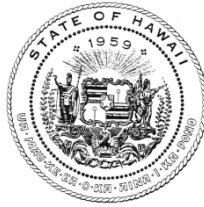


DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR

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**TESTIMONY OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEE ON
WAYS AND MEANS
APRIL 6, 2015, 1:45 P.M.**

**HOUSE BILL 1180 HD1 SD1 PROPOSED SD2
RELATING TO PROCUREMENT**

Chair Tokuda, Vice-Chair Kouchi, and members of the committee, thank you for the opportunity to submit testimony on HB1180 HD1 SD1 and proposed SD2. The State Procurement Office (SPO) **STRONGLY OPPOSES** the proposed SD2 measure.

The SPO already has a "poor performer" database – the Debarment List database. The process to debar covers all those areas of bad performance stated in this bill. An additional database for the same purpose will not add value and will cost money and resources. In order to develop this database, the SPO will require resources (full-time positions to manage and maintain this database (Approx cost \$65,000 per annum), and money to outsource the development of such a database (Approx cost \$2.5M plus 23% of the cost thereafter to maintain).

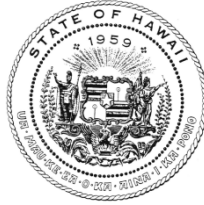
Earlier this year, the SPO delivered to the Legislature a report entitled, "Report on the Study on Past Performance Consideration in Hawaii Contracting" (SPO, January 2015), which detailed the findings of a study the SPO conducted regarding the feasibility of requiring past performance as a factor in awarding any public contract in Hawai'i.

In this report is SPO's recommendation to copy the Federal acquisition methods, and create a past performance database – one that collects all performance for contractors at the end of each project or year. This will replace the silo, lack of communication between agencies across the State, and enable procurement officers to have past performance information at their fingertips for evaluation of responsibility.

The feasibility of requiring past performance evaluation is clear. What is not clear is how the Procurement Officer would determine bad past performance. At this time, stakeholders do not have a common understanding of past performance or the relevant criteria necessary to determine a "poor performer." As mentioned in our testimony regarding HB 1292 HD2 SD1, SPO believes this is the value of continuing the work of the Procurement Task Force convened by the Comptroller at the request of SCR 92 SD 2/SLH 2013: we need a clear, common understanding of past performance standards, generally. Attached to this testimony is SPO's suggested amendments to HB 1292 HD2 SD1. SPO strongly suggests utilizing this task force approach prior to enacting legislation as set forth in HB 1180 proposed SD2.

Accordingly, SPO strongly opposes HB1180 proposed SD2 and suggest the continuation of the Procurement Task Force established by SCR92 SD2/SLH 2013 to examine and make recommendations concerning contractor past performance. Thank you.

DAVID Y. IGE
GOVERNOR



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**TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEE
ON
WAYS AND MEANS
APRIL 2, 2015, 9:00 a.m.**

**HOUSE BILL 1292 HD 2 SD 1
RELATING TO PROCUREMENT**

Chair Tokuda, Vice-Chair Kouchi, and members of the committee, thank you for the opportunity to submit testimony on HB1292 HD2. The State Procurement Office (SPO) is in support of this bill and provides the following comments.

The SPO suggests this instead of creating a new task force the Legislature extend the duration of an existing task force known as the Procurement Task Force. In 2013, the Twenty-Seventh Legislature adopted SCR92 SD2, which requested the Comptroller establish a Procurement Task Force to study the State procurement code and identify amendments that would increase economy, efficiency, effectiveness, and impartiality in the procurement of public works construction projects, to include analysis on past performance. The Procurement Task Force is set to dissolve on June 30, 2015. Because the membership is very similar to that identified in this measure and because consideration of past performance and its statewide implementation can fit within the Procurement Task Force's scope of work, the SPO suggests this group continue its work by focusing on standards for past performance.

This solution is efficient and logical because, instead of starting from scratch, it makes use of a group that is already in existence and it leverages a task force that we already know works. SPO also suggests a provision wherein the Comptroller has the discretion to add additional members to the task force as appropriate.

SPO suggests the current Section 2 be deleted and replace with:

Section 2: (a) The Comptroller shall continue to convene the Procurement Task Force established in accordance with SCR92 SD2 SLH/2012 to study the cost impacts that the procurement process has had for public works construction projects, and specifically to examine and recommend past performance standards and statewide processes in order to promote economy, efficiency, effectiveness, and impartiality in procurement for state and county governments.

(b) The Comptroller, or the Comptroller's designee, is requested to continue to serve as chair of the task force.

(c) The Comptroller is requested to solicit representatives from the following entities to serve on the task force, provided that those persons designated shall be knowledgeable of procurement procedures and issues within their respective organizations:

- (1) The State Procurement Office;
- (2) The University of Hawaii;
- (3) The Department of Education;
- (4) The Office of Hawaiian Affairs;
- (5) The Department of Transportation;
- (6) A county procurement department;
- (7) A county board or department of water supply;
- (8) The semi-autonomous public transit agency of the City and County of Honolulu;
- (9) The Subcontractors Association of Hawaii;
- (10) The General Contractors Association of Hawaii;
- (11) The Hawaii Building and Construction Trades Council,
- (12) AFL-CIO; and
- (13) The Hawaii Construction Alliance.

(d) The task force is requested to:

- (1) Identify and propose amendments, if any, to the state procurement code that may better promote economy, efficiency, effectiveness, and impartiality in the procurement of public works construction projects, specifically regarding statewide past performance standards and processes.

~~[(d)]~~(e) Task force members shall serve without compensation but shall be reimbursed for all necessary expenses, including travel expenses, which are incurred in the performance of their duties as members of the task force.

~~[(e)]~~(f) No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the task force.

~~[(f)]~~(g) The task force shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2016.

~~[(g)]~~(h) The task force convened pursuant to this Act shall cease to exist on June 30, 2016.

SECTION 3. This Act shall take effect upon its approval.

Thank you.