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# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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March 18, 2014

TO: HONORABLE CLIFT TSUJI, CHAIR, HONORABLE GENE WARD, VICE CHAIR AND COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

SUBJECT: **COMMENTS REGARDING HCR 176/HR134**, 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: Tuesday, March 18, 2014

TIME: 9:00 a.m.

PLACE: Capitol Room 312

Dear Chair Tsuji, Chair Ward 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 and House Resolution 134 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.

While GCA supports the intent of these Resolutions, it finds that 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 these Resolutions are attempting to address contractors that may not be performing up to par. These Resolutions 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.

**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. During recent discussions among private and public sector task force members, the issue of subcontractor listing and how they lead to bid protests has been extensively discussed.

Thank you for this opportunity to share our comments.



**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

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TESTIMONY  
OF  
SARAH ALLEN, ACTING ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE  
ON  
ECONOMIC DEVELOPMENT & BUSINESS

March 18 2014, 9:00 am

HCR 176/HR 134

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.

Chair Tsuji, Vice Chair Ward, and committee members, thank you for the opportunity to testify on HCR 176/HR 134.

The State Procurement Office (SPO) strongly supports this bill. However, resources are necessary to complete this task in a timely manner. To successfully submit a useful and complete report it would require funding of at least \$25,000 for outsourcing to assist with 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.

Thank you.