
HOUSE CONCURRENT 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
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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
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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
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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
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19 WHEREAS, the determination of a bidder's responsiveness
20 includes only evaluation of material conformity to the
21 invitation for bids; and
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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
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28 WHEREAS, having an opportunity to review the past
29 performance of contractors would give the State an opportunity



1 to avoid poor-performing contractors and enter into contracts
2 with better-performing contractors; now, therefore,

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4 BE IT RESOLVED by the House of Representatives of the
5 Twenty-seventh Legislature of the State of Hawaii, Regular
6 Session of 2014, the Senate concurring, that the State
7 Procurement Office is requested to conduct a study on the
8 feasibility, necessary processes, and costs relative to
9 requiring the consideration of past performance as a factor in
10 awarding public contracts, including low bid contracts; and
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12 BE IT FURTHER RESOLVED that the State Procurement Office is
13 requested to submit its findings and recommendations, including
14 proposed legislation if any, to the Legislature no later than 20
15 days prior to the convening of the Regular Session of 2015; and
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17 BE IT FURTHER RESOLVED that certified copies of this
18 Concurrent Resolution be transmitted to the Governor and the
19 Administrator of the State Procurement Office.
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OFFERED BY:

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