

LATE TESTIMONY

Via E-mail: PGMTestimony@capitol.hawaii.gov

February 7, 2012

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

SUBJECT: **STRONG OPPOSITION TO S.B. 2413, 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.



HEARING

DATE: Tuesday, February 7, 2012

TIME: 2:45 PM

PLACE: Conference Room 224

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

ROYAL CONTRACTING CO., LTD. strongly opposes the passage of S.B. 2413, Relating to Procurement because it will likely make bid protests increase due to the proposed subcontractor listing amendments. Although this bill purports to promote savings for the state in Section 1 with a proposed 75% cost savings from the substitution of a subcontractor to be returned to the purchasing agency, it will instead have a much different effect due to the increased likelihood of bid protests that would be permissible under the proposed language.

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.

ROYAL CONTRACTING CO., LTD. believes that the current subcontractor listing requirement for low-bid procurements is the single most used source of protests in construction procurement. Thereby causing procurement agencies, not only to spend its valuable resources to handle the protests, but also, resulting 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.

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For example, in 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, ROYAL CONTRACTING CO., LTD. strongly opposes H.B. 2413 and recommends that the bill be held in the committee.

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

LATE TESTIMONY



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DATE: Tuesday, February 7, 2012
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Dear Chair Espero, Vice Chair Kidani 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 opposes** the passage of S.B. 2413, 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.

RSI believes that the current subcontractor listing requirement for low-bid procurements is the single most used source of protests in construction procurement thereby causing procurement agencies, not only to spend its valuable resources to handle the protests, but also, resulting 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, in 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 disappointed unsuccessful bidders trying to knock out the low bidder.

Accordingly, RSI strongly opposes S.B. 2413 and recommends that the bill be held in the committee.

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