
HOUSE RESOLUTION

REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON THE FEASIBILITY, NECESSARY PROCESSES, AND COSTS RELATIVE TO REQUIRING THE CONSIDERATION OF PAST PERFORMANCE AS A FACTOR IN AWARDING PUBLIC CONTRACTS, INCLUDING LOW BID CONTRACTS.

1 WHEREAS, according to the State Procurement Office,
2 debarring a contractor for poor performance is not a common
3 practice; and

4
5 WHEREAS, a contractor's past performance, if considered, is
6 only considered during the evaluation of proposals submitted to
7 a specific request for proposals; and

8
9 WHEREAS, this raises concerns with regard to low bid
10 construction contracts, which must be awarded to the lowest and
11 responsive bidder; and

12
13 WHEREAS, the determination of a bidder's responsibility
14 includes only a determination of capability, integrity, and
15 reliability to perform contract requirements in good faith and
16 does not require a determination of quality of work or require
17 inquiry into past performance; and

18
19 WHEREAS, the determination of a bidder's responsiveness
20 includes only evaluation of material conformity to the
21 invitation for bids; and

22
23 WHEREAS, several other jurisdictions, including the federal
24 government, other states, municipalities, and tribal governments
25 require consideration of past performance in low bid contracts;
26 and

27
28 WHEREAS, having an opportunity to review the past
29 performance of contractors would give the State an opportunity
30 to avoid poor-performing contractors and enter into contracts
31 with better-performing contractors; now, therefore,
32



1 BE IT RESOLVED by the House of Representatives of the
 2 Twenty-seventh Legislature of the State of Hawaii, Regular
 3 Session of 2014, that the State Procurement Office is requested
 4 to conduct a study on the feasibility, necessary processes, and
 5 costs relative to requiring the consideration of past
 6 performance as a factor in awarding public contracts, including
 7 low bid contracts; and

8
 9 BE IT FURTHER RESOLVED that the State Procurement Office is
 10 requested to submit its findings and recommendations, including
 11 proposed legislation if any, to the Legislature no later than 20
 12 days prior to the convening of the Regular Session of 2015; and

13
 14 BE IT FURTHER RESOLVED that certified copies of this
 15 Resolution be transmitted to the Governor and the Administrator
 16 of the State Procurement Office.
 17
 18
 19

OFFERED BY: _____

GR

James C. Lee
Calvin M. King
James C. Lee
Kal Dean
[Signature]
[Signature]

MAR 07 2014

