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**BIA-HAWAII**  
**BUILDING INDUSTRY ASSOCIATION**

**Testimony to House Committees on Consumer Protection & Commerce and  
Judiciary**

Tuesday, February 14, 2012

3:15 p.m.

Capitol Room 224

**RE: S.B. 2457, Relating to Procurement**

Good morning Chair Espero, Vice-Chair Kidani, and members of the Committee:

My name is Gladys Quinto Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, BIA-Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii **supports** S.B. 2457, which requires a hearing officer to affirm the decision of a procurement officer in protests filed under section 103D-701, HRS, unless the procurement officer's decision is shown by clear and convincing evidence to be arbitrary, capricious, fraudulent, or clearly erroneous.

BIA-Hawaii is also in support of any amendments to the bill that the General Contractors Association of Hawaii (GCA) may propose. The intent of the bill is to simplify and expedite the procurement appeal process by recognizing the procuring agency's experience and expertise in the procurement process, while preserving the right of review of a procuring agency's decision to the Department of Commerce and Consumer Affairs (DCCA) Office of Administrative Hearings (OAH).

This bill retains a bid protester's right to a hearing before the OAH, but limits the hearing officer's review to the record of the procuring agencies decision below. Under this bill, the OAH review is generally limited to a review of the written record of procuring agency's protest proceedings for evidence of decisions that may be arbitrary, capricious, fraudulent, or clearly erroneous.

This bill balances the desire to expedite procurements delayed by constant protest appeals while preserving a limited right of review of a procuring agency's decision to the DCCA OAH.

For the foregoing reasons, BIA-Hawaii **supports** S.B. 2457.

Thank you for the opportunity to testify.