

STAND. COM. REP. NO. **2711**

Honolulu, Hawaii

**FEB 16 2024**

RE: S.B. No. 2570

S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 2570 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 a protest based on the content of the solicitation to be submitted no later than one day before the receipt of offers, and all other protests be submitted within seven calendar days after the posting of award of the contract;
- (2) Establish that a party is not aggrieved until official action, adverse to that party, has been taken; and
- (3) Amend the minimum percent value of a contract required for parties to a protest of an award to initiate proceedings from ten percent to five percent.

Your Committee received testimony in support of this measure from the General Contractors Association of Hawaii and one individual.

Your Committee received comments on this measure from the State Procurement Office.



Your Committee finds that the process for protesting a procurement solicitation, award, or proposed award is confusing and raises questions regarding the fairness of the process. Consequently, agencies have taken inconsistent positions with respect to when a bidder is aggrieved. Your Committee further finds that reducing the percentage for the contract value required for parties to protest an award from ten percent to fifteen percent would not have a meaningful effect on the number of bid protest filed. Accordingly, such reduction is unnecessary. This measure will encourage agencies to engage with bidders throughout the entire procurement process by providing clarity regarding the filing of bid protests.

Your Committee has amended this measure by:

- (1) Codifying the definitions of "bidder", "offeror", and "protestor" set forth in sections 3-120-2 and 3-126-1, Hawaii Administrative Rules;
- (2) Clarifying that no protest based upon the content of a solicitation shall be considered unless it is submitted in writing a minimum of one business day before the date set for the receipt of offers;
- (3) Deleting language that would have amended the minimum percent value of a contract required for parties to a protest of an award to initiate proceedings from ten percent to five percent;
- (4) Inserting an effective date of January 1, 2112, to encourage further discussion; and
- (5) 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. 2570, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2570, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committee on Government  
Operations,



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ANGUS L.K. MCKELVEY, Chair



