



**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Telephone: (808) 587-4700  
e-mail: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
<http://hawaii.gov/spo>

TESTIMONY  
OF  
AARON S. FUJIOKA  
ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE  
HOUSE COMMITTEE  
ON  
FINANCE

February 25, 2013

1:30 p.m.

HB 1374, HD 1

RELATING TO PROCUREMENT.

Chair Luke, Vice Chair Nishimoto, Vice Chair Johanson, and committee members, thank you for the opportunity to testify on HB 1374, HD 1. This bill proposes to factor a contractor's past performance in competitive sealed bidding, competitive sealed proposals and professional services methods of procurement.

The Hawaii Public Procurement Code (Code) provides various methods of procurement to allow a Procurement Officer (PO) to determine the appropriate method for the particular need or requirement. Each method has its purpose, and past performance may be used as a qualification or evaluation factor, such as past project delays, cost overruns, work deficiencies. The PO has the responsibility to select the best method of procurement to utilize in conducting the procurements.

The competitive sealed bidding (CSB) method of procurement is based on the requirements set forth in the invitation for bids (IFB); and award is made to the lowest responsive, responsible bidder meeting the IFB qualification criteria, such as years of experience or references from prior projects within the past x years, as evidence of past performance. The integrity of the CSB process is maintained because objectively measurable qualification criteria and low price is basis for award.

The competitive sealed proposals (CSP) method of procurement requires evaluation of proposals based on criteria set forth in the request for proposals (RFP); and award is made to the responsible offeror whose proposal is the most advantageous based on the evaluation criteria. In the CSP process, evaluation criteria may include analysis of past performance, for example the number of delays, any prior project cost overruns, history of corrective actions and notices of deficiencies, which the RFP evaluation committee will consider and scored accordingly.

In the professional services method of procurement, applicants are qualified and ranked on specific criteria based on submitted statements of qualifications. The PO negotiates the scope of work and cost with highest rank provider; and award is made to the highest ranked qualified respondent meeting the determined selection criteria. Similar to CSP, selection criteria may include analysis of past performance such as number of delays, history of corrective actions and notices of deficiencies, assessment of prior professional work, which the selection committee will consider and scored accordingly.

The changes proposed in this bill are not necessary because criteria such as past performance may already be used in the various methods of procurement. The State Procurement Office recommends that the bill be held.

Thank you.



Testimony of Ryan Kobayashi  
The Pacific Resource Partnership

House Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Scott Y. Nishimoto, Vice Chair  
Representative Aaron Ling Johanson, Vice Chair

Testimony Supporting HB 1374, HD 1 – Relating to Contractors  
Monday, February 25, 2013  
1:30 pm  
Conference Room 308

Aloha Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP strongly supports HB 1374, HD 1 – Relating to Procurement, which allows past performance to be factored into future bid selection of a contractor including a review of delays, cost overruns, and compliance with project requirements. This measure would also include in each bid evaluation a review of assessments from past work from a potential contractor, and allow departments to consider the assessments when making contract awards. PRP applauds the efforts of the legislature fulfill its fiduciary duty to the taxpayer as stewards of taxpayer money to make sure that the State, and the taxpayer get what they pay for by addressing the selection of qualified public works contractors.

PRP in its capacity as construction industry “watch dogs” have monitored multiple private as well as public works projects over the recent years. We feel that is a great “first step”, the “weeding out” of unqualified contractors helps to ensure the probability that the right contractor is chosen for public works contracts, but legislation such as this only makes it less likely that a the wrong contractor is chosen. There are many other issues that need to be addressed before the State can fully ensure that the taxpayers gets exactly what they pay for when awarding a public works contract.

We look forward to more proactive legislation such as this in the future regarding other issues regarding pertaining to the execution of public works contracts by contractors.

We respectfully ask for your support on HB 1374, HD1. Thank you for the opportunity to share our views on this important initiative with you.

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)  
Website: [www.gcahawaii.org](http://www.gcahawaii.org)



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol website

February 25, 2013

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO AND HONORABLE AARON JOHANSON, VICE CHAIRS AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **COMMENTS REGARDING H.B.1374, HD1 RELATING TO PROCUREMENT.** Allows past performance to be factored into future bid selection of a contractor including a review of delays, cost overruns, corrective actions, and responses to notices of deficiencies. Effective January 1, 2020. (HB1374 HD1)

HEARING

DATE: Monday, February 25, 2013  
TIME: 11:00 a.m.  
PLACE: Conference Room 309

Dear Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

H.B. 1374, HD1 proposes to amend Sections 103D-302, 103D-303, and 103D-310, Hawaii Revised Statutes (HRS), which would allow past performance to be factored into future bid selection of a contractor including a review of delays, cost overruns, and compliance with project requirements.

While GCA supports the intent of this measure, it finds that this legislation is unnecessary because such qualification criteria is already permitted under 103D-302(f) under the invitation for bid process. Under Section 103D-302(f), HRS an invitation for bid may set the requirements to determine qualifications and criteria for a project. Thus, while GCA is in support of ensuring that bidders are qualified and meet certain criteria, especially for highly complicated projects, this bill and the proposed changes to certain sections of Chapter 103D, it is unnecessary.

Thank you for this opportunity to present our views on this measure.