

Honolulu, Hawaii

May 2, 2006

RE: H.B. No. 3036
H.D. 1
S.D. 2
C.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 3036, H.D. 1, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CONTRACTS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to provide for prompt payment to a subcontractor or materialman once they complete their work under a contract for government projects. Specifically, this bill establishes a process for prompt payment in government contracts by:

- (1) Requiring the Procurement Officer (PO), within 30 days, to pay the contractor all sums retained or withheld from the subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract;
- (2) Requiring the contractor to pay the subcontractor within ten days of receipt of payment by the PO, provided that:



- (A) The subcontractor provides evidence of completion in the form of a "properly documented payment request" and an acceptable performance and payment bond;
- (B) A period of 90 days after the day on which the last of the labor was completed has elapsed without written notice of a claim; and
- (C) The subcontractor has provided to the contractor an acceptable release of retainage bond, executed by a surety company in an amount not more than two times the amount being retained or withheld by the contractor.

Your Committee on Conference has amended this bill by:

- (1) Permitting the contractor or subcontractor to retain a percentage of not more than ten percent of each progress payment without incurring late payment interest penalties;
- (2) Where there is no agreement between the parties and if the change order is:
 - (A) Less than or equal to \$50,000, allowing contract price adjustments of 20 percent of the actual costs for overhead and profit and specifying that there is no cap to total cost of work when this method is used; or
 - (B) More than \$50,000, allowing contract price adjustments of 20 percent of the actual costs for overhead and profit when a unilateral determination has been made;
- (3) Changing the effective date to July 1, 2007; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

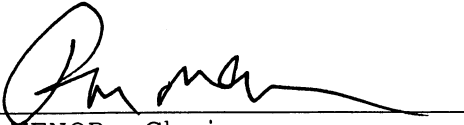
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 3036, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3036, H.D. 1, S.D. 2, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE



RON MENOR, Chair



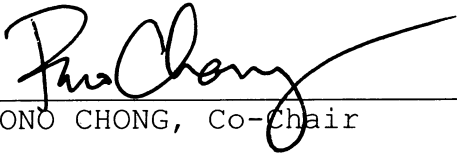
JON RIKI KARAMATSU, Co-Chair



BRIAN T. TANIGUCHI, Co-Chair



ROBERT N. HERKES, Co-Chair



PONO CHONG, Co-Chair



