

Blazy Construction Inc.

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March 30, 2017

TO: HONORABLE GIL KEITH AGARAN, CHAIR, HONORABLE KARL RHOADS, VICE CHAIR, COMMITTEE ON JUDICIARY AND LABOR

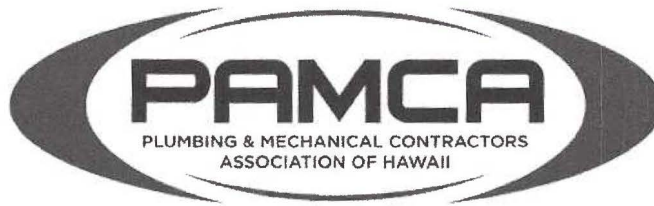
HONORABLE JILL TOKUDA, CHAIR, HONORABLE DONOVAN DELA CRUZ, VICE CHAIR, COMMITTEE ON WAYS AND MEANS

SUBJECT: **COMMENT ON H.B. 573, HD1, SD1, RELATING TO PROCUREMENT.**  
Provides a bidder of a public works construction project with two hours after the closing of bids to clarify and correct certain information regarding subcontractors. Prohibits bid shopping and bid peddling for the competitive sealed bidding process. Effective 7/1/2055. (SD1)

Public Decision Making  
DATE: March 30, 2017  
TIME: 9:50 a.m.  
PLACE: Capitol Room 211

Dear Chair Keith-Agaran, Chair Tokuda, Vice Chair Rhoads, Vice Chair Dela Cruz and Members of the Committee,

My Name is Kelly John Keating and I have been a general contractor for the past thirty years. Although most all of my work has been performed in Alaska, I did get my General contractor's License for Hawaii about four years ago and just two weeks ago we were the low bidder on a 20 million dollar project in Maui. (South Maui Community Park Recreational Facility) So I have first-hand experience with the issue of subcontractor list requirement. **It is my opinion that Hawaii should delete the subcontractor list requirement from the procurement code in its entirety as there are just too many variables in most subcontractors' proposals to be able to properly vet and qualify the quotes.** There is an assumption that all sub-contractors are bidding the same scope which is very rarely the case. Where as a general submitting a bid to the owner we are required to bid the project as shown on the plans and specification and provide a bid bond the subcontractors always have inclusions and exclusion's in their proposal to the general contractor that need to be evaluated to great lengths to determine which proposal that is the actually the best value to the general contractor. In addition the subcontractor's quotes are not bound to the general by any sort of bond and they can pull their bid at any point up until the proposal is signed into a contract. (Which I have had happen to me) While I fully support the efforts to eliminate bid shopping the listing of subcontractors is not an effective means to do so. If all subcontractors bid the same scope and were of equal qualifications it might make sense. But it is the obligation of the general contractor to the owner, and their bond company, to select the subcontractor that is not only the lowest price but overall provides the best value and qualifications. Because many subcontractors do not provide their proposal until the final hours before a bid opening, it is often impossible to properly evaluate them all. - Our company often selects subcontractors that are not the lowest bid. The only way to really stop bid shopping is for subcontractors to stop providing numbers to General Contractors that participate in this poor business practice. It is my opinion that the state of Hawaii is adding an unnecessary step to their bid process. For additional comment and discussion you can contact me at 907-262-3810. Kelly@blazycon.com



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GREGG S. SERIKAKU  
EXECUTIVE DIRECTOR

Via Email

March 29, 2017

**LATE TESTIMONY**

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Karl Rhoads, Vice-Chair  
Senate Committee on Judiciary and Labor

Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice-Chair  
Senate Committee on Ways and Means

Chairs Keith-Agaran and Tokuda, Vice Chairs Rhoads and Dela Cruz, and Committee Members:

**SUBJECT: HB573 HD1 SD1 Relating to Procurement**

My name is Gregg Serikaku. I am the Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii. The Association for which I speak is **opposed** to HB573 HD1 SD1.

While we appreciate the intent of this bill to allow subcontractors to recover damages for bid shopping by a prime bidder, we believe this provision is unenforceable and may ultimately result in frivolous accusations, increased challenges, and significant procurement delays.

This bill also proposes the following:

1. Allow prime bidders on public works projects two hours after the closing of the invitation for bids to provide clarity and correction of the subcontractor listing information submitted with the bid.
2. Allow prime bidders to replace a listed subcontractor due to the refusal or inability of the listed subcontractor to sign a contract or perform the requirements of the proposed contract or the project.

The first provision does not provide a clear explanation on what constitutes "clarity and correction of subcontractor information". While we understand the desire to develop allowances for certain minor items, we are strongly opposed to vague language that may be interpreted to allow for the addition of previously unlisted subcontractors or for changes in the scope of listed subcontractors, since "corrections" of this type would allow bid shopping to occur.

The second provision is unnecessary. Under the current rules, if a listed subcontractor refuses to sign a contract or is unable to perform the requirements of the proposed contract or project, the listed subcontractor may provide a letter to the prime bidder requesting that they be released, thereby allowing the prime bidder to make a substitution. This release letter is very important because it provides the procurement officer with documentation to verify and substantiate the need to replace the listed subcontractor.

We therefore respectfully urge the committee to hold this bill.

Respectfully yours,

Gregg S. Serikaku  
Executive Director