

Honolulu, Hawaii

MAR 23 2018

RE: H.B. No. 2178  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred H.B. No. 2178, 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 remove the \$10,000 maximum limit on the cash or protest bond that must be posted for a procurement award protest.

Your Committee received testimony in support of this measure from the Department of Accounting and General Services, Department of Transportation, and State Procurement Office. Your Committee received testimony in opposition to this measure from the Hawaii Procurement Institute and one individual.

Your Committee finds that greater efficiency in the bid process for procurement contracts is necessary to eliminate government waste and increase government efficiency. Your Committee also finds that bid protests account for many of the delays in the bid process. Under existing law the party initiating a protest must provide in a cash or protest bond one-half percent of the total value for contracts with an estimated value of \$1,000,000 or more and the maximum cash or protest bond amount is capped at \$10,000. Your Committee finds that the existing percentage and maximum allowable cash or protest bond is



too low and consequently provides no deterrent for those who might unnecessarily delay a public works project. Therefore, your Committee finds that the cash or protest bond for contracts with an estimated value of \$1,000,000 or more should be raised to five percent of the total value of the contract and the maximum cash or protest bond amount should be raised to \$10,000,000 to increase the efficiency of the bid process for procurement contracts. In addition, your Committee finds that the prevailing party in such protest actions should be entitled to attorneys' fees and costs.

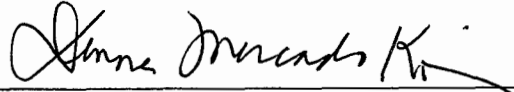
Accordingly, your Committee has amended this measure by:

- (1) Establishing that an initiating party must pay cash or protest bond equal to five percent of the estimated value of the contract if the estimated value of the contract is \$1,000,000 or more;
- (2) Establishing a \$10,000,000 maximum limit on a cash or protest bond that must be posted for a procurement award protest;
- (3) Establishing that the prevailing party in an administrative protest hearing is entitled to attorneys' fees and costs; and
- (4) Making a technical, nonsubstantive amendment 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 H.B. No. 2178, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2178, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.



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



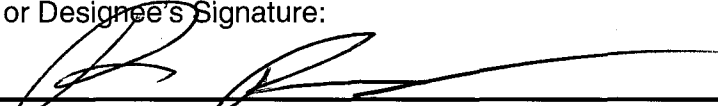
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DONNA MERCADO KIM, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

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

Bill / Resolution No.:* <b>HB 2178 HDI</b>	Committee Referral: <b>GVO, WAM</b>	Date: <b>3-20-18</b>		
<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
KIM, Donna Mercado (C)	X			
RUDERMAN, Russell E. (VC)	X			
GALUTERIA, Brickwood	X			
KEITH-AGARAN, Gilbert S.C.	X			
RHOADS, Karl	X			
<b>TOTAL</b>	<b>15</b>	<b>0</b>	<b>0</b>	<b>0</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original             Yellow             Pink             Goldenrod File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy				

\*Only one measure per Record of Votes