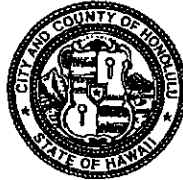


DEPARTMENT OF BUDGET AND FISCAL SERVICES  
**CITY AND COUNTY OF HONOLULU**  
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813  
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**LATE TESTIMONY**

PETER B. CARLISLE  
MAYOR



MICHAEL R. HANSEN  
DIRECTOR

NELSON H. KOYANAGI, JR.  
DEPUTY DIRECTOR

TESTIMONY OF MICHAEL R. HANSEN, DIRECTOR  
DEPARTMENT OF BUDGET AND FISCAL SERVICES  
CITY AND COUNTY OF HONOLULU

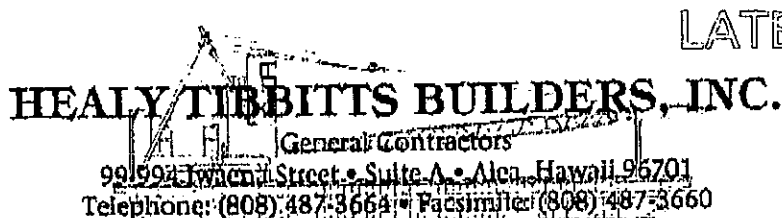
Rep. Angus L.K. McKelvey, Chair,  
Rep. Isaac W. Choy, Vice Chair,  
and Members of Committee on  
Economic Revitalization & Business  
House of Representatives  
The Twenty-Sixth State Legislature  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair McKelvey, Vice Chair Choy and Members:

Subject: ERB Hearing - February 7, 2012 at 8:30 a.m. HST  
House Bill No. 2044 Relating to Procurement

Thank you for the opportunity to testify on H.B. 2044. The City & County of Honolulu supports H.B. 2044 which requires a hearing officer to affirm the decision of a procurement officer in protests filed under section 103D-701, HRS, unless the procurement officer's decision is shown by clear and convincing evidence to be arbitrary, capricious, fraudulent, or clearly erroneous.

Thank you.



## LATE TESTIMONY

Via E-mail: [ERBTestimony@capitol.hawaii.gov](mailto:ERBTestimony@capitol.hawaii.gov)  
Facsimile: (808) 586-8479

February 7, 2012

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

SUBJECT: **STRONG SUPPORT OF H.B. 2044, RELATING TO PROCUREMENT.**  
Requires a hearing officer to affirm the decision of a procurement officer in protests filed under section 103D-701, HRS, unless the procurement officer's decision is shown by clear and convincing evidence to be arbitrary, capricious, fraudulent, or clearly erroneous.

HEARING

DATE: Tuesday, February 7, 2012

TIME: 8:30 AM

PLACE: Conference Room 312

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

Healy Tibbitts Builders, Inc. strongly supports H.B. 2044, Relating to Procurement.

H.B. 2044 proposes to limit a hearing officer's review of the procuring agency's decision in a bid protest under section 103D-701, HRS, by removing *de novo* review. Instead, unless the procurement officer's decision is shown by clear and convincing evidence to be arbitrary, capricious, fraudulent, or clearly erroneous, the decision shall stand.

Healy Tibbitts Builders, Inc. supports H.B. 2044, and is also in support of any amendments to the bill that the General Contractors Association of Hawaii may propose. The intent of the bill is to simplify and expedite the procurement appeal process by recognizing the procuring agency's experience and expertise in the procurement process, while preserving the right of review of a procuring agency's decision to the Department of Commerce and Consumer Affairs (DCCA) Office of Administrative Hearings (OAH).

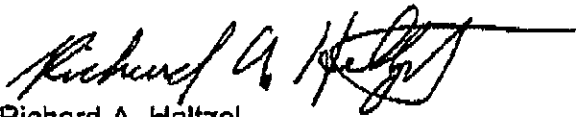
This bill retains a bid protester's right to a hearing before the OAH, but limits the hearing officer's review to the record of the procuring agency's decision below. Under this bill, the OAH review is generally limited to a review of the written record of procuring agency's protest proceedings for evidence of decisions that may be arbitrary, capricious, fraudulent, or clearly erroneous.

This bill balances the desire to expedite procurements delayed by constant protest appeals while preserving a limited right of review of a procuring agency's decision to the DCCA OAH.

For the above mentioned reasons, Healy Tibbitts Builders, Inc. is in strong support of H.B 2044.

Thank you for the opportunity to provide our views on this measure.

Very truly yours,  
Healy Tibbitts Builders, Inc.

A handwritten signature in black ink, appearing to read "Richard A. Heltzel", with a long horizontal line extending to the right.

Richard A. Heltzel,  
President



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Founded in 1962

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ISAAC CHOY, VICE CHAIR AND MEMBERS OF THE HOUSE  
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SUBJECT: **STRONG SUPPORT OF H.B. 2044, RELATING TO PROCUREMENT.**  
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### HEARING

DATE: Tuesday, February 7, 2012

TIME: 8:30 AM

PLACE: Conference Room 312

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

My name is Lance Inouye and I am President of Ralph S. Inouye Co., Ltd. (RSI), General Contractor and a member of the General Contractors Association of Hawaii (GCA). RSI **strongly supports** H.B. 2044, Relating to Procurement.

H.B. 2044 proposes to limit a hearing officer's review of the procuring agency's decision in a bid protest under section 103D-701, HRS, by removing *de novo* review. Instead, unless the procurement officer's decision is shown by clear and convincing evidence to be arbitrary, capricious, fraudulent, or clearly erroneous, the decision shall stand.

RSI supports H.B. 2044, and is also in support of any amendments to the bill that the General Contractors Association of Hawaii may propose. The intent of the bill is to simplify and expedite the procurement appeal process by recognizing the procuring agency's experience and expertise in the procurement process, while preserving the right of review of a procuring agency's decision to the Department of Commerce and Consumer Affairs (DCCA) Office of Administrative Hearings (OAH).

This bill balances the desire to expedite procurements delayed by constant protest appeals while preserving a limited right of review of a procuring agency's decision to the DCCA OAH.

**RSI is in strong support of H.B 2044.** Thank you for the opportunity to provide our views on this measure.