

STAND. COM. REP. NO.

602

Honolulu, Hawaii

**MAR 05 2015**

RE: S.B. No. 1064  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committee on Government Operations, to which was referred S.B. No. 1064 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT OF PROFESSIONAL SERVICES,"

begs leave to report as follows:

The purpose and intent of this measure is to provide an effective procurement process for situations where a review committee is unable to send three or more qualified persons' submittals to provide professional services to the head of the purchasing agency pursuant to section 103D-304, Hawaii Revised Statutes.

Your Committee received testimony in support of this measure from the State Procurement Office, Department of Budget and Fiscal Services of the City and County of Honolulu, and Finance Department of the County of Hawaii. Your Committee received testimony in opposition to this measure from the American Institute of Architects Hawaii State Council; Nanea Studios Inc.; Miyashiro and Associates, Inc.; American Council of Engineering Companies of Hawaii; Fukunaga & Associates, Inc.; The Limtiaco Consulting Group, Inc.; Bow Engineering & Development, Inc.; Shigemura, Lau, Sakanashi, Higuchi, and Associates, Inc.; Gray, Hong, Nojima, & Associates, Inc.; WSP Hawaii, Inc.; Thermal Engineering Corporation; Pacific Geotechnical Engineers, Inc.; Kukulu, LLC; Henniger & Henniger, Inc.; Fung Associates, Inc.; Maunakai and Associates; and four individuals.

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Your Committee finds that this measure is necessary to provide a process for a procurement to proceed where fewer than three qualified persons are available to be sent to the head of the purchasing agency for contract negotiations. Prior to the February 2014 Hawaii Supreme Court ruling in *Asato v. Procurement Policy Board*, No. SCAP-12-0000789 (Haw. Feb. 14, 2014), administrative rules established by the Procurement Policy Board governed the procurement process where fewer than three qualified persons are available to be sent to the head of the purchasing agency for contract negotiations. The *Asato* decision struck down the administrative rules because they were less restrictive than the statute. This measure addresses that problem by specifically authorizing the Procurement Policy Board to establish administrative rules to guide procurements where fewer than three qualified persons are available to proceed to the head of the purchasing agency for contract negotiations.

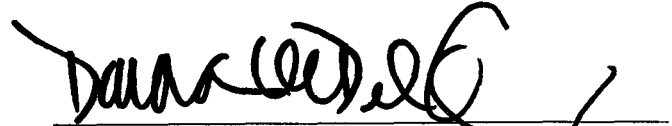
Your Committee has amended this measure by:

- (1) Removing the authorization for the head of the purchasing agency to proceed with fewer than three qualified persons in accordance with administrative rules adopted by the Procurement Policy Board;
- (2) Reinstating the requirement to rank persons based on selection criteria;
- (3) Specifying that in cases where fewer than three qualified persons can be sent to the head of the purchasing agency, a request for an alternative procurement may be made to the chief procurement officer in accordance with administrative rules adopted by the Procurement Policy Board; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1064, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1064, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on  
behalf of the members of the  
Committee on Government  
Operations,

  
\_\_\_\_\_  
DONOVAN M. DELA CRUZ, Chair



The Senate  
 Twenty-Eighth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Government Operations**  
**GVO**

Bill / Resolution No.:* <b>SB1064</b>	Committee Referral: <b>GVO</b>	Date: <b>2-26-15</b>
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The Committee is reconsidering its previous decision on this measure.  
 If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312    
  Pass, with amendments 2311    
 Hold 2310    
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
IHARA, Jr., Les				✓
TOKUDA, Jill N.				✓
SLOM, Sam	✓			
<b>TOTAL</b>	<b>3</b>			<b>2</b>

Recommendation:    
 Adopted    
 Not Adopted

Chair's or Designee's Signature:  
*Clarence K. Nishihara*

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