

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 27, 2025
10:01 a.m.
State Capitol
VIA VIDEOCONFERENCE
Conference Room 016

S.B. 382
RELATING TO PROCUREMENT

Senate Committee on Judiciary

The Department of Transportation (DOT) **supports** the bill with its provisions to increase the procurement thresholds for small purchases.

The amendments to increase the procurement thresholds for small purchases, Section 103D-305, Hawaii Revised Statutes, to procurements of less than \$150,000 for goods and services, or \$360,000 for construction, allows for flexibility and competition and intends to increase the expediency and efficiency of purchasing to meet operational requirements.

The increased threshold for construction would have been valuable in a previous procurement for rockfall mitigation, as it would have allowed an expanded scope of work, based on risk assessment, taking into consideration the need for expedited attention to maximize mitigation efforts.

Thank you for the opportunity to provide testimony.

JOSH B. GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ADMINISTRATOR

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>

LATE

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

**TO THE SENATE COMMITTEE
ON
JUDICIARY
FEBRUARY 27, 2025; 10:01 a.m.**

**SENATE BILL 382
RELATING TO PROCUREMENT**

Chair Rhoads, Vice Chair Gabbard, 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.

February 26, 2025

TO: HONORABLE KARL RHOADS, CHAIR, HONORABLE MIKE GABBARD,
VICE CHAIR, COMMITTEE ON JUDICIARY.

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, February 27, 2025
TIME: 10:01 a.m.
PLACE: Capitol Room 016

Dear Chair Rhoads, Vice Chair Gabbard 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.