

IRONWORKERS STABILIZATION FUND

January 25, 2012

Angus McKelvey, Chair
Committee on Economic Revitalization & Business
House of Representative
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Honorable Chair McKelvey and Members of the Committee on Economic Revitalization & Business:

Re: Strong Support for HB 1686 – Relating to Procurement

We are in strong support of HB 1686, Relating to Procurement; that requires solicitations for procurement of construction to list subcontractors on construction projects.

The purpose of this bill is to ensure that any replacement of any subcontractors are licensed and meet the same standards that were posted on the bid specifications. Additionally, we believe it is only fair that there should be a written notice by the subcontractor who is being replaced to the agency involved.

We request that you change the language on the bill to state that any solicitation will need to list all the subcontractors and this is for any and all work done by subcontractors.

Again we strongly support this measure for the working men and women of Hawaii. Thank you for your time and consideration.

Sincerely,

Arnold Wong /s/

SAH - Subcontractors Association of Hawaii

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January 26, 2012

Testimony To: House Committee on Economic Revitalization & Business
Representative Angus L.K. McKelvey, Chair
Representative Isaac W. Choy, Vice-Chair

Presented By: Tim Lyons
President

Subject: H.B. 1686 – RELATING TO PROCUREMENT

Chair McKelvey, Vice-Chair Choy and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we oppose this bill as it is currently written. The Subcontractors Association of Hawaii is composed of the following nine separate and distinct subcontracting organizations which include:

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

This bill strikes at the very heart of subcontractors. At present, subcontractors that are to be used on a job are listed by the general contractor when the prime submits their bid. This provides fair notice to everyone of who the subcontractors are that will be employed on a certain project. This bill would seem to say that that requirement will exist only if the contract is in excess of a half a million dollars and if the work performed by a particular sub-trade is in excess of twenty-five thousand dollars.

Subcontractor listing is currently required on all state and county jobs with the exception of some UH jobs, an exemption we STRONGLY OPPOSE. This experiment with the UH has not gone well with contractors left in the dark as to whether their price was used or whether they were successful in gaining the contract. Additionally, there have been rumors, although very difficult to substantiate, of bid-shopping by general contractors. Typically, this occurs by the contractor playing one subcontractor off the other. In general competition, that is OK but, when using a low bid system for public works, it is not.

One of the larger objections to bid-shopping has been addressed in this bill which is that seventy-five percent (75%) of the savings generated by substituting a different contractor than the one used to calculate the bid, would be refunded to the purchasing agency. We are not sure how this could possibly work. In other words, if I bid \$100,000.00 and \$10,000.00 of that was from a plumbing subcontractor who I was going to use but then I changed my mind because I found someone else for \$8,000.00, it would appear that the agency would have already determined that I am the low bidder at \$100,000.00. I am still going to get a \$100,000.00 contract. The agency is not going to be in a position to reduce it by \$2,000.00 since I have already been awarded the contract for \$100,000.00.

Based on the above and the fact that we are not sure what the intent of this bill is. We oppose it.

Thank you.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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January 26, 2012

TO: HONORABLE REPRESENTATIVES ANGUS MCKELVEY, CHAIR,
ISAAC CHOY, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON
ECONOMIC REVITALIZATION & BUSINESS

SUBJECT: **STRONG OPPOSITION TO H.B. 1686, RELATING TO PROCUREMENT.**
Requires solicitations for procurement of construction to require offerors to list subcontractors if the value of the contract is in excess of \$500,000 and the work to be performed by the subcontractor is in excess of \$25,000. Allows substitution of subcontractors if 75% of saving resulting from the substitution are refunded to the purchasing agency.

NOTICE OF HEARING

DATE: Thursday, January 26, 2012
TIME: 8:30 AM
PLACE: Conference Room 312

Dear Chair McKelvey, Vice Chair Choy and Members of the Committee:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary; GCA remains the largest construction association in the State of Hawaii. GCA is submitting testimony **in strong opposition** to H.B. 1686, Relating to Procurement.

Among other changes, this bill inserts the "subcontractor listing" requirement for low-bid procurement only (HRS Section 103D-302(b)), into section 103D-303 involving Competitive Sealed Proposals. Among other uses, section 103D-303 governs design-build procurements and other "best value" solicitations. The GCA believes that the current subcontractor listing requirement for low-bid procurements, is the single most used source of protests in construction procurement, causing procurement agencies, not only to spend its valuable resources to handle the protests, but also, has resulted in delays in delivering projects out to the construction industry work force in a timely manner. In many cases, awards based on bid-listing protests have gone to bidders with a higher bid price to the detriment of the taxpayers. Adding this to another procurement source would aggravate the problem as well as be impractical to implement under many competitive sealed proposal solicitations.

For example, for design-build solicitations, bid submissions are based on other than complete designs for a project where bidders have not yet obtained firm and reliable proposals from subcontractors. It would be impractical for bidders to name subcontractors for these solicitations. Most importantly, it would add yet another source of bid protests that hinders the State's efforts to stimulate the economy by quickly delivering construction projects out to the work force.

The bill also adds a requirement to include the “location of the place of business” of each subcontractor/joint contractor listed. Besides adding another burden on bidders trying to provide its best price proposal to the State just before it is due, this added requirement would be another source of bid protests by disgruntled unsuccessful bidders trying to knock out the low bidder.

The bill further adds a provision permitting substitution of subcontractors listed in a bid proposal under certain conditions. Though creditable in its intent, those provisions are impractical to implement, puts another burden on procuring agencies to implement, and adds another basis for protests and resultant procurement delays.

Accordingly, the GCA strongly opposes H.B. 1686 and recommends that the bill be held in the committee.

Thank you for the opportunity to present our views on this bill.