

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
Gentry Pacific Design Center, Suite 215A
560 N. Nimitz Highway, #50
Honolulu, Hawaii 96817
(808) 524-2249 - FAX (808) 524-6893

March 17, 2008

Honorable Senator Clarence K. Nishihara, Chair
Honorable Senator Donna Mercado Kim, Vice Chair
Members of the Senate Committee on Tourism and Government Operations
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: **IN SUPPORT OF HB396, HD2**
RELATING TO THE PROCUREMENT CODE
Hearing: Tuesday, March 18, 2008, 1:15 p.m.

Dear Chair Nishihara, Vice Chair Mercado Kim and the Senate Committee on
Tourism and Government Operations:

For the Record my name is Buzz Hong the Executive Director for the Hawaii
Building & Construction Trades Council, AFL-CIO. Our Council is comprised
of 16-construction unions and a membership of 26,000 statewide.

The Council supports the passage of HB396, HD2 which requires the chief
procurement officer to hold a pre-job conference at least 30 days before
contract work begins. Allows unselected offerors of professional services and
in competitive sealed proposals to ask for a debriefing. Requires any
subsequent protest to be submitted before a pre-job conference.

The Council would like to suggest that Developers are included in §103D-
701(a).

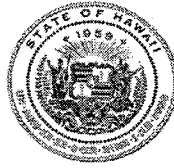
Thank you for the opportunity to submit this testimony in support of HB396,
HD2.

Sincerely,

William "Buzz" Hong
Executive Director

WBH/dg

LINDA LINGLE
GOVERNOR



PROCUREMENT POLICY BOARD
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AARON S. FUJIOKA
ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4700 Fax: (808) 587-4703
www.spo.hawaii.gov

TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
SENATE COMMITTEE
ON
TOURISM AND GOVERNMENT OPERATIONS

March 18, 2008

HB 396, HD2

RELATING TO THE PROCUREMENT CODE.

Chair Nishihara, Vice Chair Kim and committee members, thank you for the opportunity to testify on HB 396, HD2. This bill proposes to require a pre-job conference at least thirty (30) days before the contract work begins for projects with an estimated contract value of \$500,000 or more, proposes to allow non-selected offerors of a professional services procurement and the competitive sealed proposal method to request a debriefing after the posting of the contract award, and allows for the protest of an award or proposed award to be submitted five days after a pre-job conference.

The State Procurement Office (SPO) does not believe this bill is necessary. The following is provided for clarification on the applicable procurement code provisions.

- The decision to require a pre-job conference for contractors, their employees, and subcontractors should be the Procurement Officer's determination based on the project's scope, complexity, and other factors of the contract. If appropriate, state and county agencies may include a pre-job conference requirement in their solicitation. Currently, if determined a project's scope needs a meeting, agencies conduct a meeting prior to the start of work with the Contractor, and the contractor is allowed to bring any of its subcontractors;

- HRS §103D-303.5 on pre-bid conferences includes provisions for IFB construction projects with a total estimated value of \$500,000, or design-build projects with a total estimated value of \$100,000 to conduct a pre-bid conference to provide potential bidders and offerors to discuss the solicitation and clarify any concerns on the project scope;
- HRS §§103D-303(h) and 103D-304(k) includes provisions for debriefing of non-selected offerors of competitive sealed proposals and professional service providers, respectively; and
- HRS §103D-701, includes provisions for protested solicitations and awards. The current process to file protests for competitive sealed bids and competitive sealed proposals is during the period prior to the due date and within five working days of the posting of the award, and provides up to five working days after a debriefing. It is not practicable to allow for the filing of protests after a pre-job conference as the contract would already have been executed and the contractor entered into commitments with subcontractors. Any issues and concerns on the project scope and work are addressed during the solicitation phase prior to due date.

The SPO recommends this bill be held.

LINDA LINGLE
GOVERNOR



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LATE**

RUSS K. SAITO
Comptroller

8:55am
03/18/08

Barbara A. Annis
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE
ON
TOURISM AND GOVERNMENT OPERATIONS
ON
March 18, 2008

H.B. 396, H.D. 2

RELATING TO THE PROCUREMENT CODE

Chair Nishihara and members of the Committee, thank you for the opportunity to testify on H.B. 396, H.D. 2.

The Department of Accounting and General Services (DAGS) opposes this bill because it undermines the Procurement Code's (Code) protest process, creates unnecessary delays, and would interfere with projects for which contracts have been signed.

This bill establishes a requirement to have a pre-job conference before the start of work and to have the contractor, all subcontractors, and any employee representative of workers who will be working on the project attend. Mandatory scheduling and attendance may not be beneficial to the State, contractor, subcontractors or worker representative. The reason for this requirement is to establish a deadline for filing a protest. This is unnecessary as the Code already specifies the conditions and timeframes for protests, which are fairer and more efficient to offerors. In addition, the bill proposes

changes to the Code's protest process that eliminates the ability of offerors to protest not just the award of contracts but the contents of the solicitation as well. This is not beneficial to the State or the contractors.

DAGS would like to point out that debriefings are provided for in the code at 103-303(h) and 103D-304(k), so any additional provisions for debriefings are unnecessary. Also note that page 2, lines 1-8 provide for the protest to be filed within five working days after the pre-job conference and page 3 line 20 to page 4 line 8 provide for the protest to be filed prior to the pre-job conference. This bill, by allowing the protest to be filed all the way to or after the pre-job conference would prolong the process and may result in protests against projects for which contracts have already been signed.

DAGS recommends that this bill be held.

Thank you for the opportunity to testify on this matter.