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LATE TESTIMONY
TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
ECONOMIC REVITALIZATION, BUSINESS & MILITARY AFFAIRS
ON
February 4, 2010

H.B. 2901

RELATING TO PROCUREMENT

Chair McKelvey and members of the Committee, thank you for the opportunity to testify on H.B. 2901

The Department of Accounting and General Services (DAGS) opposes this measure because it will negatively affect the availability of funds for construction projects. If this bill is passed, unsuccessful proposers will not be allowed to protest an award. This is inconsistent with the procurement code's design, which calls for fair and equal treatment of all competitors and that avails all competitors of the protest process.

Also, entitling each unsuccessful proposer that submits a technically-responsive proposal to \$5,000 plus two percent (2%) of the amount of the design-build contract is fiscally detrimental to the State. There is an invitation to abuse if proposers can benefit financially just by submitting proposals. Consider that if a contract were awarded and executed for a \$10 million design-build project, the procuring agency will have to pay \$205,000 to each unsuccessful proposer. If there

were five unsuccessful proposers, an additional \$1,025,000 would be added to the \$10 million design-build project cost.

Thank you for the opportunity to testify on this matter.

LATE TESTIMONY

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February 3, 2010

EMAILED TESTIMONY TO: EBMTestimony@Capitol.hawaii.gov

**Hearing Date: Thursday, February 4, 8:00 a.m., Conference Room 312
(House Committee on Economic Revitalization, Business, & Military Affairs)**

Honorable Representative Angus L.K. McKelvey, Chair, Isaac W. Choy, Vice Chair, and Members of the House Committee on Economic Revitalization, Business, & Military Affairs

Subject: **HB 2901, Relating to Procurement**

Dear Chair McKelvey, Vice Chair Choy, and Committee Members,

Kennedy/Jenks Consultants strongly **supports SB 2901, Relating to Procurement**. HB 2901 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

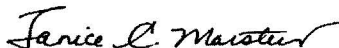
HB 2901 would put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (up to five) that would then proceed to the second proposal stage. The second step is issuance of a request for proposals and evaluation of technical and price proposals from the pre-qualified/short-listed teams. The second step may include the opportunity for the design-build teams to obtain pre-approval of alternative technical concepts, and may include discussions/negotiations followed by subsequent proposals (best and final offers).

This two-step process serves to reduce industry costs in responding to requests for design-build proposals and to encourage the most qualified design-builders to participate by increasing their chances of success. The two-step process also reduces the cost to the agency of reviewing the proposals by ensuring the agency reviews a select number of proposals from the most highly qualified teams. It should not significantly increase time needed for the procurement process, as the initial request for qualifications can be a shorter time period, and limiting the proposals to only the most qualified teams means fewer proposals for an agency to review.

HB2901 also provides for the granting of a stipend to the losing short-listed teams. Preparation of a design-build proposal is an onerous one, and teams can spend more than \$1 million to prepare their proposal, depending on the size and nature of the project. Studies have shown that the use of stipends encourage competition by allowing more firms to participate, as well as provide proposers partial compensation for agency ownership of concepts that may be incorporated into the project or used elsewhere by the agency. If a team prefers to not have their concepts utilized due to proprietary information, they would not be eligible for the stipend.

We appreciate the opportunity to provide testimony regarding HB 2901. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,
Kennedy/Jenks Consultants



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Senior Environmental Engineer