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## HOUSE RESOLUTION

REQUESTING THE STATE PROCUREMENT OFFICE TO CONDUCT A STUDY ON  
DEBARMENTS AND SUSPENSIONS OF STATE CONTRACTORS.

1           WHEREAS, government contracting is the process by which  
2 public bodies and agencies obtain needed goods, services, or  
3 construction to enable government operations to conduct and  
4 achieve their missions; and  
5

6           WHEREAS, the Hawaii Public Procurement Code, codified in  
7 the Hawaii Revised Statutes as Chapter 103D, and the provision  
8 of Purchases of Health and Human Services, codified in the  
9 Hawaii Revised Statutes as Chapter 103F, were established to  
10 promote economy, efficiency, and effectiveness in the  
11 procurement of various goods and services, and construction for,  
12 the State and counties of Hawaii; and  
13

14           WHEREAS, however, the procurement process can be lengthy  
15 and complex due to numerous related requirements or processes in  
16 the Hawaii Revised Statutes, applicable Hawaii Administrative  
17 Rules, and jurisdictional administrative requirements and  
18 approvals that require consideration and inclusion when  
19 contracting for goods, services, or construction; and  
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21           WHEREAS, to maintain the efficiency, effectiveness, and  
22 economic benefits of the Hawaii Public Procurement Code, as well  
23 as to preserve the Procurement Code's integrity, proper  
24 oversight of the Code and applicable administrative rules and  
25 requirements, including any penalties for violations of the  
26 Procurement Code or its related rules and requirements, needs to  
27 be ensured; and  
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29           WHEREAS, Hawaii's State Procurement Office administers,  
30 implements, and ensures compliance with the Hawaii Public  
31 Procurement Code; and  
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33           WHEREAS, one method of maintaining the integrity of the  
34 Hawaii Public Procurement Code is to impose sanctions against a  
35 contractor, including debarment or suspension, for serious,



1 relevant criminal convictions or for violations of contract  
2 provisions; and

3  
4 WHEREAS, according to section 103D-702(a), Hawaii Revised  
5 Statutes:

6  
7 *"...The serious nature of debarment and suspension*  
8 *requires that these sanctions be imposed only in the*  
9 *public interest for a governmental body's protection*  
10 *and not for the purpose of punishment. An agency*  
11 *shall impose debarment or suspension to protect a*  
12 *governmental body's interests and only for cause and*  
13 *in accordance with this section.";* and  
14

15 WHEREAS, according to the State Procurement Office, no  
16 infrastructure currently exists to verify whether a contractor  
17 has committed and been found guilty of a serious criminal  
18 offense under state or federal statutes relating to a  
19 contractor's lack of integrity, honesty, or any other similar  
20 cause that would warrant a debarment of that contractor from a  
21 current contract or consideration for future contract awards;  
22 and  
23

24 WHEREAS, the lack of oversight on issues warranting  
25 debarment or suspension hinders the State Procurement Office's  
26 ability to properly enforce the Hawaii Public Procurement Code,  
27 and may result in the public interest's not being realized in  
28 public contracts for goods, services, or construction; now,  
29 therefore,  
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31 BE IT RESOLVED by the House of Representatives of the  
32 Twenty-seventh Legislature of the State of Hawaii, Regular  
33 Session of 2014, that the State Procurement Office is requested  
34 to conduct a study on the number of debarments and suspensions  
35 of state contractors that occurred over the past ten years and  
36 the number of verified guilty felony criminal convictions that  
37 resulted in debarment or suspension of a contractor over the  
38 past three years; and



1 BE IT FURTHER RESOLVED that the study include the number  
2 and circumstances involved in debarments or suspensions relating  
3 to the following factors:

- 4
- 5 (1) Whether the contractor had effective standards of  
6 conduct and internal control systems in place at the  
7 time of the cause for debarment or suspension;  
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- 9 (2) Whether the contractor brought the cause for debarment  
10 or suspension to the attention of the appropriate  
11 government agency in a timely manner;  
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- 13 (3) Whether the contractor conducted a full investigation  
14 of the cause for debarment or suspension;  
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- 16 (4) Whether the contractor cooperated with all government  
17 agencies investigating the cause for debarment or  
18 suspension;  
19
- 20 (5) Whether the contractor has paid, or has agreed to pay,  
21 all criminal, civil, and administrative liabilities  
22 associated with the cause for debarment or suspension;  
23
- 24 (6) Whether the contractor has taken appropriate  
25 disciplinary action against the individuals  
26 responsible for the cause for debarment or suspension;  
27
- 28 (7) Whether the contractor has since implemented remedial  
29 measures to address the cause for debarment or  
30 suspension, including any measures identified by a  
31 government body or agency;  
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- 33 (8) Whether the contractor has instituted new or revised  
34 ethics training programs;  
35
- 36 (9) Whether the contractor has had adequate time to  
37 eliminate the circumstances that led to the cause for  
38 debarment or suspension;  
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- 40 (10) Whether the contractor's management recognizes and  
41 understands the seriousness of the misconduct; and



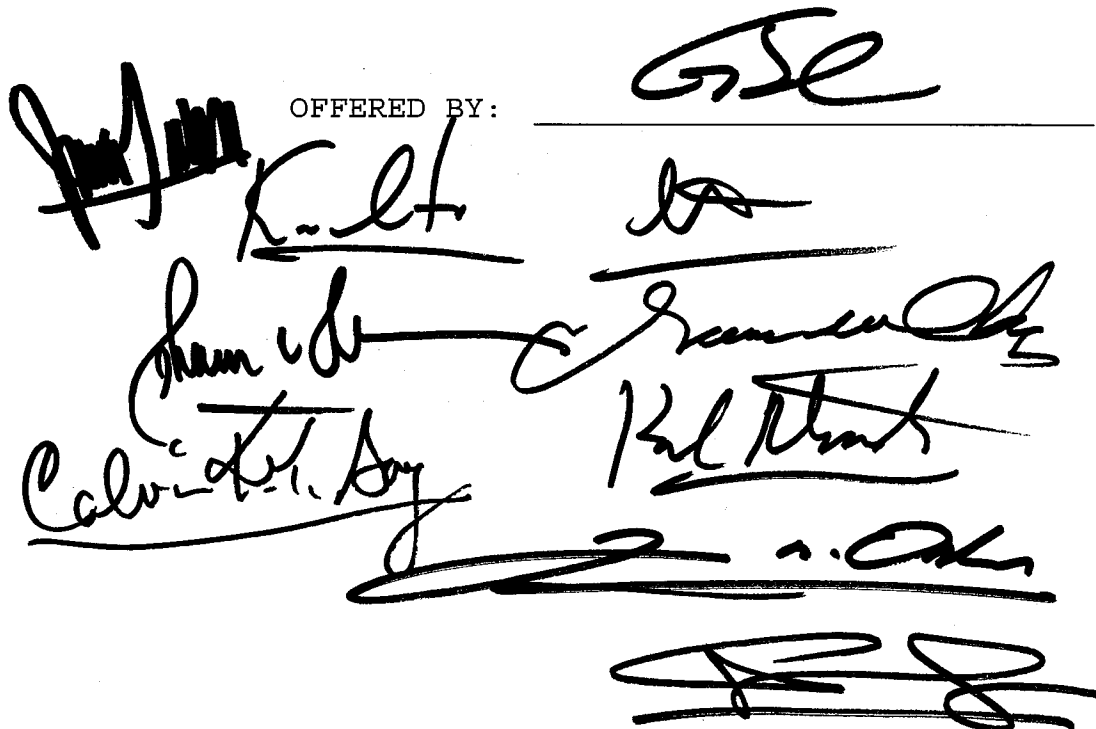
1 (11) Whether the Chief Procurement Officer has allowed the  
2 debarred or suspended contractor to continue  
3 performance on any contract awarded prior to the  
4 effective date of the debarment or suspension; and  
5

6 BE IT FURTHER RESOLVED that the State Procurement Office  
7 assess the infrastructure needs required to validate with the  
8 Judiciary, Department of Labor and Industrial Relations,  
9 Department of Taxation, Department of Commerce and Consumer  
10 Affairs, and any other compliance agencies that may be  
11 applicable, whether a contractor or potential contractor has  
12 committed and been found guilty of a serious criminal offense or  
13 contract violation under state or federal statutes that would  
14 lead to disbarment or suspension; and  
15

16 BE IT FURTHER RESOLVED that the State Procurement Office is  
17 requested to submit a report of its findings and  
18 recommendations, including any proposed legislation, to the  
19 Legislature not later than 20 days prior to the convening of the  
20 Regular Session of 2015; and  
21

22 BE IT FURTHER RESOLVED that certified copies of this  
23 Resolution be transmitted to the Governor and the Chief  
24 Procurement Officer.  
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26  
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OFFERED BY: \_\_\_\_\_

A collection of handwritten signatures and initials. On the right side, a large signature 'GSE' is written above a horizontal line. Below it, several other signatures and initials are visible, including 'to', 'Sham ud', 'James O', 'Calvin L. Ay', 'Paul Th...', 'R. A. O...', and 'R. J. S.'.