

SB1213

Measure Title:	RELATING TO PROCUREMENT FILING FEE.
Report Title:	Procurement; Filing Fee
Description:	Requires a party initiating a bid challenge to pay the Department of Commerce and Consumer Affairs a non-refundable filing fee for contracts with an estimated value of \$500,000 or more.
Companion:	HB987
Package:	Governor
Current Referral:	CPH, WAM
Introducer(s):	KOUCHI (Introduced by request of another party)



DAVID Y. IGE
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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Tuesday, February 5, 2019
9:00 a.m.
State Capitol, Conference Room 229**

**On the following measure:
S.B. 1213, RELATING TO PROCUREMENT FILING FEE**

Chair Baker and Members of the Committee:

My name is Craig Uyehara, and I am the Senior Hearings Officer of the Department of Commerce and Consumer Affairs' (Department) Office of Administrative Hearings. The Department supports this administration bill.

The purpose of this bill is to provide a funding mechanism to partially cover the costs to conduct bid challenge hearings by authorizing the Department to assess a non-refundable filing fee upon the party initiating the bid challenge for contracts with an estimated value of \$500,000 or more.

Procurement bid challenges often result in project delays, funding lapses, and project cost increases. These concerns have been partly addressed by the requirement that the Office of Administrative Hearings process and commence hearing these cases within 21 days and issue decisions within 45 days of the filing of the challenge. However, these proceedings can involve complex issues, multiple litigants, and days or weeks of hearing. Therefore, to meet these strict deadlines and issue written decisions

that can withstand appellate review, the Department must assign these cases the highest priority in terms of time and resources. Hearings for other non-procurement cases must be delayed, and the hearings officers must commit substantial time to complete the bid challenge proceedings by the statutory deadlines. Historically, it has taken approximately 100 hours or more for the hearings officer to complete the hearing process and issue a thoughtful and thorough decision. Even though the Department has been tasked with this critical responsibility, it has received no appropriation of funds to defray the costs of these proceedings. As a result, all of these costs have been indirectly paid for by the license registration fees assessed by the Department from registrants who have no involvement in the procurement process.

This bill will require a party initiating a bid challenge for larger contracts (contracts with an estimated value of at least \$500,000) to pay the Department a non-refundable filing fee to help defray the costs of the administrative review of bid challenges. Under this bill, a party initiating a bid challenge will be required to pay a \$200 non-refundable filing fee for a contract with an estimated value of \$500,000 or more, but less than \$1,000,000, and \$1,000 for a contract with an estimated value of \$1,000,000 or more. This fee will be deposited into the Compliance Resolution Fund and used exclusively to defray the costs of addressing bid challenges. To avoid any “chilling effect” on small businesses challenging bid protest denials, no filing fee will be assessed for contracts with an estimated value less than \$500,000.

The Department supports this administration bill and requests that it pass out of this committee unamended. Thank you for the opportunity to testify.

DAVID Y. IGE
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SARAH ALLEN
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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE
TO THE SENATE COMMITTEE
ON
COMMERCE, CONSUMER PROTECTION AND HEALTH
February 5, 2019, 9:00 A.M.

SB1213
RELATING TO PROCUREMENT FILING FEE

Chair Baker, Vice-Chair Chang, and members of the committee, thank you for the opportunity to submit testimony on SB1213. The State Procurement Office's (SPO) supports the intent of the bill which requires a party initiating a bid challenge to pay the Department of Commerce and Consumer Affairs a non-refundable filing fee for contracts.

The success of a process is to ensure that all sub-processes feeding the objective are in full health. The objective of the protest hearings office in DCCA is to continue the opportunity for transparency, and alert both government and community that there are improvements needed in our Policy or processes for the procurement life-cycle.

In this case DCCA is acting under a Special Fund that must sustain with only the revenues it achieves. Large, complex cases, sometimes require hundreds of hours of administration and review. These costs are being absorbed with no respective revenues to achieve break-even.

The SPO endorses and encourages procurement integrity as well as supporting the outlet to question procurement practices in an effort to constantly improve. The systemic outlook on all departments that are part of the procurement chain must be considered. Please consider allowing DCCA to retrieve monies in order to promote a sustainable program to the community.

Thank you.