

STAND. COM. REP. NO.

394

Honolulu, Hawaii

February 20, 2015

RE: H.B. No. 1292  
H.D. 1

Honorable Joseph M. Souki  
Speaker, House of Representatives  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Sir:

Your Committee on Economic Development & Business, to which was referred H.B. No. 1292 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose of this measure is to increase transparency and accountability in state contracts by requiring procurement officers to obtain and consider all available, recent, and relevant performance by a contractor as part of the due diligence requirement for contractor responsibility determination prior to awarding a contract under Hawaii's procurement code.

The Community Alliance on Prisons testified in support of this measure. The State Procurement Office testified in support of the intent of this measure. The Building Industry Association of Hawaii testified in opposition to this measure. The Department of Design of the City and County of Honolulu and Construction and General Contractors Association of Hawaii provided comments.

Your Committee finds that comprehensive due diligence is vital when public taxpayer dollars are used to purchase government services. However, according to the State Procurement Office, there is confusion among jurisdictions as to whether or not past performance should be considered when evaluating a contractor competing for a contract to provide such services. This confusion creates inefficiency in the procurement process. Instituting a clear mandate requiring the consideration of past performance as

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part of the responsibility determination when evaluating a contractor, would enhance accountability on the part of contractors and transparency on the part of the State.

However, your Committee finds that, as currently drafted, this measure does not provide clear direction for procurement officers to follow with regard to subjective factors such as the relative weight of one past instance of performance over another. Your Committee finds that a need for the review of past performance exists in the procurement of services. However, additional work must be done to further define "past performance" to ensure fairness and impartiality.

Accordingly, your Committee has amended this measure by deleting its contents and inserting language establishing a task force to examine the issue and establish the factors that should be considered when evaluating a construction industry contractor's past performance for the purposes of awarding a construction contract under Hawaii's procurement code.

As affirmed by the record of votes of the members of your Committee on Economic Development & Business that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1292, H.D. 1, and be referred to the Committee on Finance.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Development & Business,



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DEREK S.K. KAWAKAMI, Chair



State of Hawaii  
House of Representatives  
The Twenty-eighth Legislature

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**Record of Votes of the Committee on Economic Development & Business**

Bill/Resolution No.: <b>HB 1292</b>	Committee Referral: <b>EDB, FIN</b>	Date: <b>13 FEB 15</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EDB Members	Ayes	Ayes (WR)	Nays	Excused
1. KAWAKAMI, Derek S.K. (C)	✓			
2. KONG, Sam Satoru (VC)	✓			
3. BROWER, Tom	✓			
4. CACHOLA, Romy M.	✓			
5. CHOY, Isaac W.	✓			
6. ITO, Ken	✓			
7. OHNO, Takashi	✓			
8. ONISHI, Richard H.K.	✓			
9. TOKIOKA, James Kunane	✓			
10. TSUJI, Clift	✓			
11. WOODSON, Justin H.	✓			
12. MATSUMOTO, Lauren Kealohilani	✓			
13. WARD, Gene	✓			
<b>TOTAL (13)</b>	<b>13</b>			
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: 8pt;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u><i>Samuel S. King</i></u>				
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