

STAND. COM. REP. NO. 1271

Honolulu, Hawaii

MAR 21 2025

RE: H.B. No. 1297
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred H.B. No. 1297, H.D. 1, 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) Set a time limit for submitting bid protests;
- (2) Make the seventy-five-day limit for issuing a written decision on protests apply to any contract awarded by competitive sealed bid or competitive sealed proposal;
- (3) Cap the protest bond amount; and
- (4) Delete the requirement of the Office of Administrative Hearings finding that an appeal is frivolous or in bad faith before the protest bond is forfeited to the State by the non-prevailing party.

Your Committee received testimony in support of this measure from the Department of Transportation, Department of Accounting and General Services, and State Procurement Office.



Your Committee received testimony in opposition to this measure from the Subcontractors Association of Hawaii; King & Neel Pacific, Inc.; General Contractors Association of Hawaii; Building Industry Association of Hawaii; Road Builders Corporation; Jayar Construction, Inc.; S & M Sakamoto, Inc.; Ralph S. Inouye Co, Ltd.; Koga Engineering & Construction, Inc; and one individual.

Your Committee finds that procurement challenges, while critical to the continual improvement of the procurement system, often cause project delays, lapsing funds, and cost increases. Streamlining the challenge process with clear deadlines for protests and written decisions will improve efficiency, accountability, and transparency. Protest bonds serve as an additional tool to promote integrity in procurement challenges but must be set at an amount fair to the purchasing agency and protesting parties. This measure clarifies the timeframe for protests of all procurement contracts and caps the amount of a protest bond to improve efficiency in the procurement process.

Your Committee notes that the requirements for the forfeiture of a protest bond were amended in 2024 in accordance with a consensus among stakeholders, bringing that segment of the State's procurement process into alignment with best practices employed by many other states. Your Committee believes changing that process to no longer require an appeal to be found frivolous or in bad faith before a protest bond is forfeit would be counterproductive to the recent progress in improving the procurement process. Therefore, this measure needs to be amended to address this issue.

Accordingly, your Committee has amended this measure by:

- (1) Inserting \$1,500,000 for the capped amount of a protest bond;
- (2) Restoring language in existing law that requires the Office of Administrative Hearings to find that an appeal was frivolous or made in bad faith before the full amount of a protest bond is forfeit to the State by the non-prevailing party; and
- (3) Making a technical, nonsubstantive amendment 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 H.B. No. 1297, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1297, H.D. 1, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

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



ANGUS L.R. MCKELVEY, Chair



