

**COALITION OF HAWAII ENGINEERING AND ARCHITECTURAL
PROFESSIONALS**

February 16, 2010

FAXED TESTIMONY TO: 586-6001

**Hearing Date: Thursday, February 18, 10:00 a.m., Conference Room 308
(House Committee on Finance)**

Honorable Representative Marcus R. Oshiro, Chair, Marilyn B. Lee, Vice Chair, and Members of the House Committee on Finance

Subject: HB 2901 HD-1, Relating to Procurement

Honorable Chair Oshiro, Vice Chair Lee, and Committee Members,

The Coalition of Hawaii Engineering & Architectural Professionals represents several professional Engineering and Architectural organizations including American Council of Engineering Companies Hawaii; American Institute of Architects; Hawaii Chapter of the American Society of Civil Engineers; American Public Works Association Hawaii Chapter; Structural Engineering Association of Hawaii; and the Hawaii Society of Professional Engineers.

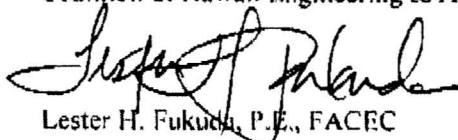
We are in Strong Support of HB 2901 HD-1 Relating to Procurement and to provide a nationally recognized procurement process for the procurement of Design Build construction projects.

This bill develops a two part process for the procurement of Design-Build construction. The first part will be qualification phase where the agency selects the best qualified teams (recommend that we limit this to 3 teams). The second part, short listed teams will be allowed to compete in the very costly and time consuming proposal phase developing the detailed scope of work, construction schedules and cost proposals. This two-step process serves to reduce industry costs in responding to requests for design-build proposals, to encourage the most qualified design-builders to participate by increasing their chances of success, and to reduce the cost to the agency of reviewing the proposals.

We have included a requirement to provide a stipend to the losing short-listed teams. The preparation of a design-build proposal is a very costly endeavor to the Design Build teams competing to the final stage. Recent examples include Honolulu Rail first segments where DB teams have spent well over \$1 million dollars putting together very detailed proposals, also the State Convention Center, and Ford Island Bridge all very costly endeavors. Contractor's acceptance of stipend will prohibit them from a bid protest.

We urge you to support HB 2901HD-1 Relating to Procurement.

Sincerely,
Coalition of Hawaii Engineering & Architectural Professionals



Lester H. Fukuda, P.E., FACEC



Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

House Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

HB 2901, HD1 – Relating to Procurement
Thursday, February 18, 2010
10:00 A.M.
Conference Room 308

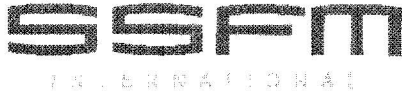
Chair Oshiro, Vice Chair Lee and members of the House Committee on Finance:

My name is C. Mike Kido, External Affairs for the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

PRP supports the purpose and intent of HB 2901, HD1 – Relating to Procurement, which establishes discretionary request for competitive sealed proposal procedure using the design-build process where not more than five offerors selected on their qualifications submit proposals, and stipends are paid to unsuccessful offerors who allow the agency to use elements of their designs and waive their right to protest the award.

“The legislature finds that the current procurement process for design-build project contracts requires offerors to prepare, in most instances, conceptual design drawings as part of their proposal which requires considerable upfront investment and may prevent many local firms from submitting proposals for design-build contracts. As a result, purchasing agencies may experience a decrease in competition, an increase in prices, and potentially, may be forced to sacrifice design and construction creativity. The purpose of this Act is to provide for the selection of the most qualified offerors for design-build projects and to encourage the participation of Hawaii-based companies, including local small firms, in the design-build proposal process.”

Thank you for the opportunity to share our opinion and we kindly ask for your support of HB 2901, HD1 – Relating to Procurement.



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**Hearing Date: Thursday, February 18, 10:00 a.m., Conference Room 308
(House Committee on Finance)**

Honorable Representative Marcus R. Oshiro, Chair; Marilyn B. Lee, Vice Chair; and, Members of the House Committee on Finance

Subject: HB 2901 HD-1, Relating to Procurement

Dear Chair Oshiro, Vice Chair Lee, and Committee Members,

SSFM International, Inc. strongly supports HB 2901 HD-1, Relating to Procurement. HB 2901 HD-1 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

HB 2901 would put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (up to five) that would then proceed to the second proposal stage. The second step is issuance of a request for proposals and evaluation of technical and price proposals from the pre-qualified/short-listed teams. The second step may include the opportunity for the design-build teams to obtain pre-approval of alternative technical concepts, and may include discussions/negotiations followed by subsequent proposals (best and final offers). This two-step process serves to reduce industry costs in responding to requests for design-build proposals, to encourage the most qualified design-builders to participate by increasing their chances of success, and to reduce the cost to the agency of reviewing the proposals.

HB2901 also provides for the granting of a stipend to the losing short-listed teams. Preparation of a design-build proposal is an onerous one, and teams can spend more than \$1 million to prepare their proposal. Studies have shown that the use of stipends reduce the cost to industry of participation in design-build procurement and encourage competition by allowing more firms to participate, as well as provide proposers partial compensation for agency ownership of concepts that may be incorporated into the project or used elsewhere by the agency.

We appreciate the opportunity to provide testimony regarding HB 2901 HD-1, Relating to Procurement.

Respectfully submitted,

SSFM INTERNATIONAL, INC.

Michael P. Matsumoto, P.E., FACEC
President/CEO

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February 17, 2010

Honorable Marcus R. Oshiro, Chair
Honorable Marilyn B. Lee, Vice Chair
Honorable Members of the House Committee on Finance

I am testifying in support for House Bill 2901, HD. 1, Relating to Procurement, on behalf of the Hawaii Section of the American Society of Civil Engineers.


The American Society of Civil Engineers was established in 1852 and is the oldest professional engineering organization in the United States. The Hawaii Section of ASCE was established in 1937 and is comprised of more than 1,000 civil engineers from both the public and private sectors of our state.

At the national level, the ASCE Board of Direction adopted a policy strongly supporting the two-phase process for design-build contracts for the competitive selection of construction services. A copy of the policy statement adopted on April 24, 2007 is attached.

The traditional method of construction has been the three-step design-bid-build process. In the last decade, the design-build (DB) method of contracting has been increasing steadily. Since 1982, the volume of domestic DB contracts nationwide has grown from \$6 billion to \$56 billion and now represents 23 percent of the nonresidential U.S. market. **Both private and public owners are using this method to accrue savings in both costs and time by streamlining the project delivery process. In Hawaii the federal government has been the leading advocate of DB and report savings in time and cost on their projects.**

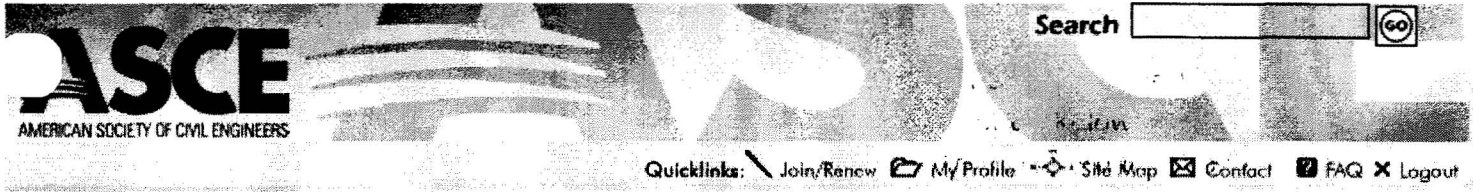
ASCE urges the DB process require the qualifications-based selection process for DB team. In addition, reimbursement for the consultants' cost for the preparation of proposals required by the owner. These features are contained in HB 2901, HD 1.

Thank you for the opportunity to testify on this measure. I urge your passage of HB 2901, HD 1 and would be happy to respond to any questions you may have.


Owen Miyamoto, PE, FASCE
Local Legislative Affairs Liaison

Attachment





DESIGN-BUILD PROCUREMENT

Approved by the National Engineering Practice Policy Committee on March 8, 2007
Approved by the Policy Review Committee on March 9, 2007
Adopted by the Board of Direction on April 24, 2007

Policy

The American Society of Civil Engineers (ASCE) strongly supports the use of the two-phase competitive source-selection process required by the Federal Acquisition Reform Act of 1996 (Pub.L. 104-106) for design-build contracts awarded by government agencies. The design-build team must be selected using the modified qualifications-based selection (QBS) criteria specified by the Act. The owner must provide sufficient architectural and engineering (A/E) services to prepare the design-build request for proposal (RFP) to identify the disciplines needed in the design-build team, and to evaluate, manage and assess the owner's requirements throughout the project. The contract between the design-build team and the owner must establish the means for direct communication between the owner and the designer as well as other team members. On complex projects, the owner must provide predetermined reimbursement for the firms selected to make complete design-build proposals.

Issue

The design-build system is one of several project delivery systems available to government agencies and private businesses.

Owners are seeking life-cycle cost effectiveness and high quality products and services. Design-build is a method whereby an owner can focus design and construction responsibility through a single contract. However, this contracting method presents certain challenges that must be addressed if quality is to be maintained. These issues are (1) procuring a highly qualified design-build team; (2) providing the contractual mechanism enabling the designer to fulfill its professional and ethical obligations to the owner as well as the public; and (3) providing the contractual mechanism which expresses the owner's requirements in the proposal and their fulfillment in the delivered project.

Rationale

The qualifications of the design-build team must be the primary consideration of selection. Team selection should be accomplished through a qualifications-based process that precedes evaluation of all other considerations.

In order for the delivered project to meet owner requirements, the team's designer, as designer of record, must be allowed to fulfill its professional and ethical obligations to the owner as well as the public. The communication link between the designer and the owner must be firmly established at project inception.

Because of the high cost of preparing design-build proposals for complex projects, the owner must provide reasonable reimbursement to the firms selected to submit proposals.

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ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

February 16, 2010

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House Committee on Finance

Hearing Date: Thursday, February 18, 10:00 a.m., Conference Room 308

Honorable Representative Marcus R. Oshiro, Chair, Marilyn B. Lee, Vice Chair, and
Members of the House Committee on Finance

Subject: HB 2901, Relating to Procurement, Testimony in Support

Dear Chair Oshiro, Vice Chair Lee, and Committee Members,

The American Council of Engineering Companies of Hawaii (ACEC Hawaii), representing more than 60 consulting engineering firms and 1,320 employees, **strongly supports HB 2901, Relating to Procurement.** The design-build process is increasingly being used by State and County agencies for the procurement of design and construction services. Design-build teams consist of one team of designers/builders, and provide quicker delivery of projects that benefit from the collaboration of designers and builders.

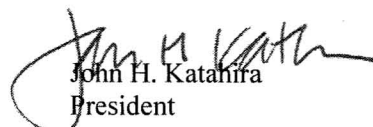
The first stage of the proposed two-step design-build procurement process consists of the potential offerors submitting their qualifications particular to the proposed project. A selection committee selects the most qualified teams that then proceed to the second proposal stage. The second stage requires substantial design effort and only the short-listed teams prepare this extensive and costly proposal.

Because of the great expense and effort to prepare a design-build proposal, many jurisdictions provide a stipend for the losing short-listed firms. The 0.5% stipend proposed in the bill is based on data from other jurisdictions. The stipend adds a small lump sum portion to make the stipend more reasonable for smaller projects. Since 0.5% may be too low for some complex projects or where background information contained in the Request for Proposals is inadequate, we propose to give the purchasing agency the discretion to increase the percentage for those situations. The stipend to each losing team is capped at \$1 million.

The provision of a stipend provides the "best value" for the State. Firstly, the bill provides that, in consideration of the stipend, the State agency may use the losing team's design concepts. In addition, a team that accepts the stipend cannot dispute the award. But perhaps most importantly, the stipend encourages more participation in the design-build process. Many small design firms are reluctant to pursue design-build opportunities due to the high cost of preparing the proposal. This bill will help our small firms participate.

We appreciate the opportunity to provide testimony regarding HB 2901. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,
ACEC Hawaii.


John H. Katahira
President

February 17, 2010

Emailed Testimony

**Hearing Date: Thursday, February 18, 2010, 10:00 a.m., Conference Room 308
(House Committee on Finance)**

Honorable Representative Marcus R. Oshiro, Chair,
Marilyn B. Lee, Vice Chair

Subject: HB 2901, Relating to Procurement

Dear Chair Oshiro, Vice Chair Lee, and Committee Members,

Fukunaga & Associates, Inc. is a Hawaii-owned and managed Civil & Environmental Engineering firm operating in Hawaii since 1969. **We are in strong support of HB 2901, Relating to Procurement.** HB 2901 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

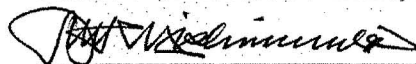
HB 2901 would put in place a two-step process for procuring design-build teams. At the first stage, potential design-build teams would submit their qualifications particular to the proposed project. A selection committee would select the most qualified teams (up to five) that would then proceed to the second proposal stage. The second step is issuance of a request for proposals and evaluation of technical and price proposals from the pre-qualified/short-listed teams. The second step may include the opportunity for the design-build teams to obtain pre-approval of alternative technical concepts, and may include discussions/negotiations followed by subsequent proposals (best and final offers). This two-step process serves to reduce industry costs in responding to requests for design-build proposals, to encourage the most qualified design-builders to participate by increasing their chances of success, and to reduce the cost to the agency of reviewing the proposals.

HB2901 also provides for the granting of a stipend to the losing short-listed teams. Preparation of a design-build proposal is an onerous one, and teams can spend more than \$1 million to prepare their proposal. Studies have shown that the use of stipends reduce the cost to industry of participation in design-build procurement and encourage competition by allowing more firms to participate, as well as provide proposers partial compensation for agency ownership of concepts that may be incorporated into the project or used elsewhere by the agency.

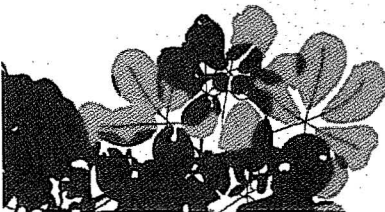
We appreciate the opportunity to provide testimony regarding HB 2901. Please do not hesitate to contact us if you have any questions regarding our testimony.

Very truly yours,

FUKUNAGA & ASSOCIATES, INC.



Jon K. Nishimura, P.E.
President



Kennedy/Jenks Consultants

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February 16, 2010

House Committee on Finance

Hearing Date: Thursday, February 18, 10:00 a.m., Conference Room 308

Honorable Representative Marcus R. Oshiro, Chair, Marilyn B. Lee, Vice Chair, and Members of the House Committee on Finance

Subject: **HB 2901, Relating to Procurement**
TESTIMONY IN SUPPORT

Dear Chair Oshiro, Vice Chair Lee, and Committee Members,

Kennedy/Jenks Consultants strongly **supports SB 2901, Relating to Procurement**. HB 2901 would provide for the procurement of design-build contract teams in a manner used by the Federal Government and many other jurisdictions.

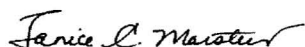
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We appreciate the opportunity to provide testimony regarding HB 2901. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

Kennedy/Jenks Consultants



Janice Marsters, Ph.D., LEED™ AP
Senior Environmental Engineer