

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 2601

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 S.B. No. 2601 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require past performance to be factored into future bid selection of a contractor;
- (2) Require past performance to be considered in sole source procurement;
- (3) Require that upon completion of a procurement contract, the department that issued the request for proposal shall evaluate the work and performance of the respective contractors and maintain the evaluations in the department's files; and
- (4) Appropriate funds to enact the proposals.

Your Committee received testimony in support of this measure from the State Procurement Office, Pacific Resource Partnership, and one individual. Your Committee received testimony in opposition to this measure from the Department of Design and Construction of the City and County of Honolulu. Your Committee



received comments on this measure from the Department of Accounting and General Services and General Contractors Association of Hawaii.

Your Committee finds that the State's procurement process is in need of increased accountability and greater efficiency to better utilize taxpayer dollars and respond to public needs. Existing law makes possible the award of state contracts to the lowest bidder through the invitation for bid process without regard to the bidder's poor past performance. Such bidders may be considered qualified despite poor performance on state, federal, or private contracts in the past, which may result in repeated inefficiencies and substandard work. Moreover, your Committee notes that while existing state guidelines do not necessarily require consideration of past performance, federal procurement procedures do take into account past performance of bidders. Therefore, your Committee finds that the procurement code should be updated to allow for consideration of past performance in bid selection of a contractor and in sole source procurement. Your Committee also finds that the State's guidelines for considering past performance should align with the existing federal procurement guidelines.

However, your Committee acknowledges the concerns of the State Procurement Office that the proposals in this measure may require additional details and elaboration to fully align with the federal procurement guidelines. Therefore, if your Committee on Ways and Means decides to hear this measure, your Committee recommends that your Committee on Ways and Means continue discussions with the State Procurement Office regarding any additional language that may be necessary to effectuate your Committee's intent.

Your Committee has amended this measure by:

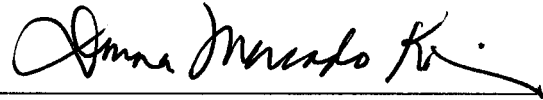
- (1) Adding a new section to part II of chapter 103D, Hawaii Revised Statutes, establishing procedures and factors to be considered in the evaluation, consideration, or review of past performance based on similar federal regulations;
- (2) Removing language that defines "past performance"; and



- (3) 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. 2601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2601, 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,



DONNA MERCADO KIM, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* <i>SB 2601</i>	Committee Referral: <i>GVO, WAM</i>	Date: <i>2/13/18</i>		
<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)	<i>X</i>			
RUDERMAN, Russell E. (VC)	<i>X</i>			
GALUTERIA, Brickwood	<i>X</i>			
KEITH-AGARAN, Gilbert S.C.				<i>X</i>
RHOADS, Karl	<i>X</i>			
TOTAL	<i>4</i>	<i>0</i>	<i>0</i>	<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes