

# HCR 176

REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON THE FEASIBILITY, NECESSARY PROCESSES, AND COSTS RELATIVE TO REQUIRING THE CONSIDERATION OF PAST PERFORMANCE AS A FACTOR IN AWARDING PUBLIC CONTRACTS, INCLUDING LOW BID CONTRACTS.



**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

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COMMENTS  
OF  
SARAH ALLEN, ACTING ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS  
AND HOUSING

April 14, 2014 ,2:50 PM

HCR 176

REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON THE  
FEASIBILITY, NECESSARY PROCESSES, AND COSTS RELATIVE TO REQUIRING THE  
CONSIDERATION OF PAST PERFORMANCE AS A FACTOR IN AWARDING PUBLIC  
CONTRACTS, INCLUDING LOW BID CONTRACTS.

Chairs Dela Cruz, Vice Chair Slom, and committee members, thank you for the opportunity to  
submit comments on HCR 176.

The State Procurement Office (SPO) strongly opposes this resolution. The SPO, in its normal  
course of business, is already conducting a study on past performance in public contracts.  
Therefore, this resolution is not necessary.

Thank you.

# Hawai'i Construction Alliance

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April 11, 2014

The Honorable Donovan Dela Cruz, Chair  
The Honorable Sam Slom, Vice Chair  
and Members  
Senate Committee on Economic Development,  
Government Operations and Housing  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**RE: Support for intent of HCR176**

Dear Chair Dela Cruz, Vice Chair Slom, and members:

The Hawai'i Construction Alliance supports the intent of HCR176, which requests the State Procurement Office to conduct a study on the feasibility, necessary processes, and costs relative to requiring the consideration of past performance as a factor in awarding public contracts, including low bid contracts.

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Hawai'i Masons Union, Local 1 and Local 630; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the four member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the four basic crafts of Hawai'i's construction industry.

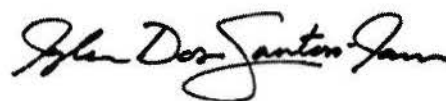
There is a need to establish a fair system to evaluate past performance of contractors who are seeking to perform work on public contracts. As has been noted in the testimony of the State Procurement Office, this may require a study of benchmarking with other states, collecting and analyzing metrics from state departments, creating focus groups for vendors and state personnel and conducting a survey for business analytics.

We further note that the procurement task force created by SCR92 SD2 (2013) continues to meet. Their task is to study the state procurement code and identify amendments that would increase economy, efficiency, effectiveness, and impartiality in the procurement of public works construction projects. The task force is expected to submit a report to the legislature before the next session, and it is possible that their report will include a discussion of past performance.

Therefore, we would ask the legislature to consider the findings of the State Procurement Office's study and the recommendations of the procurement task force before pursuing any changes to Hawai'i's procurement system in the next legislative session.

Mahalo for the opportunity to testify.

Yours truly,



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Executive Director  
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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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April 14, 2014

TO: HONORABLE DONOVAN DELA CRUZ, CHAIR, HONORABLE SAM SLOM, VICE CHAIR AND COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING

SUBJECT: **COMMENTS REGARDING HCR 176, REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON THE FEASIBILITY, NECESSARY PROCESSES, AND COSTS RELATIVE TO REQUIRING THE CONSIDERATION OF PAST PERFORMANCE AS A FACTOR IN AWARDING PUBLIC CONTRACTS, INCLUDING LOW BID CONTRACTS.**

HEARING

DATE: Monday, April 14, 2014  
TIME: 2:50 p.m.  
PLACE: Capitol Room 016

Dear Chair Dela Cruz, Chair Slom and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

House Concurrent Resolution 176 is requesting that the State Procurement Office conduct a study on the feasibility, necessary processes, and costs relative to requiring the consideration of past performance as a factor in awarding public contracts, including low bid contracts. **This Resolution may be premature as the Procurement Task Force created last session is scheduled to report to the 2015 Legislature and will be addressing issues related to bad performing contractors.**

While GCA supports the intent of this Resolution, it finds that this legislation is unnecessary because such qualification criteria, or past performance is already permitted under 103D-302(f) under the invitation for bid process. Under Section 103D-302(f), HRS an invitation for bid may set the requirements to determine qualifications and criteria for a project. In other words, the agency may set the criteria and qualifications for the bidder in its bid specifications, which could include such criteria as past performance, recent project history and any other qualifications an agency may find necessary. It appears that this Resolution is attempting to address contractors that may not be performing up to par.

**2013 Procurement Task Force pursuant to SCR 92, SD2 (2013)**

GCA is actively participating in the ongoing Procurement Task Force convened by the legislature last year pursuant to SCR 92, SD2 (2013). The Resolution Requests the Comptroller to Establish a Task Force to Study the State Procurement Code and Identify Amendments that Would Increase Economy, Efficiency, Effectiveness, and Impartiality in the Procurement of Public Works Construction Projects. The Task Force is scheduled to report to the legislature next session, but has since met a number of times and has preliminarily identified items of concern. The areas of concerns identified include the subcontractor listing law, preferences, bid protests and the elimination of bad contractors.

Thank you for this opportunity to share our comments about this measure.