

STAND. COM. REP. NO.

1507

Honolulu, Hawaii

MAR 25 , 2021

RE: S.B. No. 788  
S.D. 2  
H.D. 2

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred S.B. No. 788, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to amend the Hawaii Public Procurement Code to increase economy, efficiency, effectiveness, and impartiality in public procurement by:

- (1) Allowing selection committees for the procurement of professional services the flexibility to weigh the selection criteria in the order of importance relevant to their agency and project;
- (2) Requiring the State Procurement Office to implement and administer a past performance database for state contractors;
- (3) Providing the head of a purchasing agency with the option to negotiate an adjustment of an otherwise successful bid for construction procurements to more closely align with an internal project price estimation;



- (4) Allowing a bidder of a public works construction project to clarify and correct non-material or technical issues with subcontractor listings for up to twenty-four hours after the bid submission deadline; and
- (5) Requiring bids for construction to be publicly opened no sooner than twenty-four hours after the bid submission deadline.

Your Committee received testimony in opposition to this measure from the Painting Industry of Hawaii Labor Management Cooperation Trust Fund; Hawaii Tapers Market Recovery Trust Fund; Hawaii Glaziers; Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund; Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund; Hawaii Electricians Market Enhancement Program; American Council of Engineering Companies of Hawaii; and one individual. Your Committee received comments on this measure from the Department of Accounting and General Services, State Procurement Office, Department of Design and Construction of the City and County of Honolulu, Subcontractors Association of Hawaii, Plumbing and Mechanical Contractors Association of Hawaii, and General Contractors Association of Hawaii.

Your Committee finds that the House of Representatives requested that the State Procurement Office review the State's procurement laws as compared to federal procurement law through House Resolution No. 142 (Regular Session of 2016). Specifically, the State Procurement Office was requested to conduct a cost-benefit analysis of the existing procurement process; examine issues and concerns raised by a pre-existing task force; review federal procurement laws and provide a comparison; analyze whether aligning the state procurement laws to the federal procurement laws would be beneficial; and examine the estimated time, effort, and costs to align the state procurement process to the federal procurement process. This measure adopts several recommendations made by the State Procurement Office to align with best practices evidenced in the federal procurement laws.

Your Committee notes, for purposes of ensuring that the intent is clear, that the twenty-four hour period for clarifying or correcting non-material or technical information does not and shall not apply or allow for any addition or substitution of listed joint subcontractors.



Your Committee has amended this measure by:

- (1) Deleting the provisions that provide the head of a purchasing agency with the option to negotiate an adjustment of an otherwise successful bid for construction procurements to more closely align with an internal project price estimation;
- (2) Restoring language that provides discretion in accepting construction bids that do not meet certain requirements, rather than mandating acceptance of those bids; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 788, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to your Committee on Finance in the form attached hereto as S.B. No. 788, S.D. 2, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Consumer  
Protection & Commerce,



AARON LING JOHANSON, Chair



