



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

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

**TO THE HOUSE COMMITTEE
ON
FINANCE
FEBRUARY 26, 2025; 10:50 a.m.**

**HOUSE BILL 988
RELATING TO PROCUREMENT**

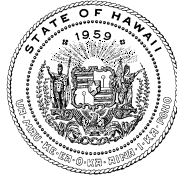
Chair Yamashita, Vice Chair Takenouchi, and members of the committee, thank you for the opportunity to submit testimony on House Bill 988. The State Procurement Office (SPO) strongly supports this bill as it provides clear guidance to purchasing agencies what shall not be disclosed at a debriefing.

The purpose of a debriefing is to explain the purchasing agency's overall ranking of all proposals and provide a summary of the rationale for award(s). During the debriefing, the Procurement Officer shall provide any significant weaknesses or deficiencies in the proposal against the solicitation criteria. The debriefing should not include point-by-point comparisons of the debriefed proposal against those of other offerors.

In order to protect the integrity and fairness of the procurement process, non-disclosure up to the point of contract execution would allow any protest decision by the State Department of Commerce and Consumer Affairs' Office of Administrative Hearings (OAH) to move forward. For example, if the OAH requires the agency to re-evaluate the proposals, and if the proposals were already disclosed at a debriefing, the proposals are no longer "sealed proposals" and the procurement would be compromised.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

COMMITTEE ON FINANCE

FEBRUARY 26, 2025, 10:50 A.M.
CONFERENCE ROOM 308 AND VIA VIDEOCONFERENCE, STATE CAPITOL

H.B. 988

RELATING TO PROCUREMENT

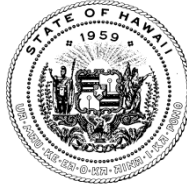
Chair Yamashita, Vice Chair Takenouchi, and Members of the Committee, thank you for the opportunity to submit testimony on this measure.

The Department of Accounting and General Services (DAGS) strongly **supports** H.B. 988 which prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror and authorizes the disclosure of a competing proposal or evaluation score after a protest is resolved and the contract is executed.

H.B. 988 is a DAGS administrative measure which provides clear guidance to purchasing agencies on what shall not be disclosed at a debriefing.

Thank you for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



EDWIN H. SNIFFEN
DIRECTOR
KA LUNA HO'OKELE

Deputy Directors
Nā Hope Luna Ho'okele
DREANALEE K. KALILI
TAMMY L. LEE
CURT T. OTAGURO
ROBIN K. SHISHIDO

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 26, 2025
10:50 a.m.
State Capitol
VIA VIDEOCONFERENCE
Conference Room 308

H.B. 988
RELATING TO PROCUREMENT

The House Committee on Finance

The Department of Transportation (DOT) **supports** the bill that prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror; and authorizes the disclosure of a competing offeror's proposal or evaluation score after any protest is resolved and the contract is executed.

Public disclosure of competing proposals — involving proprietary and other confidential information, such as trade secrets and confidential commercial and financial data — prior to final contract execution could foreseeably give an unfair competitive advantage to other proposers in the event discussions were to break down. Concern over this risk could cause proposers to offer up deliberately vague plans or decline to submit proposals altogether. The likely result would be fewer submissions and an increase in the cost of government procurements.

Thank you for the opportunity to provide testimony.

February 26, 2025

TO: HONORABLE KYLE YAMASHITA, CHAIR, HONORABLE JENNA TAKENOUCHI, VICE CHAIR, COMMITTEE ON FINANCE.

SUBJECT: **COMMENTS ON H.B. 988, RELATING TO PROCUREMENT.** Prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror. Authorizes the disclosure of a competing offeror's proposal or evaluation score after a protest is resolved and the contract is executed.

HEARING

DATE: Wednesday, February 26, 2025
TIME: 10:50 a.m.
PLACE: Capitol Room 308

Dear Chair Yamashita, Vice Chair Takenouchi 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 Comments on H.B. 988, which prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror. Authorizes the disclosure of a competing offeror's proposal or evaluation score after a protest is resolved and the contract is executed.

The current law and Procurement Policy Board implementing rules already prohibit the sharing of proprietary information designated by an offeror as confidential trade secrets or other proprietary data. HAR Title 3, Subtitle 11, Chapter 122, Subchapter 6, §3-122-58(a). Challenges to an offeror's confidentiality designations are available pursuant to subsequent subsections §3-122-58(b), (c) & (d). The debriefing process with protest deadlines is detailed in subsections §3-122-60. GCA suggests that the State Procurement Office send out a memo to the agencies reminding them not to share competing offeror's proposals designated confidential trade secrets or proprietary information pursuant to 3-122-58 (applicable to Competitive Sealed Proposals) as made applicable to Multi-Step Competitive Sealed Bidding pursuant to subsection §3-122-61.07.

This measure will hamper competing offerors from challenging unfair treatment of competing offerors if the bidder is unable to analyze how other bids were scored until after the protest deadline has passed.