of qualifications (SOQs) in response to the request for qualifications for a specific project. A selection committee would then review the SOQs and select the most qualified D-B teams (no more than five offerors) that would then be invited to participate in a second stage of providing a detailed proposal for the project. This two-step procurement process serves to reduce industry costs in responding to requests for proposals by allowing qualified D-B teams to provide a more focused effort once they are short-listed on a project, and encourage the most qualified design-builders to participate, as their chances of success are greatly increased once they reach the second stage of procurement. The two-step process also reduces the cost to the agency reviewing the proposals, as the SOQs provided during the first stage are more concise, and there are fewer detailed proposals from short-listed firms to review during the second stage.

SB 779 also allows the procurement officer the option to pay the short-listed D-B teams for their conceptual designs. Preparation of a D-B proposal is an onerous and costly task, and D-B teams can spend a significant amount of time and money to prepare their conceptual design and proposal. Studies have shown that providing even a nominal fee to the short-listed teams encourages more D-B teams to compete. We feel that providing a conceptual design fee for short-listed firms would encourage their participation because they would at least be partially compensated for their efforts, and would allow them to pursue more D-B solicitations.

We appreciate the opportunity to provide testimony regarding SB779. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,
Brown and Caldwell

A handwritten signature in black ink that reads "Raymond N. Matasci".

Raymond N. Matasci, P.E.
Vice President

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



February 10, 2011

PETER B. CARLISLE, MAYOR

RANDALL Y. S. CHUNG, Chairman
ANTHONY R. GUERRERO, JR.
WILLIAM K. MAHOE
THERESIA C. McMURDO
ADAM C. WONG

GEORGE "KEOKI" MIYAMOTO, Ex-Officio
GLENN M. OKIMOTO, Ex-Officio

WAYNE M. HASHIRO, P.E.
Manager and Chief Engineer

DEAN A. NAKANO
Deputy Manager

The Honorable Will Espero, Chair
and Members
The Senate
Committee on Public Safety, Government Operations,
and Military Affairs
State Capitol, Conference Room 229
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill 779, Relating to Procurement

Thank you for the opportunity to submit testimony on SB 779, Relating to Procurement.

The Board of Water Supply, City and County of Honolulu (BWS), opposes this bill. As currently drafted, this bill requires the purchasing agency to pay a stipend to unsuccessful offerors that have submitted technically-responsive proposals. This mandatory stipend would increase the cost of the project, and in some cases, would serve to discourage procuring agencies from utilizing the design-build method of procurement.

The BWS respectfully opposes SB 779, and requests that the bill be amended to either omit the stipend or to allow chief procurement officers or heads of the purchasing agency discretion as to whether to provide a stipend to unsuccessful offerors when utilizing a design-build procurement process.

Sincerely,

WAYNE M. HASHIRO, P.E.
Manager and Chief Engineer