

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

April 1, 2025
2:00 p.m.
State Capitol
Conference Room 308 & Videoconference

S.B. 382
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.

The disclosure of competing offerors' proposals or evaluation scores during debriefing(s) with non-selected offeror(s) would conflict with maintaining confidentiality of an offeror's proposed pricing strategy and methodology in response to the respective request for proposals, prior to final contract execution. To disclose an offeror's proposal or evaluation score in debriefings with non-selected offerors, prior to resolution of protests and final contract execution, will compromise the core value of fair competition and competitive advantage. It is key that the State conduct evaluations of proposals, up to contract execution, with the highest degree of perceived fairness and trust in the determination of award.

Thank you for the opportunity to provide testimony.



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

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>

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

**TO THE HOUSE COMMITTEE
ON
FINANCE
APRIL 1, 2025; 2:00 P.M.**

**SENATE BILL 382
RELATING TO PROCUREMENT**

Chair Yamashita, Vice Chair Takenouchi, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 382. 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 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.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
KA 'OIHANA MĀLAMA MO'OHELU A KĀLĀ
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • WEBSITE: honolulu.gov

RICK BLANGIARDI
MAYOR
MEIA



ANDREW T. KAWANO
DIRECTOR
PO'O

CARRIE CASTLE
DEPUTY DIRECTOR
HOPE PO'O

March 31, 2025

The Honorable Kyle T. Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair
and Members of the House Committee on Finance
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamashita, Vice-Chair Takenouchi and Committee Members:

SUBJECT: Testimony on Senate Bill 382, Relating to Procurement
Hearing: April 1, 2025, 2:00 p.m., Conference Room 308 and
Via Videoconference

The Department of Budget and Fiscal Services, City and County of Honolulu
(City), **opposes** Senate Bill (SB) 382, Relating to Procurement.

The City supports the proposed change that outlines **what** should be disclosed in an RFP debriefing. However, the City does not support **when** certain information should be disclosed. The City proposes the following:

"Thereafter, the procurement officer shall provide the non-selected offeror a prompt debriefing. ~~[, but]~~ In the debriefing, ~~[shall not disclose]~~ any competing offeror's proposal or the details of a competing offeror's evaluation score shall not be disclosed, except for the summary of scores. ~~[, until after any protest is resolved and the contract is executed.]~~"

Hawaii Administrative Rules Section 3-122-9.01 already allows for the disclosure of offers upon the **posting of an award** in the case of an RFP procured under HRS 103D-303.

HRS 103D-701 states that an offeror may protest within 5 working days after an aggrieved party knows or should have known of the facts giving rise thereto. Withholding a competing offeror's proposal or the details of an evaluation score

The Honorable Kyle T. Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair
and Members of the House Committee on Finance
March 31, 2025
Page 2

introduces another point in time to which a protest may be submitted, if a party feels aggrieved by the disclosure of such information being released after contract execution.

For the reason stated above, the City opposes Senate Bill 382.

Mahalo for the opportunity to testify on this bill. Should you have any questions or concerns, please feel free to contact the Department of Budget & Fiscal Services' Division of Purchasing at (808) 768-5535 or bfspurchasing@honolulu.gov.

Sincerely,


Andrew T. Kawano
Director

APPROVED:


Michael D. Formby, Managing Director
Office of the Managing Director

April 1, 2025

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

SUBJECT: **COMMENTS ON S.B. 382, 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: Thursday, April 1, 2025
TIME: 2:00 p.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 S.B. 382, 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.