

DAVID Y. IGE
GOVERNOR



BONNIE KAHAKUI
ACTING ADMINISTRATOR

STATE OF HAWAII
STATE PROCUREMENT OFFICE

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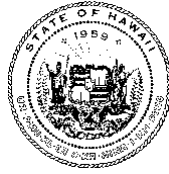
TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS
FEBRUARY 3, 2022, 3 P.M.

SENATE BILL 3371
RELATING TO THE PROCUREMENT CODE

Chair Moriwaki, Vice Chair Delacruz, and members of the committee, thank you for the opportunity to submit testimony on SB3371. The State Procurement Office (SPO) supports the intent of the bill and points out that Chapter 3-126-3, Hawaii Administrative Rules, also supports informal resolutions.

Thank you.



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS

THURSDAY, FEBRUARY 3, 2022, 3:00 P.M.
VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 3371

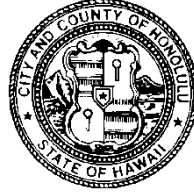
RELATING TO THE PROCUREMENT CODE

Chair Moriwaki, Vice Chair Dela Cruz, and members of the Committee, thank you for the opportunity to submit testimony on S.B. 3371. The Department of Accounting and General Services (DAGS) supports the intent of this bill and offers the following comments.

While we agree that efforts to resolve concerns raised by the potential protesting party prior to filing a protest may be beneficial, it will likely be difficult to achieve full resolution before the five working days after the postmark date on notice of award. This is especially true when multiple parties intend to file protests for the same solicitation. The protesting party will still have to file their protest in a timely manner to meet the statutory deadline, which automatically begins the protest process.

Thank you for the opportunity to submit testimony on this matter.

RICK BLANGIARDI
MAYOR



ANDREW T. KAWANO
DIRECTOR

CARRIE CASTLE
DEPUTY DIRECTOR

TESTIMONY OF ANDREW T. KAWANO
DIRECTOR OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
BEFORE THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
February 3, 2022, 3:00 PM, Conference Room 016 and Videoconference

TO: The Honorable Sharon Y. Moriwaki, Chair
and Members of the Senate Committee on Government Operations

RE: OPPOSITION OF SENATE BILL 3371, RELATING TO THE PROCUREMENT
CODE

The Department of Budget and Fiscal Services, City and County of Honolulu (City), **opposes** Senate Bill (SB) 3371, Relating to the Procurement Code.

The proposed revision to Hawaii Revised Statutes (HRS) Section 103D-701 does not provide efficiency in the procurement process. HRS 103D-701 already has an established process to submit and resolve protests in an expeditious, predictable, and objective manner.

HRS 103D-701(a) requires “a protest to be submitted within five working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest of an award or proposed award shall in any event be submitted in writing within five working days after the posting of award of the contract under section 103D-302 or 103D-303, if no request for debriefing has been made, as applicable; provided further that no protest based upon the content of the solicitation shall be considered unless it is submitted in writing prior to the date set for the receipt of offers.”

HRS 103D-303(h), “Any protest by the non-selected offeror pursuant to section 103D-701 following debriefing shall be filed in writing with the procurement officer within five working days after the date upon which the debriefing is completed.”

HRS 103D-304(k), “Any protest by the requester pursuant to section 103D-701 following debriefing shall be filed in writing with the chief procurement officer or designee within five working days after the date that the debriefing is completed.”

HRS 103D-701(c), “The chief procurement officer or a designee shall resolve any protest as expeditiously as possible. If the protest is not resolved by mutual agreement,

the chief procurement officer or a designee shall issue a written decision to uphold or deny the protest.”

For the reasons stated above, the City respectfully opposes Senate Bill 3371.

Mahalo for the opportunity to testify on this bill. Should you have any questions or concerns, please feel free to contact the Department of Budget & Fiscal Services' Division of Purchasing at 808-768-5535 or bfspurchasing@honolulu.gov.



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February 3, 2022

To: Committee on Government Operations
Sen. Sharon Y. Moriwaki, Chair
Sen. Donovan M. Dela Cruz, Vice Chair

From: Malcolm Barcarse, Jr. ABC Hawaii Legislative Committee Chair.

Associated Builders and Contractors Hawaii Chapter **COMMENTS** Re SB 3371.

Chair Moriwaki, Vice Chair Dela Cruz, and members of the Committee:

Thank you for the opportunity to testify, my name is Malcolm Barcarse, Jr. I am currently the Legislative Committee Chair of Associated Builders and Contractors, Hawaii Chapter which represents over 150 member companies in the Construction Industry. We also have a State Approved Trade Apprenticeship Program in the trades of Carpentry, Electrical, Painting, Plumbing and Roofing.

We have concerns about this bill because in the case of a protest of a solicitation pre award, there is a requirement that such protests be made within 5 business days of the protestor becoming aware of the issue. In our experience most of the procurement officers will interpret that to mean 5 days after the invitation for bids. It is not practical to engage in open and frank discussions with a procurement officer before that deadline, not only because of the time period but also because most procurement officers will require any questions to be submitted in writing to be answered by addendum to prevent any appearance of non-neutrality in the bidding process.

If this bill is to be considered any further, we ask that this bill be considered in the same legislative vehicle as SB3373 which is also being considered at this hearing. It is our belief that that it is not practical to address this issue in isolation without addressing the issues that SB3373 is trying to solve. We look forward to working with this committee to make the bid protest process more efficient.

Thank you for the opportunity to testify

ABC Hawaii Staff

Jeffrey Durham – President/CEO Renee Rosehill – Operations Manager
Shannon Richardson – Education Director Justin Ou – CEF Service Coordinator