

NEIL ABERCROMBIE  
GOVERNOR



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**L A T E**

COMMENTS  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
SENATE COMMITTEE  
ON  
WAYS AND MEANS

February 24, 2011

9:00 a.m.

SB 779, SD 1

RELATING TO PROCUREMENT.

Chair Ige, Vice Chair Kidani and committee members, thank you for the opportunity to testify on SB779, SD1. 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.

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

**"§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 and for construction projects, the procurement officer may procure services using 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 offerors, in order to select from among them a short list of up to three-five responsible offerors prior to submittal of proposals or discussions and evaluations pursuant to subsection (f); provided that the number of short-listed proposals shall be is stated in the request for proposals and prompt public notice shall be 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 that the amount of the fee and the terms under which the fee is to be paid shall be 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~~] non-selected offeror a prompt debriefing [~~in accordance with rules adopted by the policy board~~]. Any protest by the [~~requester~~] non-selected 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 January 1, 2012.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 23, 2011 5:32 PM  
**To:** WAM Testimony  
**Cc:** dan@hawaiianarchitects.com  
**Subject:** Testimony for SB779 on 2/24/2011 9:00:00 AM

**L A T E**

Testimony for WAM 2/24/2011 9:00:00 AM SB779

Conference room: 211  
Testifier position: support  
Testifier will be present: No  
Submitted by: American Institute of Architects  
Organization: American Institute of Architects  
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E-mail: [dan@hawaiianarchitects.com](mailto:dan@hawaiianarchitects.com)  
Submitted on: 2/23/2011

**Comments:**

AIA is in SUPPORT of SB 779 SD 1 to further refine the design build procurement process and help reduce small business overhead costs.