

# **SB 1064**

RELATING TO PROCUREMENT OF PROFESSIONAL SERVICES.

Authorizes the procurement policy board to adopt rules addressing situations of less than three qualified persons for procurement of professional services. Effective upon approval.

DAVID Y. IGE  
GOVERNOR



SARAH ALLEN  
ADMINISTRATOR

PAULA A. YOUNGLING  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Telephone: (808) 587-4700  
e-mail: [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov)  
<http://spo.hawaii.gov>

TESTIMONY

OF

SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE

ON

GOVERNMENT OPERATIONS

FEBRUARY 26, 2015, 1:20 P.M.

SENATE BILL 1064  
RELATING TO PROCUREMENT OF PROFESSIONAL SERVICES

Chair Dela Cruz, Vice-Chair Nishihara, and members of the committee, thank you for the opportunity to submit testimony on SB1064.

The State Procurement Office (SPO) strongly SUPPORTS this measure.

This bill effectively re-authorizes administrative rules that have been successfully applied over the last twenty years, since 1995. These rules allowed for an alternate process if less than three qualified offerors could be ranked as part of a professional services process.

In 2014, the Hawaii Supreme Court invalidated the Rules in a recent case, *Asato v. Procurement Policy Board*. It was deemed that the rules were less restrictive than the statute. This bill looks to correct the verbiage in statute in order to continue using the rules as written.

If an alternate process is not an option, the requirement is then to continue re-soliciting until at least three qualified offerors do propose and thus can be ranked. For specialized work, where attaining three offerors may be impossible, the only solution will be to re-solicit over and over, becoming an infinite loop, essentially forcing the procuring official into a stalemate, unable to continue. Some may suggest that the only alternative for the procuring official at this point, would be to add a non-qualified offeror to the ranking in order to achieve the 'three persons' requirement. SPO maintains that ranking persons who do not meet the qualification requirements in order to circumvent the requirement is inappropriate and thus a procurement violation.

This measure accounts for the operational reality of professional services procurement by allowing the procurement to move forward under an alternative procedure only for the very limited situations discussed above. When these situations do occur, the Chief Procurement Officer shall make the determination, similar to lifting a stay—when it is necessary to protect “substantial interests of the State.” SPO recommends change to HRS §103D-304(g), as follows:

(g) The selection committee shall rank a minimum of three persons based on the selection criteria and send the ranking to the head of the purchasing agency. In the event there are less than three qualified persons that can be sent to the head of the purchasing agency, a request for an alternative procurement may be requested to the Chief Procurement Officer in accordance with administrative rules adopted by the procurement policy board. The contract file shall contain a copy of the summary of qualifications for the ranking of each of the persons provided to the head of the purchasing agency for contract negotiations. If more than one person holds the same qualifications under this section, the selection committee shall rank the persons in a manner that ensures equal distribution of contracts among the persons holding the same qualifications. The recommendations of the selection committee shall not be overturned without due cause.

Thank you.

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](http://www.honolulu.gov)

KIRK CALDWELL  
MAYOR



NELSON H. KOYANAGI, JR.  
DIRECTOR

GARY T. KUOKAWA  
DEPUTY DIRECTOR

TESTIMONY OF NELSON H. KOYANAGI, JR.  
DIRECTOR OF BUDGET AND FISCAL SERVICES  
CITY AND COUNTY OF HONOLULU  
BEFORE THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS  
February 26, 2015, 1:20 p.m., Conference Room 414

SENATE BILL 1064, "RELATING TO PROCUREMENT OF PROFESSIONAL SERVICES"

Position: In Support

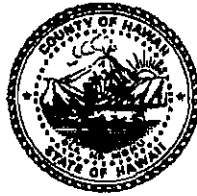
TO: The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Government Operations

The Department of Budget and Fiscal Services, City and County of Honolulu, **supports** Senate Bill No. 1064, Relating to Procurement of Professional Services.

The bill will provide an available procurement method when there are less than three qualified professional service providers. For the reason stated above, the City respectfully requests that this bill be passed.

Mahalo for the opportunity to testify on this bill. Should you have any questions or concerns, please feel free to contact the Department of Budget & Fiscal Services' Division of Purchasing at 808-768-5535 or [bfspurchasing@honolulu.gov](mailto:bfspurchasing@honolulu.gov).

William P. Kenoi  
Mayor



Deanna S. Sako  
Director

Lisa K. Miura  
Deputy Director

## County of Hawai'i

### Finance Department

25 Aupuni Street, Suite 2103 • Hilo, Hawai'i 96720  
(808) 961-8234 • Fax (808) 961-8569

February 23, 2015

The Honorable Donovan M. Dela Cruz, Chair  
And the Members of the Committee on Government Operations  
Hawaii State Capitol, Room 414  
Honolulu, Hawaii 96813

RE: Senate Bill 1064, RELATING TO PROCUREMENT OF PROFESSIONAL SERVICES

Aloha Chair Dela Cruz and Committee Members:

The County of Hawaii strongly SUPPORTS this measure as written.

This measure addresses an issue under current law that, under certain circumstances, paralyzes the procurement of professional services, specifically for design professionals licensed under chapter 464. Hawaii Revised Statutes 103D-304(g) requires a minimum of three ranked persons to move forward in the procurement process. If there are less than three qualified persons in response to a professional services procurement, a procurement officer can be in a situation where the only possible action under the procurement code is to re-solicit, sometimes repeatedly and to the detriment of the State and potential qualified applicant(s). This dead end wastes taxpayer dollars and is inefficient for the State and Counties and for potential qualified applicants, who invest time and money each time they submit an application.

By addressing situations where there are fewer than three qualified persons available, this measure accounts for the operational reality of professional services procurement by allowing the procurement to move forward under an alternative procedure.

Aloha,

Deanna S. Sako  
Finance Director

February 26, 2015



Honorable Donovan Dela Cruz, Chair  
Senate Committee on Government Operations

**Senate Bill 1064**  
**Relating to the Procurement of Professional Services**

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Executive Vice President

**AIA Hawaii State Council**

Center for Architecture  
828 Fort St. Mall, Ste. 100  
Honolulu, HI 96813-4452

Dear Chair Dela Cruz and Members of the Committee,

My name is Daniel Chun, President of the American Institute of Architects (AIA) Hawaii State Council that represents some 600 Hawaii licensed architects. I have 38 years of local architectural business practice experience. I am the Hawaii delegate to the AIA State Government Network comprised of the 50 states. I worked personally on the current language of HRS 103D-304 during the Lingle Administration to bring the procurement of architectural design services into conformity with federal procurement and the great preponderance of the 50 states. The current language was carefully drafted, lobbied and enacted in response to charges of political corruption in the award of local design professional services contracts.

AIA is **STRONGLY OPPOSED** to lines 10-13 that allows the agency head to select from among a list of top ranked persons instead of ranking by the selection committee. This was a feature of past corrupt procurement where a list of persons meeting the minimum qualifications was sent for an agency head to select his or her favorite. AIA questions the need for the change in lines 10-13 if SB 1064 is intended to address a problem of an agency receiving less than three offers.

AIA is **STRONGLY OPPOSED** to the language of lines 14-17 that allows less than three persons to be ranked using administrative rules yet to be written by Procurement Policy Board PPB. "Less than three persons" overturns many years of the statute requiring a minimum of three persons to be considered for design professional contracts.

Surrendering the legislature's duty to enact good law to PPB opens the possibility its new rules may again be declared "invalid" as in Asato vs. Procurement Policy Board. AIA sent letter to State Procurement Office on September 27, 2014 stating our opposition to the proposed bill. In House EDB hearing for companion House Bill 895, it was said by SPO that these bills are needed to address rare situations where few to only one person meets qualifications. Our subsequent inquiry into Asato vs. PPB shows the impetus was the City & County of Honolulu using the PPB "less than three" rule **TWENTY SIX TIMES** in contract awards, many for architectural – engineering

services. AIA contends that 26 times under the former city administration is not a rare situation. If the legislature gives PPB authority to make rules for "less than three persons" this can lead to two problems. Firstly, architect businesses will be at the mercy of a small group of civil servants and appointees instead of having the people's' elected representatives craft a statutory balance among all competing interests. Secondly, a "less than three persons" rule could lead to public corruption that the current 103D-304 sought to ban forever.

Ethical conduct aside, ranking "less than three persons" reduces the ability of agencies to negotiate fair and reasonable contract prices, as required by 103D-304, as there is less pressure upon competitors to agree to agency budgeted fees. So passage of SB 1064 is more detrimental to taxpayer interests than to architect business interests.

### **House Bill 895 HD1**

After architects' opposing testimony at House EDB, AIA discussed compromise language with SPO that resulted in HD1 language. It was represented to AIA that the court required these bills due to the Asato ruling. However, this was a **HALF TRUTH** in that the court said a bill is required **ONLY IF** the long-standing 2004 statute and historic practice of "no less than three persons" is to be overturned by the legislature. You do not need to pass any bill.

At its February 12 AIA Board meeting and after discussion of the Asato ruling, our members directed that changes to HRS 103D-304 are to be opposed; including HB 895 HD1. Moving SB 1064 makes Hawaii procurement of architect services out of alignment with federal procurement practices. Please defer this bill. Thank you for the opportunity to **STRONGLY OPPOSE** Senate Bill 1064.



**NANEA**  
**studios inc.**

PO Box 437301  
Kamuela, HI 96743

v 808.937.5511

25 February 2015

**SB 1064**

**I OPPOSE SB 1064** because it overturns important professional, ethical, and cost containment features of Hawaii's current architect selection law. I also oppose allowing Procurement Policy Board to make rules circumventing the current law.

Sincerely,

A handwritten signature in black ink, appearing to read 'Spielman', with a long horizontal flourish extending to the right.

Aaron Spielman, AIA  
Registered Architect  
Nanea Studios Inc.

Cc: AIA Honolulu, AIA National





**MIYASHIRO**  
AND ASSOCIATES, INC.  
Mechanical Consulting Engineers

February 24, 2015

Subject: SB1064, Relating to Procurement of Professional Services

TESTIMONY IN OPPOSITION

Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations:

I am an Engineering Consultant in Hawaii. I am submitting this letter to express my strong opposition to SB 1064, relating to Procurement of Professional Services, which proposes to alter the qualifications-based selection (QBS) law for procurement of design professional services. The QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process. When the State Procurement Office established rules that allowed selection of design professional firms without following the proper procedure, a subsequent court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

Malcolm Miyashiro, P.E.  
Miyashiro and Associates, Inc.



**President**

William H.Q. Bow, P.E.  
Bow Engineering & Development, Inc.  
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Website: [www.acechawaii.org](http://www.acechawaii.org)

February 25, 2015

**Senate Committee on Government Operations**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations

**Subject: SB 1064, Relating to Procurement of Professional Services  
TESTIMONY IN OPPOSITION**

Dear Chair Dela Cruz, Vice Chair Nishimura, and Committee Members:

The American Council of Engineering Companies of Hawaii (ACECH) represents more than 70 member firms with over 1,500 employees throughout Hawaii. ACECH member firm projects directly affect the quality of the water we drink and the food we eat; the safety of our buildings, highways, bridges, and infrastructure; and the quality of the environment in which we work and play. Procurement of design professional services is a serious business.

“Qualifications-based selection” (QBS) is the nationally recognized model procurement code for the procurement of design professional services. ACECH is a strong supporter of HRS §103D-304, the State’s QBS law. The Committee may recall that, prior to enactment of §103D-304, procurement of professional design services in Hawaii was rife with abuse and corruption, and negative news articles greatly damaged public faith in our procurement processes. §103D-304 was strongly supported by ACECH to provide fairness and transparency in public procurement, and to restore public faith in procurement of design professional services. The legislature clearly felt that design professional procurement deserved special care, as it limited procurement methods to sections 103D-304 and -307 (emergency), while allowing other professional services to be obtained through other methods (including sole source procurement).

Following enactment of §103D-304, the state procurement office put into place rules (HAR §3-122-663) that did not follow the intent of the law. In February 2014, a decision of the Supreme Court of the State of Hawaii upheld a 2012 Circuit Court decision that found that the rule was invalid and that the law “must be read by its plain and obvious meaning” and the rule “could not be justified by the need to “fill a gap left in HRS § 103D-304,” because “[t]he plain language of section 304 does not leave any such gaps[.]” (Decision SCAP-12-0000789). The Court’s ruling resulted in considerable negative press regarding procurement actions that were conducted using the rules and in violation of the law.

The bill proposes several revisions to the statute that would result in the erosion of QBS and model procurement process. The proposed language changes are subtle but critical. Firstly, the proposed changes to lines 10 through 13 would allow an agency head to select from a list of 3 or more “top ranked” persons instead of having the selection committee evaluate and rank the qualified persons. This opens the door to the abuses we have seen in the past.



Lines 14-17 of the bill would allow less than three persons to be selected as the top ranked using rules written by the Procurement Policy Board. Following enactment of §103D-304, the state procurement office put into place rules (HAR §3-122-66) that did not follow the intent of the law. In February 2014, a decision of the Supreme Court of the State of Hawaii upheld a 2012 Circuit Court decision that found that the rule was invalid and that the law “must be read by its plain and obvious meaning” and the rule “could not be justified by the need to “fill a gap left in HRS § 103D-304,” because “[t]he plain language of section 304 does not leave any such gaps[.]” (Decision SCAP-12-0000789). The Court’s ruling resulted in considerable negative press regarding procurement actions that were conducted using the rules and in violation of the law. We believe that it is highly unlikely that a review committee could find less than three qualified design professionals for a particular scope of work and, therefore, find the bill suspect. HAR §3-122-66 clearly does not meet the legislature’s intent of the statute, and we believe that revising the statute to sidestep the intent is against public interest.

ACECH beseeches this committee to uphold the good procurement law established by §103D-304, and to defer this bill. We appreciate the opportunity to provide testimony on this matter. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,  
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF HAWAII

A handwritten signature in cursive script, reading "Janice C. Marsters".

Janice C. Marsters  
Co-Chair, Legislative Committee

February 25, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

**TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations:

Fukunaga & Associates, Inc. is a locally owned and managed small business civil and environmental engineering firm operating in Hawaii since 1969. We are in **strong opposition to SB 1064**, Relating to Procurement of Professional Services, which proposes to alter the qualifications-based selection (QBS) law for procurement of design professional services. The QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process. When the State Procurement Office established rules that allowed selection of design professional firms without following the proper procedure, a subsequent court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Very truly yours,



Jon K. Nishimura, President  
Fukunaga & Associates, Inc.

FUKUNAGA & ASSOCIATES, INC.





THE LIMTIACO CONSULTING GROUP  
CIVIL ENGINEERING AND ENVIRONMENTAL CONSULTANTS

February 26, 2015

**Committee on Government Operations**

Honorable Senator Donovan Dela Cruz, Chair; Clarence Nishihara, Vice Chair;  
and Committee Members

**Subject: Testimony in Opposition of SB1064  
Relating to Procurement of Professional Services**

**Hearing: Thursday, February 26, 2015, 1:20 p.m., Conference Room 414**

Dear Chair Dela Cruz, Vice Chair Nishihara and Committee Members:

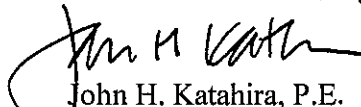
The Limtiaco Consulting Group (TLCG) is a local civil and environmental engineering firm and is proud to be voted one of Hawaii's Best Places to Work. TLCG is an active member of the American Council of Engineering Companies of Hawaii (ACECH) as well as other professional engineering organizations. TLCG principals believe it is important to give back to the communities we serve through beneficial engineering projects and meaningful volunteerism.

Qualification Based Selection (QBS) is the basis of fair and transparent procurement of professional engineering services. Without QBS procurement government opens itself to additional criticism of "pay-to-play" contracting.

TLCG is opposed to SB1064 because it removes the duty of a selection committee to rank a minimum of three qualified firms. Without the need rank the qualified firms, any government agency will be allowed to hand-pick their favorite company. This will result in "pay-to-play" contracting; we will all loose but Hawaii tax payers will suffer most of all.

Thank you for an opportunity to express my concerns and mahalo for your favorable consideration of this bill.

With aloha,  
*The Limtiaco Consulting Group, Inc.*

  
John H. Katahira, P.E.  
President

**Bow Engineering & Development, Inc.**  
1953 S. Beretania Street, PH-A  
Honolulu, Hawaii 96826-1342

Telephone: (808) 941-8853  
Fax: (808) 945-9299  
www.bowengineering.com



February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

**TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair;  
and Members of the Senate Committee on Government Operations:

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I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

**BOW ENGINEERING &  
DEVELOPMENT, INC.**

A handwritten signature in cursive script that reads "William H.Q. Bow".

William H.Q. Bow, P.E.  
President



## SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES, INC.

February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

### **TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

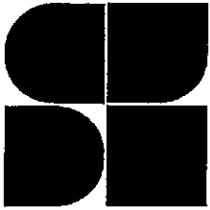
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I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,  
Shigemura, Lau, Sakanashi, Higuchi and Associates

Beverly Ishii-Nakayama, P.E.  
Principal



## SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES, INC.

February 24, 2015

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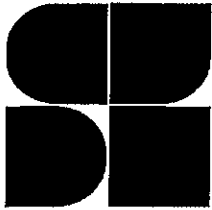
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Respectfully submitted,  
Shigemura, Lau, Sakanashi, Higuchi and Associates

Wayne K. Higuchi, S.E.  
Vice-President





**SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES,  
INC.**

February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

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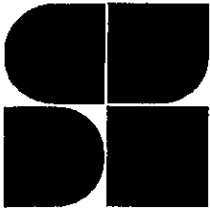
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I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,  
Shigemura, Lau, Sakanashi, Higuchi and Associates

Craig H. Sakanashi, S.E.  
Vice-President



**SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES,  
INC.**

February 24, 2015

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Respectfully submitted,  
Shigemura, Lau, Sakanashi, Higuchi and Associates

  
Howard K.C. Lau, S.E.  
President



**Gray • Hong • Nojima & Associates, Inc.**  
CONSULTING ENGINEERS

*Daniel S.C. Hong, PE*  
*Sheryl E. Nojima, PhD, PE*  
*Michael H. Nojima, PE, LEED AP*  
*Audrey Y.T. Yokota, PE*  
*Toby T. Hanzawa, PE, LEED AP*  
*Gavin Y. Masaki, PE, LEED AP*  
*Winston M. Taniguchi, PE*

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February 24, 2015

**Committee on Government Operations**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations

**Subject: TESTIMONY IN OPPOSITION of SB1064, Relating to Procurement of Professional Services**  
Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)

Dear Chair Dela Cruz, Vice Chair Nishimura, and Members of the Senate Committee on Government Operations:

I am an engineering consultant in Hawaii, and I am in strong opposition to SB 1064, Relating to Procurement of Professional Services, which proposes to alter the qualifications-based selection (QBS) law for procurement of design professional services. The QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process. When the State Procurement Office established rules that allowed selection of design professional firms without following the proper procedure, a subsequent court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

GRAY, HONG, NOJIMA & ASSOCIATES, INC.

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Michael H. Nojima, P.E., LEED AP  
Vice President

MN:SN:rl



**Gray • Hong • Nojima & Associates, Inc.**  
CONSULTING ENGINEERS

*Daniel S.C. Hong, PE*  
*Sheryl E. Nojima, PhD, PE*  
*Michael H. Nojima, PE, LEED AP*  
*Audrey Y.T. Yokota, PE*  
*Toby T. Hanzawa, PE, LEED AP*  
*Gavin Y. Masaki, PE, LEED AP*  
*Winston M. Taniguchi, PE*

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February 24, 2015

**Committee on Government Operations**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations

Subject: **TESTIMONY IN OPPOSITION of SB1064, Relating to Procurement of Professional Services**  
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I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

GRAY, HONG, NOJIMA & ASSOCIATES, INC.

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Sheryl E. Nojima, PhD, P.E.  
President

SN:MN:rl



February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

WSP Hawaii, Inc.  
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USA

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honolulu@wspgroup.com  
www.wspgroup.com

**TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations:

I am an engineering consultant in Hawaii, and I am in strong opposition to **SB 1064, Relating to Procurement of Professional Services**, which proposes to alter the qualifications-based selection (QBS) law for procurement of design professional services. The QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process. When the State Procurement Office established rules that allowed selection of design professional firms without following the proper procedure, a subsequent court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gene Albano". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gene Albano, PE LEED AP  
President  
WSP Hawaii, Inc.



# THERMAL ENGINEERING CORPORATION

512 Kalihi Street, Honolulu, Hawaii 96819  
TEL: (808) 848-6966 FAX: (808) 848-6964  
E-mail: [engineering@thermaleng.com](mailto:engineering@thermaleng.com)

February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

## **TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and  
Members of the Senate Committee on Government Operations:

Thermal Engineering Corporation is in **strong opposition to SB 1064**, Relating to Procurement of Professional Services, which proposes to alter the qualifications-based selection (QBS) law for procurement of design professional services. The QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process. When the State Procurement Office established rules that allowed selection of design professional firms without following the proper procedure, a subsequent court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

I appreciate the opportunity to provide testimony regarding this matter.

Respectfully submitted,

Jeffrey K. Kohara  
Sr. Vice President/CFO  
Thermal Engineering Corporation



February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

**TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations:

I am a local engineering consultant with Pacific Geotechnical Engineers, Inc., and I **am in strong opposition to SB 1064**, Relating to Procurement of Professional Services, which proposes to alter the qualifications-based selection (QBS) law for procurement of design professional services. The QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process. When the State Procurement Office established rules that allowed selection of design professional firms without following the proper procedure, a subsequent court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

I appreciate the opportunity to provide testimony regarding this matter. Please do not hesitate to contact me should you have any questions regarding my testimony.

Respectfully submitted,

Pacific Geotechnical Engineers, Inc.

Glen Y.F. Lau, P.E.  
President



February 24, 2015

Subject: **SB1064, Relating to Procurement of Professional Services**

**TESTIMONY IN OPPOSITION**

**Hearing Date: Thursday, February 26, 1:20 p.m., Conference Room 414  
(Senate Committee on Government Operations)**

Honorable Senators Donovan M. Dela Cruz, Chair; Clarence K. Nishimura, Vice Chair; and Members of the Senate Committee on Government Operations:

As a professional engineer in Hawaii with over 35 years of experience in the public works area. I feel that is of utmost importance to maintain the integrity of our Hawaii design professional procurement system for the selection of the best qualified firms to perform public works projects.

Our current procurement law, Relating to Procurement of Design Professional Services (for Engineers and Architects) is based on qualification-based selection (QBS) law. QBS procedures in HRS §103D-304 are based on the nationally recognized model procurement code for the procurement of design professional services. The law protects the public by providing an open and transparent procurement process to select the best qualified firms.

We **oppose** measures that can potentially threaten or weaken our current design professional QBS procurement system. Solicitations by agencies should be written to allow for fair competition of qualified firms. Agencies that establish rules that allow selection of design professional firms without following the proper selection procedures are in violation. A court ruling stating that §103D-304 must be followed resulted in considerable negative press regarding the procurement actions that occurred without following the QBS procedure.

We urge you to defer this bill.

Sincerely,  
Lester Fukuda, PE



**HENNIGER**



**HENNIGER**

INCORPORATED

February 24, 2015

To whom it may concern,

I OPPOSE SB 1064 because it overturns very important professional, ethical and cost containment features of Hawaii's current architect selection law. I also oppose allowing Procurement Policy Board to make rules circumventing the current law.

Sincerely,



G. Linn Henniger, AIA ACI  
**Principal Architect**

Henniger & Henniger Inc.



## **FUNG ASSOCIATES INC.**

architecture ■ preservation ■ planning ■ interiors

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February 24, 2015

Honorable Donovan M. Dela Cruz, Chair  
Senate Committee on Government Operations

**Senate Bill 1064**  
**Relating to Procurement of Professional Services**

Dear Chair Dela Cruz and Members of the Committee,

My name is Louis Fung, President-Elect of the American Institute of Architects (AIA) Hawaii State Council, Chair of National AIA Culture Collective - Influence and Prosperity Committee, and 2013 President of AIA Honolulu Chapter. With 29 years of professional architectural practice experience (of which 25 years of experience in Hawaii), our firm provides architectural services for various government agencies including federal, state and city.

I **STRONGLY OPPOSE** SB 1064 because it overturns important professional, ethical and cost containment features of Hawaii's current architect selection law. I also **OPPOSE** allowing the Procurement Policy Board to make rules circumventing the current law.

Thank you for this opportunity to **OPPOSE** this Senate Bill 1064.

Sincerely,  
Louis Fung, AIA



President  
Fung Associates, Inc.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [GVO Testimony](#)  
**Cc:** [franpalama@gmail.com](mailto:franpalama@gmail.com)  
**Subject:** Submitted testimony for SB1064 on Feb 26, 2015 13:20PM  
**Date:** Tuesday, February 24, 2015 3:11:55 PM

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**SB1064**

Submitted on: 2/24/2015

Testimony for GVO on Feb 26, 2015 13:20PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Francine Palama	Maunakai & Associates	Oppose	No

Comments: Maunakai & Associates opposes SB1064 because it overturns important professional, ethical and cost containment features of Hawaii's current architect selection law. I also oppose allowing Procurement Policy Board to make rules circumventing the current law.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [GVO Testimony](#)  
**Cc:** [Atom@KasprzyckiDesigns.com](mailto:Atom@KasprzyckiDesigns.com)  
**Subject:** Submitted testimony for SB1064 on Feb 26, 2015 13:20PM  
**Date:** Wednesday, February 25, 2015 10:05:02 AM

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**SB1064**

Submitted on: 2/25/2015

Testimony for GVO on Feb 26, 2015 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Atom Kasprzycki, AIA	Individual	Oppose	No

Comments: To whom it may concern, I, Atom Kasprzycki, President of Kasprzycki Deisgns Inc., OPPOSE SB 1064 because it overturns important professional, ethical and cost containment features of Hawaii's current architect selection law. I also oppose allowing Procurement Policy Board to make rules circumventing the current law. Thank you for considering my opinion, Atom K. Kasprzycki, AIA  
[Atom@KasprzyckiDesigns.com](mailto:Atom@KasprzyckiDesigns.com)

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)