

# **SB 1225**

## **RELATING TO PUBLIC CONTRACTS.**

Requires certain low bidders on public works construction contracts to provide the governmental contracting agencies with a projected breakdown of the hours of employees on the contract.

NEIL ABERCROMBIE  
GOVERNOR



BRUCE A. COPPA  
Comptroller

RYAN OKAHARA  
Deputy Comptroller

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

TESTIMONY  
OF  
BRUCE A. COPPA, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEE  
ON  
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS  
ON  
February 12, 2011

S.B. 1225

RELATING TO PUBLIC CONTRACTS

Chair Espero and members of the Committee, thank you for the opportunity to testify on S.B. 1225.

The Department of Accounting and General Services (DAGS) opposes passage of S.B. 1225 for the following reasons:

1. It will unnecessarily increase DAGS overview administration responsibilities during the bid award process for all public work construction projects (including those that are greater \$2,000) and will “slow down” the award process for all public work construction projects because:
  - A. DAGS will have to check all bid proposals for the ten percent (10%) “trigger” and (if applicable) generate correspondence to delay or rescind the “apparent

low bid award” until such time reference information on the man-hours of individuals to be engaged in the performance of the contract is provided by the “apparent low bidder”.

- B. After receipt of the necessary information, DAGS will then have to issue a bid award notification correspondence (which will most likely be based on DAGS acceptance of the projected man-hour breakdown provided by the “apparent low bidder” since there are no other evaluation criteria for this purpose).
- C. This requirement will create an additional burden on general contractors bidding for large construction projects, where there may be several dozen trades that the “apparent low bid general contractor” might have to provide projected man-hour breakdowns for.

**[NOTE: DAGS opened bids for twenty-two (22) public work construction projects since June 30, 2010, where eighteen (18) of those projects had low bidders which were more than ten percent (10%) below the State's estimate and ten (10) of those public work construction projects had low bids more than ten percent (10%) lower than the second lowest bid proposal.]**

- 2. It will also impact Act 62, Session Laws of Hawaii 2007, which currently requires all landlords that lease more than 50% of the leasable space in their buildings to government agencies, to be subject to prevailing wages and submittal of weekly certified payrolls when constructing tenant improvements for government offices. S.B. 1225 will place additional compliance requirements on affected landlords and DAGS (as the governmental contracting agency) for contracts that are really between the landlord and the contractor. It will require DAGS staff to:

- A. Obtain a projected breakdown of hours for each worker performing the contract.
- B. Ensure that the individuals will be paid not less than prevailing wages.
- C. Reject the contract if these requirements are not met.

**[NOTE: These conditions would apply to all public work construction bids which are ten percent (10%) lower than the next lowest bid or ten percent (10%) under the amount projected by DAGS. However, tenant improvements done through the landlord are not “typical DAGS construction contracts”, so it will be very difficult and unrealistic for DAGS to place the additional requirements on the landlord. Also, lease negotiations with landlords would likely fail if these conditions were required under the lease. ]**

- 3. DAGS does not have the resources needed to properly implement or enforce this Legislative mandate.

Thank you for the opportunity to testify on this matter.

pNEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

FEBRUARY 12, 2011

GLENN M. OKIMOTO  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
JAN S. GOUVEIA  
RANDY GRUNE  
JADINE URASAKI

IN REPLY REFER TO:

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

COMMITTEE ON PUBLIC SAFETY,  
GOVERNMENT OPERATIONS, & MILITARY AFFAIRS

SENATE BILL NO. 1225

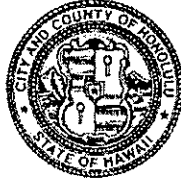
The Department of Transportation ("DOT") opposes Senate Bill 1225, which restricts the award to the lowest bidder. Such a restriction goes against the basic principles of a competitive sealed bid. Furthermore, this constraint adds an unnecessary burden on the government contracting agency to analyze the proposal in terms of compliance with wage and labor laws. Ultimately, this requirement only slows down the award of contracts and the infusion of capital into the economy.

Additionally, almost all DOT construction contracts involve federal funds. If federal funds are involved, DOT must comply with all federal procurement rules and regulations. This proposed legislation conflicts with the federal requirement to award to the lowest bidder.

Based on the above, DOT opposes Senate Bill 1225.

DEPARTMENT OF BUDGET AND FISCAL SERVICES  
**CITY AND COUNTY OF HONOLULU**  
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813  
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

PETER B. CARLISLE  
MAYOR



MICHAEL R. HANSEN  
ACTING DIRECTOR

February 10, 2011

The Honorable Will Espero, Chair  
and Members  
The Senate  
Committee on Public Safety, Government Operations, and Military Affairs  
The Twenty-Sixth State Legislature  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill No. 1225 Relating to Public Contracts, Projected Hours of Lowest Bidder Employees on Construction Projects

The City and County of Honolulu opposes this bill because it would needlessly require that certain low bidders on public works construction contracts provide the governmental contracting agencies with a projected breakdown of the hours of employees on the contract. This would further complicate the bid evaluation process by adding an additional compliance requirement and delay the contract awards.

In addition, the projected breakdown of labor hours would serve no purpose and would increase administrative processing requirements. Projected labor hours have no bearing on wage payments because workers are paid for hours actually worked. Furthermore, contractors are required to provide as many hours as are needed to complete the work, at no additional cost, because the City awards fixed price construction contracts. This renders labor hour projections to be of no use in the bid evaluation process.

Projected labor hours are unnecessary in the bid evaluation, would create delays, and are not useful for wage payment or for labor law enforcement purposes. Therefore, we stand opposed to S.B. 1225.

Sincerely,

A handwritten signature in black ink that reads "Michael R. Hansen".

Michael R. Hansen, Acting Director  
Budget & Fiscal Services

The Pacific Resource  
**PARTNERSHIP**



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

Senate Committee on Public Safety, Government Operations, and Military Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

SB 1225 -- RELATING TO PUBLIC CONTRACTS  
Saturday, February 12, 2011  
9:00 am  
Conference Room 229

Chair Will Espero, Vice Chair Michelle Kidani and Members of the Committee:

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

PRP is in strong support of SB 1225 which requires certain low bidders on public works construction contracts to provide the governmental contracting agencies with a projected breakdown of the hours of employees on the contract.

Over the past two years, PRP has responded on several occasions to the Contractors License Board's (CLB) posted request for opposition to an application for a license (Contractor). The testimony, in opposition to these applications, submitted by PRP was accompanied by points raised as to why a particular contractor should not be issued a license or additional license classification.

During the most recent economic downturn, PRP has been monitoring the bid outcomes on public works projects. PRP has noticed a trend where contractors are "diving" on bids and also noticed in the most severe cases contractors have come in as much as \$1.6M lower than the next lowest bidder. On several other jobs, we have noticed large disparities between the low bidder and the second place bidder with gaps between second, third, fourth, etc... being in the 2% -5% differential range.

This proposed bill requires low bidders who are 10% or lower in their bid than the next lowest bidder to provide the governmental contracting agency with a projected breakdown of the trade hours to be used in each specific trade, and in accordance with the prevailing wage scale. The Governmental contracting agency must approve the "labor management plan" for that particular project before the contract can be awarded, and certify that this plan meets Chapter 104 requirements, and that the plan is workable and feasible.

Testimony of C. Mike Kido  
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Thank you for the opportunity to share our views with you and we respectfully ask for your support on SB 1225 – Relating to Public Contracts.