

STAND. COM. REP. NO.

1107

Honolulu, Hawaii

MAR 24 2021

RE: H.B. No. 526
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred H.B. No. 526, H.D. 1, 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 state contracts of similar scope to be considered for contract awards and responsibility determinations;
- (2) Require a responsible bidder or offeror to be determined based upon the responsibility determination standards adopted by the Procurement Policy Board;
- (3) Prohibit the evaluation of criteria not set forth in the request for proposals under the competitive sealed proposal process; and
- (4) Appropriate funds for the development and implementation of guidance and related implementation training for several tools relating to a past performance guide and past performance database, to be expended by the State Procurement Office.



Your Committee received testimony in support of this measure from the Department of Transportation. Your Committee received testimony in opposition of this measure from the City and County of Honolulu Department of Design and Construction, General Contractors Association of Hawaii, and Building Industry Association of Hawaii. Your Committee received comments on this measure from the Department of Accounting and General Services and State Procurement Office.

Your Committee finds that this measure is intended to decrease repeated inefficiencies, substandard work, and other forms of poor performance on state contracts by requiring the evaluation of past performance in the bid selection of contractors for certain projects. According to testimony received by your Committee, past performance, as another level of consideration and diligence in evaluating responsibility, will provide additional insight to positively impact the award selection to optimally support increased accountability, enhanced quality performance, and efficient and effective utilization of taxpayer dollars in respect to contract awards and the respective deliverables. Your Committee recognizes that the establishment and maintenance of a past performance database and the adoption of relevant administrative rules would help procurement officers in awarding contracts to responsible bidders and offerors.

Accordingly, your Committee has amended this measure by:

- (1) Amending the definition of past performance to include the positive, negative, or lack of previous experience of a contractor;
- (2) Clarifying the requirements that include past performance as an evaluation factor in awarding a contract through the competitive sealed proposal procurement method;
- (3) Deleting language that would have required procurement officers to consider a bidder's or offeror's past performance when making a responsibility determination;
- (4) Inserting language requiring the State Procurement Office to adopt rules and develop a statewide past performance database, by December 31, 2023, and

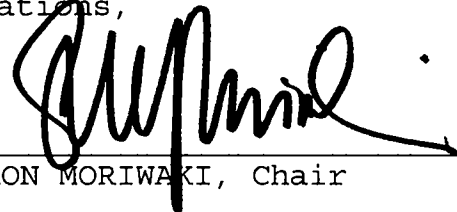


procurements over the small purchase threshold to be maintained in the procuring department's files and the statewide past performance database, in conformity with S.B. No. 788, S.D. 2;

- (5) Amending section 1 to reflect its amended purpose;
- (6) Making it effective upon its approval; and
- (7) 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 H.B. No. 526, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 526, H.D. 1, 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,



SHARON MORIWAKI, Chair



