

SB 2030

RELATING TO PROCUREMENT

Description:

Allows a bidder 2 additional days after the bid submission closing date to submit names of joint contractors or subcontractors. Requires the opening of bids at the close of the 2-day period.

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
DIRECTOR

NELSON H. KOYANAGI, JR.
DEPUTY DIRECTOR

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

Sen. Will Espero, Chair,
Sen. Michelle N. Kidani, Vice Chair,
and Members of Committee on
Public Safety, Government Operations,
and Military Affairs
The Senate
The Twenty-Fifth State Legislature
State Capitol
Honolulu, Hawaii 96813

Dear Chair Espero, Vice Chair Kidani and Members:

Subject: PGM Hearing - February 7, 2012 at 2:45 p.m. HST
Senate Bill No. 2030 Relating to Procurement.

Thank you for the opportunity to testify on S.B. No. 2030. The City opposes S.B. No. 2030 which allows a bidder two (2) additional days after the bid submission closing date to submit names of joint contractors or subcontractors and requires the opening of bids at the close of the 2-day period.

This bill complicates the bidding process by establishing two bid submittal deadlines (1. submittal of bid pricing 2. submittal of joint contractors or subcontractor listing) and prolongs the bidding process. The added complexity and time provides no benefits to the contracting agency.

Thank you.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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W. Bruce Barrett
Castle & Cooke Homes Hawaii, Inc.

Testimony to the Senate Committee on Public Safety, Government Operations, & Military Affairs

Tuesday, February 7, 2012

2:45 p.m.

State Capitol, Room 224

RE: S.B. 2030, Relating to Procurement

Good morning Chair Espero, Vice Chair Kidani, and members of the committee:

My name is Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, BIA-Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

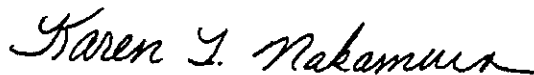
BIA-Hawaii **supports** S.B. 2030, which allows a bidder two (2) additional days after the bid submission closing date to submit names of joint contractors or subcontractors, and requires the opening of bids at the close of the 2-day period.

The proposed change will permit the bidder to insure that all subcontractors who have submitted bids to the general contractor have met all of the requirements to perform work on state and county projects, including meeting all licensing, bonding and insurance requirements, as applicable. The additional time is necessary because in most cases the general contractor does not receive bid prices from the various subcontractors until shortly before the bid must be submitted to the state agency. This means that the general contractor does not have time to check whether the subcontractors who have submitted bids meet the requirements to work on the job, especially the proper licenses issued by the Contractors License Board.

S.B. 2030 increases efficiency in the procurement process by allowing contractors to verify the information that subcontractors provide. This will reduce the likelihood of errors and result in reducing the number of bid protests which often delay public works projects and, in some cases, increase the cost of public works projects for the State.

For the foregoing reasons, BIA-Hawaii **supports** S.B. 2030.

Thank you for the opportunity to testify.



EVP/CEO
BIA-Hawaii

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

February 7, 2012

TO: HONORABLE SENATORS WILL ESPERO, CHAIR, MICHELLE KIDANI,
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON PUBLIC SAFETY,
GOVERNMENT OPERATIONS AND MILITARY AFFAIRS

SUBJECT: **STRONG SUPPORT OF S.B. 2030, RELATING TO PROCUREMENT.**
Allows a bidder 2 additional days after the bid submission closing date to submit
names of joint contractors or subcontractors. Requires the opening of bids at the
close of the 2-day period.

HEARING

DATE: Tuesday, February 7, 2012
TIME: 2:45 P.M.
PLACE: Conference Room 224

Dear Chair Espero, Vice Chair Kidani and Members:

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 this year; GCA remains the largest construction association in the State of Hawaii. GCA **strongly supports** the passage of S.B. 2030, Relating to Procurement.

S.B. 2030 would amend the current procurement procedure by amending Section 103D-302 to allow bidders an additional two (2) days to submit the list of subcontractors or joint contractors to be engaged in the performance of a project and any corrections or amendment to the subcontractor listing. Under this proposed change, the procurement officer would close the bidding in the usual manner, but would not open the bids until two (2) days after the closing. Each bidder shall have two (2) days after the bid closing to submit its list of subcontractors as required under Section 103D-302, HRS.

The proposed change will permit the bidder to insure that all subcontractors who have submitted bids to the general contractor have met all of the requirements to perform work on state and county projects, including meeting all licensing, bonding and insurance requirements, as applicable. The additional time is necessary because in most cases the general contractor does not receive bid prices from the various subcontractors until shortly before the bid must be submitted to the state agency. This means that the general contractor does not have time to check whether the subcontractors who have submitted bids meet the requirements to work on the job, especially the proper licenses issued by the Contractors License Board. Given the large number of "C" (currently over 160 issued and growing), it becomes increasingly difficult for the general contractor to ascertain licenses and verify whether every subcontractor has the proper license to perform the work he has submitted a bid to do.

This legislation is not an attempt to give general contractors an advantage in submitting bids nor is it, as some may argue, an opportunity to bid-shop. Instead this legislation is increasing efficiency in the procurement process, by allowing contractors to verify the information that subcontractors provide. The proposed legislation does not permit the contractor to change its proposed bid amount. The two days will permit the bidder to ensure the subcontractor/joint contractor list is complete and listed subcontractors/joint contractors are properly licensed, are bondable (where applicable), and have all the required insurance coverage. This will reduce the likelihood of errors and result in reducing the number of bid protests which often increase costs and delay public works projects for the state.

The GCA believes that this bill will result in more complete and accurate bid submittals and reduce the number of potential bid protests.

The GCA **strongly supports** the passage of S.B. 2030 and recommends its passage.

Grace Pacific
CORPORATION
P.O. Box 78 / Honolulu, Hawaii 96810

Administrative Office (808) 674-8383 fax (808) 674-1040
Paving Office (808) 845-3991 fax (808) 842-3206
Quarry Office (808) 672-3545 fax (808) 672-3998



Via E-mail: PGMTestimony@capitol.hawaii.gov
Facsimile: (808) 586-6361

February 6, 2012

TO: HONORABLE SENATORS WILL ESPERO, CHAIR, MICHELLE KIDANI, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS

SUBJECT: **STRONG SUPPORT OF S.B. 2030, RELATING TO PROCUREMENT.** Allows a bidder 2 additional days after the bid submission closing date to submit names of joint contractors or subcontractors. Requires the opening of bids at the close of the 2-day period.

NOTICE OF HEARING

DATE: Tuesday, February 7, 2012
TIME: 2:45 p.m..
PLACE: Conference Room 224

Dear Chair Espero, Vice Chair Kidani and Members of the Committee:

Grace Pacific Corporation **strongly supports** the passage of S.B. 2030, Relating to Procurement.

S.B. 2030 would amend the current procurement procedure by amending Section 103D-302 to allow bidders an additional two (2) days to submit the list of subcontractors or joint contractors to be engaged in the performance of a project and any corrections or amendment to the subcontractor listing. Under this proposed change, the procurement officer would close the bidding in the usual manner, but would not open the bids until two (2) days after the closing. Each bidder shall have two (2) days after the bid closing to submit its list of subcontractors as required under Section 103D-302, HRS.

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necessary because in most cases the general contractor does not receive bid prices from the various subcontractors until shortly before the bid must be submitted to the state agency. This means that the general contractor does not have time to check whether the subcontractors who have submitted bids meet the requirements to work on the job, especially the proper licenses issued by the Contractors License Board. Given the large number of "C" (currently over 160 issued and growing), it becomes increasingly difficult for the general contractor to ascertain licenses and verify whether every subcontractor has the proper license to perform the work he has submitted a bid to do.

This legislation is not an attempt to give general contractors an advantage in submitting bids, nor is it, as some may argue, an opportunity to bid-shop. Instead this legislation is increasing efficiency in the procurement process, by allowing contractors to verify the information that subcontractors provide. The proposed legislation does not permit the contractor to change its proposed bid amount. The two days will permit the bidder to ensure the subcontractor/joint contractor list is complete and listed subcontractors/joint contractors are properly licensed, are bondable (where applicable), and have all the required insurance coverage. This will reduce the likelihood of errors and result in reducing the number of bid protests which often delay public works projects and in some cases increase the cost of public works project for the state.

We believe that this proposed amendment will result in more complete and accurate bid submittals and reduce the number of potential bid protests.

Grace Pacific Corporation **strongly supports** S.B. 2030 and recommends its passage.

Grace Pacific Corporation



Raymond Nii
Manager, Eng, Admin, IDIQ



S & M SAKAMOTO, INC.
GENERAL CONTRACTORS

Via E-mail: PGMTestimony@capitol.hawaii.gov
Facsimile: (808) 586-6361

February 7, 2012

TO: HONORABLE SENATORS WILL ESPERO, CHAIR, MICHELLE KIDANI,
VICE CHAIR AND MEMBERS OF THE COMMITTEE ON PUBLIC
SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS

SUBJECT: **STRONG SUPPORT OF S.B. 2030, RELATING TO PROCUREMENT.**
Allows a bidder 2 additional days after the bid submission closing date to
submit names of joint contractors or subcontractors. Requires the
opening of bids at the close of the 2-day period.

NOTICE OF HEARING

DATE: Tuesday, February 7, 2012
TIME: 2:45 p.m..
PLACE: Conference Room 224

Dear Chair Espero, Vice Chair Kidani and Members of the Committee:

S&M Sakamoto, Inc. strongly supports the passage of S.B. 2030, Relating to Procurement.

S.B. 2030 would amend the current procurement procedure by amending Section 103D-302 to allow bidders an additional two (2) days to submit the list of subcontractors or joint contractors to be engaged in the performance of a project and any corrections or amendment to the subcontractor listing. Under this proposed change, the procurement officer would close the bidding in the usual manner, but would not open the bids until two (2) days after the closing. Each bidder shall have two (2) days after the bid closing to submit its list of subcontractors as required under Section 103D-302, HRS.

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for the general contractor to ascertain licenses and verify whether every subcontractor has the proper license to perform the work he has submitted a bid to do.

This legislation is not an attempt to give general contractors an advantage in submitting bids, nor is it, as some may argue, an opportunity to bid-shop. Instead this legislation is increasing efficiency in the procurement process, by allowing contractors to verify the information that subcontractors provide. The proposed legislation does not permit the contractor to change its proposed bid amount. The two days will permit the bidder to ensure the subcontractor/joint contractor list is complete and listed subcontractors/joint contractors are properly licensed, are bondable (where applicable), and have all the required insurance coverage. This will reduce the likelihood of errors and result in reducing the number of bid protests which often delay public works projects and in some cases increase the cost of public works project for the state.

We believe that this proposed amendment will result in more complete and accurate bid submittals and reduce the number of potential bid protests.

S&M Sakamoto, Inc. strongly supports S.B. 2030 and recommends its passage.

Sincerely,

S&M Sakamoto, Inc.



Dennis M. Ideta
Senior Vice President

IRONWORKERS STABILIZATION FUND

February 2, 2012

Wil Espero, Chair
Committee on Public Safety, Government Operations & Military Affairs
State Senate
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Date: February 7, 2012
Time: 2:45 p.m.
Place: Conference Room 224, State Capitol

Dear Honorable Chair Espero and Members of the Committee on Public Safety, Government Operations & Military Affairs:

Re: Strong Opposition for SB2030 – Relating to Procurement

We are in strong opposition of SB 2030, Relating to Procurement; that allows a bidder on construction contracts 2 additional days after closing bids to provide the names of joint contractor or subcontractor.

The purpose of this bill strongly goes against HRS Section 103D that the legislature has passed and the State of Hawaii has used to provide a fair and open process to bidding for public funded projects. We believe that a solicitor has ample time to obtain the names of the joint contractor or subcontractor for a project. All contractors and subcontractors look at the same bid list and can call each other. What we believe this bill allow is for the solicitor to bid shop and make a greater profit off of the small business men and worrien.

Consequently, we believe to modify the procurement law will jeopardize the integrity of the process.

We strongly oppose this measure for the working men and women of Hawaii. Thank you for your time and consideration.

Sincerely,

Arnold Wong /s/

PLUMBING & MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII



TELEPHONE: (808) 597-1216
FAX: (808) 597-1409
1314 S. King Street, Suite 961
Honolulu, Hawaii 96814

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via Email

February 2, 2012

Senator Will Espero
Committee on Public Safety, Government Operations and Military Affairs
The Senate
The Twenty-Sixth Legislature, Regular Session of 2012

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

SUBJECT: SB2030 Relating to Procurement

My name is Gregg Serikaku. I am the Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii. Our Association represents over 40 major plumbing and mechanical contractors who employ over 1,000 mechanics, technicians, managerial staff, and administrative personnel here in Hawaii.

The Association for which I speak is **strongly opposed** to SB2030.

The State Public Procurement Code (Chapter 103D) was developed to provide a fair, open and consistent method of procurement, and is designed to protect public funds.

Allowing bidders two additional days to submit the subcontractor listing and scope of work will not expedite procurement, and will only serve to incite the predatory and unfair practice of bid shopping.

According to data from the Department of Accounting and General Services, less than 6 projects out of 100+ projects in 2010 were protested due to errors in the subcontractor listing or scope of work. This fact clearly shows that errors of this type are actually very low (less than 5%), and that in most cases prime bidders are able to correctly follow the procurement rules.

Furthermore, the State Procurement Office has indicated that much of the delay in construction projects is not necessarily from the actual procurement of the job but from the associated permitting process.

Therefore, while our Association supports an expeditious procurement process, we do not feel that degrading the subcontractor listing requirements is the correct answer.

We propose that representatives from both the prime bidders and subcontractors work together on language that will help to address each parties' concerns, and further minimize future protests.

We therefore respectfully urge the committee to hold this bill.

Respectfully yours,

Gregg S. Serikaku
Executive Director



Hawaii Chapter

February 7, 2012

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Committee on Public Safety, Government Operations and Military Affairs

Sen. Will Espero, Chair
Sen. Michele N. Kidani, Vice Chair

Comments of Associated Builders and Contractors Hawaii Chapter regarding SB 2030

Chair Espero, Vice Chair Kidani, and members of the Committee; thank you for the opportunity to testify on this matter. My name is Malcolm Barcarse, Jr. I am the 2012 Board Chair and the Legislative Committee Chair of Associated Builders and Contractors Hawaii Chapter. We are an association of over 150 members representing the merit shop contracting industry in Hawaii.

We have concerns about this bill as we do not understand how this bill contributes to an open and transparent bidding process, and whether it provide a good value to the State. Typically in construction contracts, general contractors rely on the prices of their subcontractors in order to formulate their price. Without the prices of their subs, they can not accurately give the State a true price for their bid. That is why when a bid is submitted it is reasonable to expect that the contractor knows who they are going to be working with because they relied on the subs price in calculating their bid.

Therefore in our opinion the only purpose for this bill is for general and sub contractors to bargain with each other after bids have been submitted. If that is the case it would not provide a good value to the State as Contractors will likely submit inflated prices to the State and then try to bargain down their subs increasing their profit margin at the expense of the State.

Thank you for the opportunity to testify.

America's Best Contractors

1375 Dillingham Blvd. Suite 200 Honolulu, HI 96817-4438 Phone (808) 845-4887 Fax (808) 847-7876 www.abchawaii.org

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

February 7, 2012

Testimony To: Senate Committee on Public Safety, Government Operations,
and Military Affairs
Senator Will Espero, Chair

Presented By: Tim Lyons
President

Subject: S.B. 2030 – RELATING TO PROCUREMENT

Chair Espero and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we oppose this bill. 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 merely allows a legal way for the general contractor to go bid-shopping for an additional two (2) days after the closing of bids. It has to be understood that the general contractor has a great deal of economic leverage over a subcontractor. For many subcontractors, they get a 100% of their work through general contractors. The general contractor calls them and says, "by the way I know that you submitted your best price but I need you to come down even more". They are often times in a situation where they cannot refuse.

The purpose of listing subcontractors when filing a bid is to be sure that those bidders are protected from any "hanky panky" that may go on after the close of the bid time. The additional two (2) days only opens the door to allow for this highly unethical activity to occur at the expense of those who are in the worst position to be able to defend it. General contractors are the boss of the job and can stipulate when they want subcontractors to supply them with prices. There is no reason why they cannot do that and require this to be done two (2) days in advance of the closing of the bids instead of opening the door and allowing for this disaster to occur.

Based on the above, we oppose this bill.

Thank you.

STEEL FABRICATORS AND ERECTORS OF HAWAII

P.O. Box 30062, Honolulu, Hawaii 96820-0062

February 2, 2012

Wil Espero, Chair
Committee on Public Safety, Government Operations & Military Affairs
State Senate
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Date: February 7, 2012
Time: 2:45 p.m.
Place: Conference Room 224, State Capitol

Dear Honorable Chair Espero and Members of the Committee on Public Safety, Government Operations & Military Affairs:

Re: Strong Opposition for SB030 – Relating to Procurement

We are in strong opposition of SB 2030, Relating to Procurement; that allows a bidder on construction contracts 2 additional days after closing bids to provide the names of joint contractor or subcontractor.

The purpose of this bill strongly goes against HRS Section 103D that the legislature has passed and the State of Hawaii has used to provide a fair and open process to bidding for public funded projects. We believe that a solicitor has ample time to obtain the names of the joint contractor or subcontractor for a project. All contractors and subcontractors look at the same bid list and can call each other. What we believe this bill allow is for the solicitor to bid shop and make a greater profit off of the small business men and women.

Consequently, we believe to modify the procurement law will jeopardize the integrity of the process.

We strongly oppose this measure for the working men and women of Hawaii. Thank you for your time and consideration.

Respectfully submitted,

T. Kawika Chun, President