

STAND. COM. REP. NO.

1368

Honolulu, Hawaii

APR 05 2013

RE: H.B. No. 1374  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 1374, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to revise the public procurement code to permit past performance to be considered when awarding contracts.

More specifically, this measure:

- (1) Requires past performance on projects of similar scope for public agencies to be included among the evaluation criteria for competitive sealed bidding and among the evaluation factors for competitive sealed proposals;
- (2) Requires assessments of prior work to be included among the selection criteria for the procurement of professional services; and
- (3) Requires offerors to submit information on and assessments of prior work of similar scope for public agencies in order to establish the offerors' responsibility.

Your Committee received written comments in support of this measure from the Hawaii Regional Council of Carpenters. Your

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Committee received written comments in opposition to this measure from the Department of Accounting and General Services. Your Committee received written comments on this measure from the State Procurement Office and the General Contractors Association of Hawaii.

Your Committee finds that the public procurement code allows factors such as past performance to be considered, but the current administrative practice is to give little, if any, weight to poor past performance, provided that the construction contractor is the lowest bidder. Your Committee believes greater weight must be given to a contractor's past performance on public works projects to ensure that prudent decisions are made when expending precious taxpayer dollars.

Your Committee has amended this measure by:

- (1) Retaining existing statutory language that mandatory evaluation criteria for competitive sealed bidding be "objectively measurable," rather than "fair in the eyes of a reasonably objective taxpayer," and by specifying that the mandatory evaluation criteria will be used, "as applicable";
- (2) Permitting, rather than mandating, that the evaluation factors for competitive sealed proposals include applicable past performance on projects of similar scope for public agencies;
- (3) Deleting the provision that would have required offerors to submit information on and assessments of prior work of similar scope for public agencies in order to establish the offerors' responsibility; and
- (4) Making technical nonsubstantive amendments for the purposes of clarity and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1374, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1374, H.D. 1, S.D. 1.



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

*David Y. Ige*

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DAVID Y. IGE, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1374, HD1	EGA, WAM	4-3-13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.	✓			
ENGLISH, J. Kalani	✓			
ESPERO, Will	✓			
KAHELE, Gilbert	✓			
KEITH-AGARAN, Gilbert S.C.	✓			
KOUCHI, Ronald D.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
TOKUDA, Jill N.	✓			
SLOM, Sam	✓			
<b>TOTAL</b>	13	0	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Michelle N. Kidani</i>				
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\*Only one measure per Record of Votes