
HOUSE CONCURRENT RESOLUTION

REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON
DEBARMENTS AND SUSPENSIONS OF STATE CONTRACTORS.

1 WHEREAS, government contracting is the process by which
2 public bodies and agencies obtain needed goods, services, or
3 construction to enable government operations to conduct and
4 achieve their missions; and
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6 WHEREAS, the Hawaii Public Procurement Code, codified in
7 the Hawaii Revised Statutes as Chapter 103D, and the provision
8 of Purchases of Health and Human Services, codified in the
9 Hawaii Revised Statutes as Chapter 103F, were established to
10 promote economy, efficiency, and effectiveness in the
11 procurement of various goods and services, and construction for,
12 the State and counties of Hawaii; and
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14 WHEREAS, however, the procurement process can be lengthy
15 and complex due to numerous related requirements or processes in
16 the Hawaii Revised Statutes, applicable Hawaii Administrative
17 Rules, and jurisdictional administrative requirements and
18 approvals that require consideration and inclusion when
19 contracting for goods, services, or construction; and
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21 WHEREAS, to maintain the efficiency, effectiveness, and
22 economic benefits of the Hawaii Public Procurement Code, as well
23 as to preserve the Procurement Code's integrity, proper
24 oversight of the Code and applicable administrative rules and
25 requirements, including any penalties for violations of the
26 Procurement Code or its related rules and requirements, needs to
27 be ensured; and
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29 WHEREAS, Hawaii's State Procurement Office administers,
30 implements, and ensures compliance with the Hawaii Public
31 Procurement Code; and



1 WHEREAS, one method of maintaining the integrity of the
2 Hawaii Public Procurement Code is to impose sanctions against a
3 contractor, including debarment or suspension, for serious,
4 relevant criminal convictions or for violations of contract
5 provisions; and

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7 WHEREAS, according to section 103D-702(a), Hawaii Revised
8 Statutes:

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10 *"...The serious nature of debarment and suspension*
11 *requires that these sanctions be imposed only in the*
12 *public interest for a governmental body's protection*
13 *and not for the purpose of punishment. An agency*
14 *shall impose debarment or suspension to protect a*
15 *governmental body's interests and only for cause and*
16 *in accordance with this section."*; and

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18 WHEREAS, according to the State Procurement Office, no
19 infrastructure currently exists to verify whether a contractor
20 has committed and been found guilty of a serious criminal
21 offense under state or federal statutes relating to a
22 contractor's lack of integrity, honesty, or any other similar
23 cause that would warrant a debarment of that contractor from a
24 current contract or consideration for future contract awards;
25 and

26
27 WHEREAS, the lack of oversight on issues warranting
28 debarment or suspension hinders the State Procurement Office's
29 ability to properly enforce the Hawaii Public Procurement Code,
30 and may result in the public interest's not being realized in
31 public contracts for goods, services, or construction; now,
32 therefore,

33
34 BE IT RESOLVED by the House of Representatives of the
35 Twenty-seventh Legislature of the State of Hawaii, Regular
36 Session of 2014, the Senate concurring, that the State
37 Procurement Office is requested to conduct a study on the number
38 of debarments and suspensions of state contractors that occurred
39 over the past ten years and the number of verified guilty felony
40 criminal convictions that resulted in debarment or suspension of
41 a contractor over the past three years; and



1 BE IT FURTHER RESOLVED that the study include the number
2 and circumstances involved in debarments or suspensions relating
3 to the following factors:
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- 5 (1) Whether the contractor had effective standards of
6 conduct and internal control systems in place at the
7 time of the cause for debarment or suspension;
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- 9 (2) Whether the contractor brought the cause for debarment
10 or suspension to the attention of the appropriate
11 government agency in a timely manner;
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- 13 (3) Whether the contractor conducted a full investigation
14 of the cause for debarment or suspension;
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- 16 (4) Whether the contractor cooperated with all government
17 agencies investigating the cause for debarment or
18 suspension;
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- 20 (5) Whether the contractor has paid, or has agreed to pay,
21 all criminal, civil, and administrative liabilities
22 associated with the cause for debarment or suspension;
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- 24 (6) Whether the contractor has taken appropriate
25 disciplinary action against the individuals
26 responsible for the cause for debarment or suspension;
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- 28 (7) Whether the contractor has since implemented remedial
29 measures to address the cause for debarment or
30 suspension, including any measures identified by a
31 government body or agency;
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- 33 (8) Whether the contractor has instituted new or revised
34 ethics training programs;
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- 36 (9) Whether the contractor has had adequate time to
37 eliminate the circumstances that led to the cause for
38 debarment or suspension;
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- 40 (10) Whether the contractor's management recognizes and
41 understands the seriousness of the misconduct; and
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- 43 (11) Whether the Chief Procurement Officer has allowed the
44 debarred or suspended contractor to continue



performance on any contract awarded prior to the effective date of the debarment or suspension; and

BE IT FURTHER RESOLVED that the State Procurement Office assess the infrastructure needs required to validate with the Judiciary, Department of Labor and Industrial Relations, Department of Taxation, Department of Commerce and Consumer Affairs, and any other compliance agencies that may be applicable, whether a contractor or potential contractor has committed and been found guilty of a serious criminal offense or contract violation under state or federal statutes that would lead to disbarment or suspension; and

BE IT FURTHER RESOLVED that the State Procurement Office is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature not later than 20 days prior to the convening of the Regular Session of 2015; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor and the Chief Procurement Officer.

OFFERED BY:

GJE

John C. De...
Colin W. King

John
James
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