

Honolulu, Hawaii

APR 28 2022

RE: S.B. No. 3372  
S.D. 1  
H.D. 2  
C.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 3372, S.D. 1, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC PROCUREMENT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to authorize the Office of Administrative Hearings, where it is determined that an award of a contract is in violation of law and the award is rescinded and the contract, if executed, is terminated or declared null and void, to award the government contract to the next lowest bidder or next responsible offeror, if certain conditions are met.

Your Committee on Conference finds that existing law lacks a statutory procedure to address to whom a contract may be awarded when it is determined that a solicitation or award of a contract violates the law. As a result, under these circumstances, the only remedy available to the Office of Administrative Hearings is to



terminate the contract and begin the procurement process anew. Your Committee on Conference further finds that contract termination and re-solicitation delays the procurement process. Accordingly, this measure ensures fairness while minimizing delays in the procurement process by expanding the remedial powers of the Office of Administrative Hearings in situations where an award of a contract is determined to violate the law.

Your Committee on Conference has amended this measure by:

- (1) Clarifying that the alternate award recipient is the next lowest responsible and responsive bidder or offeror; and
- (2) Inserting an effective date of July 1, 2022.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 3372, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3372, S.D. 1, H.D. 2, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE HOUSE



ANGUS L.K. MCKELVEY  
Co-Chair



AARON LING JOHANSON  
Co-Chair



TINA WILDBERGER  
Co-Chair

ON THE PART OF THE SENATE



SHARON MORIWAKI  
Chair



DONNA MERCADO KIM  
Co-Chair



**Record of Votes of a  
Conference Committee**

Bill / Concurrent Resolution No.: <b>SB 3372, SD 1, HD 2</b>	Date/Time: <b>4/27/22 10am</b>
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
MORIWAKI, Sharon Y., Chr.	X				MCKELVEY, Angus L.K., Co-Chr.	X			
KIM, Donna Mercado, Co-Chr.	X				JOHANSON, Aaron Ling, Co-Chr.	X			
FEVELLA, Kurt				X	WILDBERGER, Tina, Co-Chr.	X			
					MATAYOSHI, Scot Z.	X			
					WARD, Gene				X
<b>TOTAL</b>	2			1	<b>TOTAL</b>	4			1

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature: 
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**Distribution:**      **Original**      **Yellow**      **Pink**      **Goldenrod**  
*File with Conference Committee Report      House Clerk's Office      Senate Clerk's Office      Drafting Agency*