

STAND. COM. REP. NO.

2215

Honolulu, Hawaii

FEB 17 2016

RE: S.B. No. 2501
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 2501 entitled:

"A BILL FOR AN ACT RELATING TO PROCUREMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require a bidder's past performance on projects of similar scope for public agencies, including delays, number of contract change orders, contract extensions, cost overruns, corrective actions, responses to notices of deficiencies, and assessments of the bidder's prior work, to be factored into future bid selection of a contractor;
- (2) Define "past performance" to mean available recent and relevant performance of a contractor on government contracts to be considered as a responsibility determination relevant to a current solicitation;
- (3) Require past performance to be considered in sole source procurement; and
- (4) Appropriate funds to the State Procurement Office for the purposes of this measure.

Your Committee received testimony in support of this measure from the Department of Transportation and State Procurement

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Office. Your Committee received testimony in opposition to this measure from American Institute of Architects. Your Committee received comments on this measure from the General Contractors Association of Hawaii, Electrical Contractor's Association of Hawai'i, Subcontractors Association of Hawaii, and American Council of Engineering Companies.

Your Committee finds that a contractor can potentially expose the State to liability for faulty work and cost the State more money due to the need for corrective work. State contracts may be awarded to the lowest bidder through the invitation for bid process without regard to poor past performance, which may result in repeated inefficient or substandard work. Implementation of this measure will develop a record of responsible contractors and increase accountability in the performance of the State's procurement contracts.

Your Committee has amended this measure by:

- (1) Amending the definition of "past performance" to include legal action;
- (2) Amending bid evaluation criteria to be considered by deleting delays, number of contract change orders, contract extensions, cost overruns, corrective actions, and responses to notices of deficiencies; and inserting notices of deficiencies, legal actions, failure to complete a procurement contract, and assessments of the bidder's prior work;
- (3) Deleting section 5 relating to using prior performance in the selection criteria for the procurement of professional services;
- (4) Inserting language requiring a department that issues a request for proposal to evaluate the work and performance of the respective contractors upon the completion of the procurement contract and maintain the evaluations in the department's files; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this



report, your Committee is in accord with the intent and purpose of S.B. No. 2501, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2501, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,

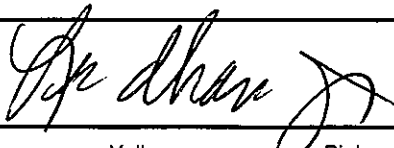


DONNA MERCADO KIM, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2501	GVO, WAM	02-11-16		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIM, Donna Mercado (C)	✓			
IHARA, Jr., Les (VC)	✓			
DELA CRUZ, Donovan M.				✓
KEITH-AGARAN, Gilbert S.C.				✓
SHIMABUKURO, Maile S.L.				✓
TOKUDA, Jill N.	✓			
SLOM, Sam	✓			
TOTAL	4	0	0	3
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

*Only one measure per Record of Votes