

DAVID Y. IGE  
GOVERNOR



SARAH ALLEN  
ADMINISTRATOR

PAULA A. YOUNGLING  
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII  
STATE PROCUREMENT OFFICE**

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TESTIMONY  
OF  
SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE  
ON  
FINANCE  
MARCH 30, 2016; 3:00 P.M.

SB3092 SD2 HD2 RELATING TO PROCUREMENT

Chair Luke, Vice-Chair Nishimoto, and members of the committee, thank you for the opportunity to submit testimony on SB3092 SD2 HD2.

The State Procurement Office (SPO) **STRONGLY OPPOSES** this measure.

This measure amends Hawaii Revised Statutes (HRS) §103D-302(g) by allowing the procurement officer the discretion, after bid opening, to consider a listed subcontractor with a currently defective license as a valid license in order to meet the subcontractor listing requirement of HRS §103D-302(b) as long as the subcontractor was licensed sixty (60) days prior to bid opening and then is fully licensed at time of award or within sixty (60) days. This measure aims to address protests by aggrieved bidders based on defects in the subcontractor listing associated with the lowest-responsive responsible bidder.

HRS §103D-302, Competitive Sealed Bids, subsection (b) requires all bids for construction include the name of each firm to be engaged by the bidder as a subcontractor in the performance of the contract and the nature and scope of the work to be performed by each. After bids are publicly opened State agencies review each bid for responsiveness and compliance with the bid requirements. Checking that both the general contractor (bidder) and the subcontractors listed are licensed to perform the work is part of due diligence State entities perform after bid opening and prior to award to ensure the contractor is fully capable of performing the work.

Currently, HRS §103D-302(g) is a provision in the procurement code that precludes changes to bids received after the bid due date and time except in limited circumstances and only for minor mistakes in bids that are not prejudicial to public interest or fair competition. The rules established to implement this code provision provide examples of waivable mistakes and consist of instances such as arithmetic errors.

SPO strongly believes subcontractors whose license has been suspended or forfeited is a serious issue regulated by the Department of Commerce and Consumer Affairs (DCCA) Contractor Licensing Board under HRS §444 in order to protect the public interest. SPO's serious concerns with this measure are based on our policy considerations discussed below.

- Responsibility for the integrity of the subcontractor listing and bidding licensed subcontractors rests solely with the Prime Contractor bidding the work.

The Prime contractor bidding on the work is ultimately responsible for the integrity of the subcontractor list submittal and for proposing responsible subcontractors duly licensed to perform the work in Hawaii in accordance with HRS §444. Under the current law the sole responsibility for both the list and the integrity of its contents is squarely on the prime contractor. As such, that prime is responsible for ensuring listed subcontractors are licensed to perform the work proposed and also for identifying subcontractors that have issues with licensing and other responsibility issues. If, in the process of conducting due diligence, a Prime discovers a subcontractor has a defect in their licensing then the Prime needs to decide whether or not to include that subcontractor in their bid and risk any negative determinations a procurement officer makes based on that defect or any sanctions that could be imposed by the DCCA Regulated Industries Complaints Office (RICO).

- This measure would shift responsibility for the integrity of the subcontractor listing to the State Procurement Officer and is therefore inappropriate.

This measure would effectively relieve the Prime Contractor from any level of due diligence on subcontractors bid and effectively shift responsibility to the Procurement Officer for both: (1) detecting a potential defect with a subcontractor's license, and (2) researching WHY the subcontractor has a defective license.

This measure would place the onus on the Procurement Officer to perform the following:

- Determine if there is a defect with the proposed subcontractor's license, then
- Determine if the subcontractor with the defective licenses was previously licensed 60 days prior to bid opening, then
- Determine the nature of what caused the license suspension or forfeiture, then
  - Determine if the defect or forfeiture of the license can be remedied, and
    - If so, can the defect be remedied prior to award or within 60 days?
    - If so, weigh the public interests of the state and others bidders submitting bids without defects against delaying an award to allow a subcontractor time to resolve their licensing issues; or
  - Determine whether or not to contact the DCCA Regulated Industries Complaints Office and report the subcontractor for engaging in contracting without a license and the Prime Contractor for bidding an unlicensed subcontractor – in order to protect the public.

Arguments related to a prime contractor's ability to check and rely on the DCCA Contractor's Licensing Board website is noted but SPO suggests the solution to those issues lies in supporting the Board's website and administration with sufficient funds to bolster their system. Providing support for the DCCA licensing website is far more preferable to the solution suggested by this proposed bill. This bill would completely relieve the prime bidder from ever performing due diligence prior to bid opening and then placing the procurement officer in a situation of possibly being complicit in violation of contractor licensing laws by allowing the subcontractor with the defective license to engage in contracting by bidding on public works contracts with impunity.

While usually Procurement Officer's prefer to have a high level of discretion, in this case the discretion granted to the Procurement Officer could result in an obligation to the subcontractor with a defective license to exercise their discretion to allow the subcontractor to remedy their licensing defect prior to award. This is highly prejudicial to bidders with fully compliant bids who utilize fully licensed subcontractors. It could also be detrimental to the public works projects and the public interest since HRS §444 is established to protect the public from unlicensed contractors.

- The authority to regulate contractor licensing lies with the DCCA – Contractor Licensing Board.

The Contractor Licensing Board has the authority to revoke, suspend, and use other remedies associated with licensing as a means of enforcement of their rules and regulations in order to protect the public. SPO is concerned that this measure may compromise the Board's authority. At times agencies and Boards have only so many tools in their tool box to enforce their regulations and SPO is concerned this measure may circumvent, hinder, or belittle Board actions.

For example, SPO is very concerned about allowance to consider an invalid license as valid since review of HRS §444 reveals that a contractor is prohibited from even engaging in contracting while they are on inactive status for failure to pay renewal fees, HRS §444-15(c). While it seems the penalty for failure to pay renewal fees is a minor infraction of the law, it must be noted that the DCCA Contractor Licensing Board deems it significant enough to prohibit contractors from contracting until the defect is remedied. Bidding on construction contracts has been deemed by the Licensing Board as "engaging in contracting" and is thus subject to sanctions under HRS §444.

SPO believes the testimony previously submitted by both the DCCA Contractor Licensing Board and the Board Administrator is most persuasive and supports SPO's policy concerns with this measure. In essence, this measure would allow HRS §444 to be circumvented at the bid stage and begs the question on whether the procurement officer should, in fact, notify the DCCA Contractor Licensing Board of the infraction since "engaging in contracting" includes submitted bids or risk being complicit in violation of the law.

This measure's attempt to address protests based on defective subcontractor listings will cause even more uncertainty, administrative burden and more protests based on uncertainties that would be caused by post-bid-opening actions mandated upon the Procurement Officer and circumvent the protective statutes set forth in HRS §444 established to protect the public from unlicensed contractors and subcontractors.

Thank you



DAVID Y. IGE  
GOVERNOR  
SHAN S. TSUTSUI  
LT. GOVERNOR

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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE  
ON  
FINANCE

TWENTY-EIGHTH STATE LEGISLATURE  
REGULAR SESSION, 2016

WEDNESDAY, MARCH 30, 2016  
3:00 P.M.

TESTIMONY ON SENATE BILL NO. 3092 S.D.2 H.D.2  
RELATING TO PROCUREMENT

TO THE HONORABLE SYLVIA LUKE, CHAIR,  
AND TO THE HONORABLE SCOTT Y. NISHIMOTO, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 3092 S.D.2 H.D.2, Relating to Procurement. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers comments on this bill.

Senate Bill No. 3092 S.D.2 H.D.2 allows a procurement officer to consider a listed subcontractor's license as valid if the subcontractor was previously licensed to perform the scope of work within sixty days prior to bid opening and, if at the

time of award or within sixty days of bid opening, whichever is sooner, all listed subcontractors are appropriately licensed.

RICO currently investigates and prosecutes general and subcontractors who submit bid proposals without an appropriate or current license. To ensure that Senate Bill No. 3092 S.D.2 H.D.2 does not adversely impact either the Contractors License Board's authority under, or RICO's enforcement of Chapter 444, HRS, RICO respectfully requests that language be inserted in the bill or the Committee Report indicating that the bill is not intended to curtail either enforcement of unlicensed activity or enforcement of the laws and rules relating to licensed contractors.

Thank you for the opportunity to testify on Senate Bill No. 3092 S.D.2 H.D.2. I will be happy to answer any questions the Committee may have.

**PRESENTATION OF THE  
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016

Wednesday, March 30, 2016  
3:00 p.m.

**TESTIMONY ON SENATE BILL NO. 3092, S.D. 2, H.D. 2, RELATING TO  
PROCUREMENT.**

TO THE HONORABLE SYLVIA LUKE, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Peter H.M. Lee, and I am the Chairperson of the Legislative Committee of the Contractors License Board ("Board"). Thank you for the opportunity to submit comments on Senate Bill No. 3092, S.D. 2, H.D. 2, which proposes to authorize procurement officers to consider a previously licensed and listed subcontractor's license as valid at the time of bid, provided that the subcontractor is appropriately licensed prior to the award or within 60 days of bid opening, whichever is sooner.

The Board is concerned with the proposed language that amends Hawaii Revised Statutes ("HRS") section 103D-302 because it allows a subcontractor with a defective license (i.e., forfeited, inactive, revoked, suspended, etc.) to be deemed valid as long as that subcontractor was licensed within 60 days prior to bid opening, and is properly licensed at the time of award or within 60 days after the bids have been opened.

The Board believes that this conflicts with the requirements of HRS chapter 444 and the Board's longstanding interpretation that a person must be licensed as a contractor at the time of submitting a proposal or bid (as well as at the time of award) on

a construction project. The Board has consistently taken the position that a contractor's license is required when a person submits a bid on a construction project to another person, entity, or government agency. That is because the person who is submitting the bid is acting, advertising, or holding the person's self out as a contractor and must therefore be licensed at that time.

This bill appears to condone or authorize unlicensed activity from the time of bid opening to and through the time the contract is awarded or 60 days after bid opening, whichever is sooner. An unlicensed contractor is subject to disciplinary action, including a fine.

Additionally, the prime, general, or other specialty contractor that uses that unlicensed person's bid may also be subject to disciplinary action.

If passed in its current form, the Board believes this bill will cause regulatory uncertainty about the unlicensed activity itself and the disciplinary action that can be imposed against the unlicensed contractor. The Board therefore respectfully requests that this bill include language that clearly indicates that the Board and the Regulated Industries Complaints Office still retain disciplinary jurisdiction over the subcontractors and general contractors involved in the bid. In other words, the Board requests that this bill be amended to clearly specify that the proposed amendments to HRS section 103D-302 do not override or negate the Board/State's disciplinary powers under HRS chapter 444 for unlicensed contracting.

Thank you for the opportunity to provide comments on Senate Bill No. 3092,  
S.D. 2, H.D. 2.

# ***SAH - Subcontractors Association of Hawaii***

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

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

March 30, 2016

Testimony To: House Committee on Finance  
Representative Sylvia Luke, Chair

Presented By: Tim Lyons, President

Subject: S.B. 3092, SD 2, HD 2 - RELATING TO PROCUREMENT

Chair McKelvey and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we oppose this bill. The SAH represents the following nine separate and distinct contracting trade organizations.

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

We have comments on this bill.



This bill deals with honoring a subcontractor's bid even if they were not properly licensed but they somehow manage to receive the license prior to the award or within sixty (60) days. We are concerned that there is a bad precedent here.

Licensing is a prerequisite to acting (or bidding) as a contractor (Chapter 444 H.R.S.). An entity who is not legal should not be allowed to participate in the process. If the license is suspended or forfeited at bid time, the contractor (subcontractor or general contractor) should not be bidding. We agree with prior DOT testimony that agencies, as a "trustee of public moneys" mandates strict compliance. We also agree with SPO that this is all part of the due diligence that should be required of state/county contractors. It is not so much a problem to allow the general to post-qualify its subs, after the fact, but the truth is that the subcontractors without a valid license should not be bidding in the first place.

Thank you.

## BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU  
630 SOUTH BERETANIA STREET  
HONOLULU, HI 96843



March 30, 2016

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Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.  
Deputy Manager and Chief Engineer

The Honorable Sylvia Luke, Chair  
and Members  
Committee on Finance  
House of Representatives  
Hawaii State Capitol, Room 308  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

Subject: Senate Bill 3092, SD 2, HD 2 Relating to Procurement

We oppose Senate Bill 3092, SD2, HD2 which authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. This measure adds a very narrow exception allowing a procurement officer to consider a listed subcontractor's license as valid if the subcontractor was previously licensed to perform the scope of work indicated within 60 days prior to bid opening, and if at the time of award or within 60 days of bid opening, whichever is sooner, the listed subcontractor is appropriately licensed. This exception will complicate the procurement process even more and likely lead to more protests.

Thank you for your consideration of our testimony on Senate Bill 3092, SD2, HD2.

Very truly yours,

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer



# International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

1935 HAU STREET, ROOM 401 • HONOLULU, HI 96819-5003  
TELEPHONE (808) 847-5341 • FAX (808) 847-2224

March 28, 2016

TO: **HOUSE COMMITTEE ON FINANCE**  
For Hearing on Wednesday, March 30, 2016, at 3:00 p.m., in Conf. Rm. 308

RE: **TESTIMONY IN STRONG OPPOSITION TO SB 3092 SD2 HD2**

Honorable Chair Luke, Vice Chair Nishimoto, and Committee Members,

The **International Brotherhood of Electrical Workers Local Union 1186** represents over 3,800 members working in electrical construction, telecommunications, and with Oceanic Cable. Our members include civil service employees at Pearl Harbor, Hickam, Kaneohe, and military facilities throughout Hawaii. IBEW Local 1186 also represents over 120 signatory electrical contracting companies that perform most of the electrical work in our state.

**We strongly oppose SB 3092 SD2 HD2.** This bill will create more problems than it will attempt to fix. State Procurement Office data show that the overwhelming majority of bids are submitted correctly. As any general contractor, and even subcontractors that bid as prime contractors know, the wounds that this bill is supposed to fix are always self-inflicted.

Any general contractor can ask any subcontractor on any bid to tender their bids in a timely manner, if they wish to be considered for inclusion in the general contractor's bid package. The fact that the vast majority of general contractors and subcontractors can do this without problem exposes the reality that bidders who accept or submit bids at the last minute do so at their own choice, and at their own peril because they wish to take the gamble and the risk. It is improper that the state and taxpayers share in this risk that is completely avoidable.

What other deadlines shall the state be asked to waive next if this bill is passed? Why should the majority of responsible and honest contractors who pay their licensing or insurance on time be cheated of a level playing field and deprived of their own potentially responsible winning bid? And are such careless general or subcontractors who can't even renew their licenses correctly be trusted with further and greater responsibility by being unjustly rewarded with a tainted procurement contract from the state? Shouldn't contractors bid on their jobs fair and square?

This bill is well-intentioned, but overlooks the countless problems and the moral hazards that will be created, which are many times worse than the situation it is trying to solve. For these reasons, IBEW Local Union 1186 strongly opposes the passage of SB 3092 SD2 HD2 and ask you to reject this bill. Thank you for giving us this opportunity to testify.

Mahalo and aloha,

**Damien Kim**  
Business Manager – Financial Secretary  
International Brotherhood of  
Electrical Workers, Local Union 1186

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 11:36 AM  
**To:** FINTestimony  
**Cc:** stab625@yahoo.com  
**Subject:** Submitted testimony for SB3092 on Mar 30, 2016 15:00PM

**SB3092**

Submitted on: 3/29/2016

Testimony for FIN on Mar 30, 2016 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Arnold	Ironworkers Stabilization	Comments Only	No

Comments: We have concerns of SB 3092 HD2, Relating to Procurement; that allows a bidder on public work construction project two additional hours after closing bids to engage a bidder. The purpose of this bill will allow an award of a contract to a bidder even if the contractor may not have the proper license at the time of award. Everyone knows the reason for HRS 444 is to ensure that contractors have the proper license to do a specific job to protect the safety of the public. As such, we believe this bill may go around this issue. Consequently, we have some concerns of this measure for safety of the people of Hawaii. Thank you for your time and consideration.

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)



**Genba Hawaii, Inc.**  
Civil Construction Consulting

March 29, 2016

TO: HONORABLE SYLIVA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO,  
VICE CHAIR, AND THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, HD2, RELATING TO PROCUREMENT.**

HEARING

DATE: March 30, 2016  
TIME: 3:00 PM  
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

Genba Hawaii, Inc. **supports** S.B. 3092, HD2, Relating to Procurement. This bill attempts to address an area of procurement of public works that has cost taxpayers significantly by paying more for a project due to the disqualification of the lowest prime bidder because of subcontractor listing problems. This bill would allow the procurement officer to consider a listed subcontractors license as valid if the subcontractor was previously licensed to perform the scope of work indicated within sixty days prior to bid opening, and if at the time of award or within sixty days of bid opening, whichever is sooner, all listed subcontractors are appropriately licensed.

Considering that many subcontractor bids come in during the last hour before the prime bids are due, there is often barely enough time to fill in all the subcontractor dependent information requested by the proposal documents, let alone check the current licensing status of each subcontractor. Required bid proposal subcontractor related information have included subcontractor names, nature & scopes of work, license numbers, addresses, telephone numbers, fax numbers, Hawaii products preference information, unit prices and extensions. Prime contractors barely have enough time to fill in all this information before the bid deadline given the lateness that subcontractors' submit their bids.

This measure will help to allow the procurement officer to award the contract to the lowest responsive bidder under HRS 130D-302 provided it is not prejudicial to the interest of the public or to fair competition.

We respectfully ask that the Committee pass this measure.

Yours truly,

A handwritten signature in cursive script that reads "Glenn M. Nohara".

Glenn M. Nohara  
President

# **BIA-HAWAII**

**BUILDING INDUSTRY ASSOCIATION**

THE VOICE OF THE CONSTRUCTION INDUSTRY

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## Testimony to the House Committee on Finance Wednesday, March 30, 2016 3:00 p.m. State Capitol - Conference Room 308

### **RE: S.B. 3092 S.D. 2 H.D. 2: Relating to Procurement.**

Dear Chair Luke, Vice-Chair Nishimoto, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii is in **support** of S.B. 3092 S.D. 2 H.D. 2, Relating to Procurement. This bill proposes to amend Section 103D-104 and 103D-310 by permitting procuring agencies of public works construction contracts the ability to avoid throwing out a project for a technical and administrative matters.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, increases to overall costs of project and lapse of project funding.

This bill would increase efficiency and fairness within the bidding system. We appreciate the opportunity to express our views on this matter.

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Website: [www.gcahawaii.org](http://www.gcahawaii.org)



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

**LATE**

March 30, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO,  
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON  
FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.**  
Authorizes procurement officers to consider a previously licensed and listed  
subcontractor's license as valid; provided that certain conditions are satisfied.

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and House Finance Committee Members,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred seventy general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA **supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) allowing the procurement officer the ability to determine whether a listed subcontractor's license is valid at award. This measure would prevent a bid from being thrown out for reasons related to a listed subcontractor's status based on Chapter 444 requirements. This amendment would still require that all listed subcontractors be properly licensed sixty days prior to bid opening and again at award; however it would preclude a prime bidder from being penalized and found non-responsive because its subcontractor may have had an issue with their compliance under Chapter 444, HRS regarding requirements of workers compensation, insurance, bond, renewal fees, and dissociation of its Responsible Managing Employee (RME). The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure their status before award or within sixty days of bid opening. This amendment will have no added burden to procurement officers and will instead allow bids to be awarded to the lowest responsive bidder without finding them non-responsive due to an issue with a subcontractor's license status within certain parameters.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, increases to overall costs of project and lapse of project funding. In the past three years, GCA has identified over 43 projects affected by the subcontractor listing requirement, which resulted in additional costs, not including time lost, of over \$26 million dollars.

For these reasons, we respectfully request that you pass this measure to increase efficiency in the procurement of public works construction. Thank you for your consideration.

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE

Senate Bill 3092, S.D. 2, H.D. 2  
Relating To Procurement

**LATE**

Chair Luke and members of the Finance Committee:

Thank you for this opportunity to submit testimony on behalf of the Hawaii Tapers Market Recovery Trust Fund offering the following comments on Senate Bill 3092, S.D. 2., H.D. 2.

As an initial matter, we disagree with the findings section of this Bill which implies that "bid challenges" are a significant problem which "have caused major delays and cost increases for public works construction projects." This finding is clearly contrary to the findings and report of the State Procurement Task Force convened pursuant to Senate Concurrent Resolution 92, S.D. 2 (2013). After studying data relating to bid protests filed with respect to construction contracts, that Task Force found and concluded that bid protests related to subcontractor listing issues in Fiscal Year 2013 resulted in a 0.06% increase in costs, and a 0.34% increase in Fiscal Year 2014. Thus, we are concerned about making statutory changes in the absence of any data demonstrating the existence of a significant problem or the extent of any such problem.

The foregoing concern is amplified here because this measure conflicts with the policy of the Contractors License Board (the "CLB"). Under that Chapter, the CLB is given the authority to address licensing violations. The CLB has previously testified that it is their policy that a person must be licensed as a contractor at the time of submitting a proposal or bid. This measure could therefore create more confusion and uncertainty than currently exists.

Finally, we are concerned that this measure will punish those bidders who properly listed licensed contractors as is currently required.

Instead of making an impetuous change to Hawaii Revised Statutes Chapter 103D which could have unforeseen and possibly adverse consequences, perhaps it would be better to discuss and examine the problem (if one truly exists) further among the stakeholders and collectively determine the best way to address it.

Thank you for this opportunity to share our comments and concerns with you regarding this measure.



HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE

Senate Bill 3092, S.D. 2, H.D. 2  
Relating To Procurement

**LATE**

Chair Luke and members of the Finance Committee:

Thank you for this opportunity to submit testimony on behalf of the Painting Industry of Hawaii Labor Management Cooperation Trust Fund offering the following comments on Senate Bill 3092, S.D. 2., H.D. 2.

As an initial matter, we disagree with the findings section of this Bill which implies that "bid challenges" are a significant problem which "have caused major delays and cost increases for public works construction projects." This finding is clearly contrary to the findings and report of the State Procurement Task Force convened pursuant to Senate Concurrent Resolution 92, S.D. 2 (2013). After studying data relating to bid protests filed with respect to construction contracts, that Task Force found and concluded that bid protests related to subcontractor listing issues in Fiscal Year 2013 resulted in a 0.06% increase in costs, and a 0.34% increase in Fiscal Year 2014. Thus, we are concerned about making statutory changes in the absence of any data demonstrating the existence of a significant problem or the extent of any such problem.

The foregoing concern is amplified here because this measure conflicts with the policy of the Contractors License Board (the "CLB"). Under that Chapter, the CLB is given the authority to address licensing violations. The CLB has previously testified that it is their policy that a person must be licensed as a contractor at the time of submitting a proposal or bid. This measure could therefore create more confusion and uncertainty than currently exists.

Finally, we are concerned that this measure will punish those bidders who properly listed licensed contractors as is currently required.

Instead of making an impetuous change to Hawaii Revised Statutes Chapter 103D which could have unforeseen and possibly adverse consequences, perhaps it would be better to discuss and examine the problem (if one truly exists) further among the stakeholders and collectively determine the best way to address it.

Thank you for this opportunity to share our comments and concerns with you regarding this measure.

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE

Senate Bill 3092, S.D. 2, H.D. 2  
Relating To Procurement

**LATE**

Chair Luke and members of the Finance Committee:

Thank you for this opportunity to submit testimony on behalf of the Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund offering the following comments on Senate Bill 3092, S.D. 2., H.D. 2.

As an initial matter, we disagree with the findings section of this Bill which implies that "bid challenges" are a significant problem which "have caused major delays and cost increases for public works construction projects." This finding is clearly contrary to the findings and report of the State Procurement Task Force convened pursuant to Senate Concurrent Resolution 92, S.D. 2 (2013). After studying data relating to bid protests filed with respect to construction contracts, that Task Force found and concluded that bid protests related to subcontractor listing issues in Fiscal Year 2013 resulted in a 0.06% increase in costs, and a 0.34% increase in Fiscal Year 2014. Thus, we are concerned about making statutory changes in the absence of any data demonstrating the existence of a significant problem or the extent of any such problem.

The foregoing concern is amplified here because this measure conflicts with the policy of the Contractors License Board (the "CLB"). Under that Chapter, the CLB is given the authority to address licensing violations. The CLB has previously testified that it is their policy that a person must be licensed as a contractor at the time of submitting a proposal or bid. This measure could therefore create more confusion and uncertainty than currently exists.

Finally, we are concerned that this measure will punish those bidders who properly listed licensed contractors as is currently required.

Instead of making an impetuous change to Hawaii Revised Statutes Chapter 103D which could have unforeseen and possibly adverse consequences, perhaps it would be better to discuss and examine the problem (if one truly exists) further among the stakeholders and collectively determine the best way to address it.

Thank you for this opportunity to share our comments and concerns with you regarding this measure.

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE

Senate Bill 3092, S.D. 2, H.D. 2  
Relating To Procurement

**LATE**

Chair Luke and members of the Finance Committee:

Thank you for this opportunity to submit testimony on behalf of the Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund offering the following comments on Senate Bill 3092, S.D. 2., H.D. 2.

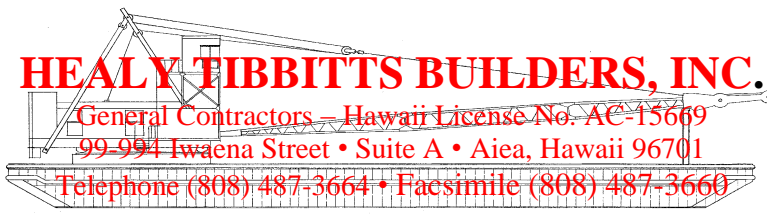
As an initial matter, we disagree with the findings section of this Bill which implies that "bid challenges" are a significant problem which "have caused major delays and cost increases for public works construction projects." This finding is clearly contrary to the findings and report of the State Procurement Task Force convened pursuant to Senate Concurrent Resolution 92, S.D. 2 (2013). After studying data relating to bid protests filed with respect to construction contracts, that Task Force found and concluded that bid protests related to subcontractor listing issues in Fiscal Year 2013 resulted in a 0.06% increase in costs, and a 0.34% increase in Fiscal Year 2014. Thus, we are concerned about making statutory changes in the absence of any data demonstrating the existence of a significant problem or the extent of any such problem.

The foregoing concern is amplified here because this measure conflicts with the policy of the Contractors License Board (the "CLB"). Under that Chapter, the CLB is given the authority to address licensing violations. The CLB has previously testified that it is their policy that a person must be licensed as a contractor at the time of submitting a proposal or bid. This measure could therefore create more confusion and uncertainty than currently exists.

Finally, we are concerned that this measure will punish those bidders who properly listed licensed contractors as is currently required.

Instead of making an impetuous change to Hawaii Revised Statutes Chapter 103D which could have unforeseen and possibly adverse consequences, perhaps it would be better to discuss and examine the problem (if one truly exists) further among the stakeholders and collectively determine the best way to address it.

Thank you for this opportunity to share our comments and concerns with you regarding this measure.



**LATE**

March 29, 2016

Sent Via E-Mail: [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR, MEMBERS OF HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.**  
Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied.  
(SB3092 HD2)

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members of the Committee:

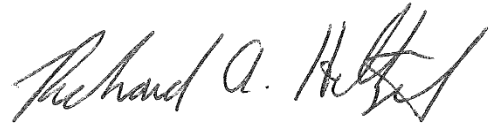
Healy Tibbitts Builders, Inc. is a general contractor in the State of Hawaii and has been actively engaged in construction work in Hawaii since the early 1960's. In addition to being a general contractor, Healy Tibbitts also performs work as a subcontractor for foundation work.

Healy Tibbitts Builders, Inc. **supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed sixty days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, has increased overall project costs and has resulted in lapse of project funding.

For these reasons, we ask this Committee to pass this measure to assist in improving the procurement of public works construction. Thank you for your consideration.

Very truly yours,  
Healy Tibbitts Builders, Inc.

A handwritten signature in black ink, appearing to read "Richard A. Heltzel". The signature is written in a cursive style with a large, stylized initial "R".

Richard A. Heltzel  
President



Contractor's License No. ABC1036

**LATE**

☐ MAIN OFFICE: 648 PIILANI STREET, P.O. BOX 4669, HILO, HAWAII 96720  
PHONE (808) 935-7194 FAX (808) 961-6417  
☐ KONA OFFICE: 74-5039B QUEEN KAAHUMANU HWY., P.O. BOX 3169, KAILUA-KONA, HI 96740  
PHONE (808) 329-8051 FAX (808) 329-3261

ESTABLISHED 1926

An Equal Opportunity Employer

Sent via email to [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)  
Fax to 1-800-535-3859

March 29, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR, MEMBERS OF HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.** Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. (SB3092 HD2)

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members of the Committee,

Isemoto Contracting Co., Ltd. **supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed sixty days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.


The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, has increased overall project costs and has resulted in lapse of project funding.

For these reasons, we ask this Committee to pass this measure to assist in improving the procurement of public works construction. Thank you for your consideration.

Sincerely,

Leslie Isemoto,  
President

**LATE**

	<b>RALPH S. INOUE CO LTD</b> GENERAL CONTRACTOR	500 Alakawa St., #220E Honolulu, Hawaii 96817	T: 808.839.9002 F: 808.833.5971	License No. ABC-457 Founded in 1962
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Sent via email to [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)  
Fax to 1-800-535-3859

March 29, 2016

TO: HONORABLE SYLVIA LUKE, HONORABLE SCOTT NISHIMOTO, VICE CHAIR,  
AND THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.**  
Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. (SB3092, HD2)

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee:

Ralph S Inouye Co, Ltd (RSI), a Hawaii general contractor and member of the General Contractors Association of Hawaii, **supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed sixty days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, increases to overall costs of project and lapse of project funding. GCA has identified over 43 projects affected by the subcontractor listing requirement in the past three years, which resulted in additional costs, not including time lost, of over \$26 million dollars.

For these reasons, RSI humbly requests this Honorable committee to pass this measure out. RSI respectfully suggests this simple change, which is similar to what is already done for many federal-aid projects, would significantly and positively improve the procurement of public works construction. Thank you for your kind consideration of our **testimony in support.**



**LATE**

P.O. Box 4088  
Honolulu, HI 96812-4088  
Phone: (808) 735-3211

March 30, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR,  
MEMBERS OF HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.** Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. (SB3092 HD2)

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members of the Committee,

**Hawaiian Dredging Construction Company, Inc. supports S.B. 3092, SD2, HD2, Relating to Procurement**, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed sixty days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, has increased overall project costs and has resulted in lapse of project funding.

For these reasons, we ask this Committee to pass this measure to assist in improving the procurement of public works construction. Thank you for your consideration.

With best regards,

A handwritten signature in black ink, appearing to read 'Paul D. Silen', with a long horizontal line extending to the right.

Paul D. Silen  
Vice President





# JAYAR CONSTRUCTION, INC.

1176 Sand Island Parkway ▼ Honolulu, Hawaii 96819  
Tel (808) 843-0500 ▼ Fax (808) 843-0067  
Contractor's License ABC-14156



March 30, 2016

To: **Honorable Sylvia Luke, Chair, Honorable Scott Nishimoto, Vice Chair, and Members of the House Committee on Finance**

Subject: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.**

Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. (SB3092 HD2)

Hearing Date: March 30, 2016  
Hearing Time: 3:00 P.M.  
Hearing Place: Conference Room 308

Dear Chair Luke, Vice Chair Nishimoto and Members of the Committee,

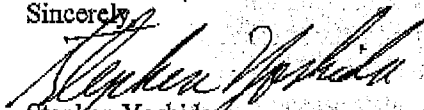
Jayar Construction Inc. (Jayar) is a General Contractor that specializes in site work. We have approximately 110 employees and have been in business for over 28 years.

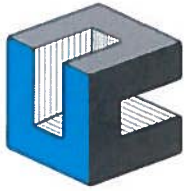
**Jayar supports S.B. 3092, SD2, HD2 Relating to Procurement.** This bill would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time. As written, the procurement officer could award the contract to the lowest bidder as long as all listed subcontractors were appropriately licensed to perform their scope of work within sixty days prior to bid opening and if all listed subcontractors are properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirements has caused delay in project award, has increased the overall project costs and has resulted in lapse of project funding.

For these reasons please we ask this Committee to pass this measure to assist in improving the process of procurement of public works construction. Thank you for your consideration.

Sincerely,

  
Stephen Yoshida,  
CFO & HR Manager



**UNLIMITED**  
CONSTRUCTION SERVICES, INC

**LATE**

License #ABC-16638

Sent via email to [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)  
Fax to 1-800-535-3859

March 30, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE CHAIR, MEMBERS OF HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.** Authorizes procurement officers to consider a previously licensed and listed subcontractor's license as valid; provided that certain conditions are satisfied. (SB3092 HD2)

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308


Dear Chair Luke and Vice Chair Nishimoto and Members of the Committee,

Unlimited Construction Services, Inc. **supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed 60 days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, has increased overall project costs and has resulted in lapse of project funding.

For these reasons, we ask this Committee to pass this measure to assist in improving the procurement of public works construction. Thank you for your consideration.

Sincerely,  
**UNLIMITED CONSTRUCTION SERVICES, INC.**

  
Jay T. Manzno  
President



general contractor license #ABC 21576

**LATE**

Sent via email to [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)  
Fax to 1-800-535-3859

March 30, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE  
CHAIR, MEMBERS OF HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.** Authorizes  
procurement officers to consider a previously licensed and listed  
subcontractor's license as valid; provided that certain conditions are  
satisfied. (SB3092 HD2)

HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members of the Committee,

**LYZ, Inc. supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed sixty days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, has increased overall project costs and has resulted in lapse of project funding.

For these reasons, we ask this Committee to pass this measure to assist in improving the procurement of public works construction. Thank you for your consideration.

  
James N. Kurita  
Vice President/ Chief Operating Officer

**LATE**

# KING & NEEL, INC.

1164 Bishop Street • Suite 1710 • Honolulu, Hawaii 96813  
Telephone: (808) 521-8311  
Fax: (808) 526-3893



Sent via email to [FINtestimony@capitol.hawaii.gov](mailto:FINtestimony@capitol.hawaii.gov)  
Fax to 1-800-535-3859

March 29, 2016

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO, VICE  
CHAIR, MEMBERS OF HOUSE COMMITTEE ON FINANCE

SUBJECT: **SUPPORT OF S.B. 3092, SD2, HD2, RELATING TO PROCUREMENT.** Authorizes  
procurement officers to consider a previously licensed and listed  
subcontractor's license as valid; provided that certain conditions are  
satisfied. (SB3092 HD2)

## HEARING

DATE: Wednesday, March 30, 2016  
TIME: 3:00 p.m.  
PLACE: Conference Room 308

Dear Chair Luke and Vice Chair Nishimoto and Members of the Committee,

**King & Neel, Inc. supports** S.B. 3092, SD2, HD2, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a previously licensed and listed subcontractor's license as valid provided certain conditions are met. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time, provided all listed subcontractors are appropriately licensed sixty days prior to bid opening and also properly licensed within 60 days of bid opening or by the time of Award, whichever is sooner. The amendment would only allow previously licensed and listed subcontractors within their respective scopes of work to cure its status within the stated time limits.

The procurement of public works has been significantly impacted by issues raised by bidders relating to the subcontractor listing requirement and continues to be an area prone to informal inquiries and bid protests. As a result, the subcontractor listing requirement has caused delay in project award, has increased overall project costs and has resulted in lapse of project funding.

For these reasons, we ask this Committee to pass this measure to assist in improving the procurement of public works construction. Thank you for your consideration.