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BONNIE KAHAKUI
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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
GOVERNMENT REFORM
March 16, 2022, 9:00 A.M.

SENATE BILL 3373 SD 2
RELATING TO THE PROCUREMENT CODE

Chair McKelvey, Vice Chair Wildberger, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 3373 SD 2. The State Procurement Office (SPO) supports the intent of the bill to clarify the language regarding requirements for submitting protests.

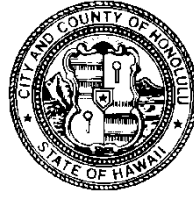
The SPO suggest revisions to include **§103D-304**, Hawaii Revised Statutes, which may have been inadvertently left out.

Recommend that Section 1, page 1, lines 10 -13, of the bill reads as follows:

"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, **or 103D-304**, if no request for debriefing has been made, as applicable [~~; provided further that no~~]."

Thank you.

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 HOUSE COMMITTEE ON GOVERNMENT REFORM
March 16, 2022, 9:00 AM, Conference Room 309 and Videoconference

TO: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Government Reform

RE: OPPOSITION OF SENATE BILL 3373, SD2, RELATING TO PUBLIC
PROCUREMENT

The Department of Budget and Fiscal Services, City and County of Honolulu (City), **opposes** Senate Bill (SB) 3373, SD2, Relating to Public Procurement.

By removing the provision that a protest be submitted within five working days after the aggrieved person knows or should have known of the facts giving rise thereto, it no longer holds the prospective offerors responsible to submit a timely protest and could lead to unnecessary delays and costs associated with the procurement.

The City offers the following proposed revisions:

"(a) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the chief procurement officer or a designee as specified in the solicitation. [~~Except as provided in sections 103D-303 and 103D-304, a protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a~~] 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, or 103D-304 if no request for debriefing has been made, as applicable[; provided further that no]. A protest based upon the content of the solicitation shall be [~~considered unless it is~~] submitted in writing within five working days after the aggrieved person should have known of the facts giving rise thereto, and no later than prior to the date set for the receipt of offers."

For the reasons stated above, the City respectfully opposes Senate Bill 3373, SD2.

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.

Nan Inc

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Facsimile: (808) 841-8281

March 15, 2022

Testimony to: House of Representatives Committee on Government Reform
Chair Angus L.K. McKelvey

Presented By: Nan Chul Shin, Director of Nan, Inc.

Subject: S.B. 3373, SD2 – RELATING TO PUBLIC PROCUREMENT

Chair McKelvey and Members of the Committee:

Nan, Inc. (“Nan”) supports S.B. 3373, SD2, which simplifies the conditions upon which a protest is required. Currently HRS § 130D-701 is confusing as to when “the aggrieved person knows or should have known of the facts giving rise” to its protest. There can be no confusion that S.B. 3373, SD2 requires that a protest of an award is due within five working days and a protest of a solicitation is due before the receipt of offers.

S.B. 3373, SD2 clearly benefits both the State as well as the public, and ensures a clear, fair, and timely procurement process.

Thank you for the opportunity to provide testimony.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 16, 2022

TO: HONORABLE ANGUS MCKELVEY, CHAIR, HONORABLE TINA WILDBERGER, VICE CHAIR, COMMITTEE ON GOVERNMENT REFORM

SUBJECT: **OPPOSITION OF S.B. 3373 SD2, RELATING TO PROCUREMENT.**
Clarifies the deadline for submitting written protests that are based on the content of a solicitation.

HEARING

DATE: Wednesday, March 16, 2022
TIME: 9:00 a.m.
PLACE: Capitol Room 309

Dear Chair McKelvey, Vice Chair Wildberger and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA is in **opposition** of S.B. 3373 SD2, which clarifies the deadline for submitting written protests that are based on the content of a solicitation.

GCA is concerned that this version of the measure will encourage bidders to wait in the weeds while agencies go through the award vetting process only to protest within 5 days after the award. Agencies will go through the whole process of vetting a bid only to have it protested after award, whereas if it is protested 5 days after knowledge of the grounds for the protest (usually upon bid opening) most protests can be vetted early in the process.