



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

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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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
LABOR AND PUBLIC EMPLOYMENT

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

THURSDAY, FEBRUARY 2, 2017
9:00 A.M.

TESTIMONY ON HOUSE BILL NO. 826
RELATING TO PROCUREMENT

TO THE HONORABLE AARON LING JOHANSON, CHAIR,
AND TO THE HONORABLE DANIEL HOLT, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 826, 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.

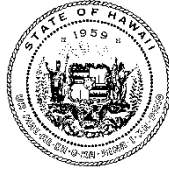
House Bill No. 826 authorizes procurement officers to consider a subcontractor's license as valid if the subcontractor was licensed to perform the scope of work at the time of award.

House Bill No. 826 contradicts the Contractors License Board's ("Board") longstanding interpretation and policy that a person must be licensed as a contractor at the time of a bid submission. As the enforcement arm for the Board and in deference to the Board's policy, RICO expresses serious concerns that authorizing subcontractors to submit bids without a current and active license undermines the Board's authority and allows unlicensed contractors to engage in licensed contracting activity.

RICO testified on a similar bill, Senate Bill No. 3092, during the 2016 legislative session. Despite efforts to work with the proponents of Senate Bill No. 3092 and the Procurement Office, RICO and interested stakeholders were unable to reach any agreement and Senate Bill No. 3092 was deferred. Should House Bill No. 826 move forward, RICO suggests the Committee consider language that would allow procurement officers to consider a subcontractor's license as valid at bidding only in the limited circumstance where a license has lapsed due to a loss of insurance, provided the license is current at the time work starts.

Thank you for the opportunity to testify on House Bill No. 826. I will be happy to answer any questions the Committee may have.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>
Twitter: [@hawaiispo](https://twitter.com/hawaiispo)

TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
LABOR AND PUBLIC EMPLOYMENT
February 2, 2017, 9:00 AM

HOUSE BILL 826
PROCUREMENT OFFICERS; COMPETITIVE SEALED BIDDING; SUBCONTRACTORS;
LICENSING
RELATING TO PROCUREMENT

Chair Johanson, Vice-Chair Holt, and members of the committee, thank you for the opportunity to submit testimony on House Bill 826.

The SPO is submitting comments to caveat any support of this bill.

Government Burden and Contractor Responsibility: The SPO is concerned that this action will add more burden to the procurement specialist and transfer the prime contractor's responsibility to be accountable for proposing licensed subcontractors. The process of checking to see if all subcontractors are licensed at time of award could delay a project if the listed subcontractors were unable to become compliant between bid opening and award. This would mean that the procurement specialist would now have to evaluate the 2nd low bidder's subcontractors for compliance. Would the second contractor then have the same time allowances as the first?

Defining 'Time of Award' in respect of the intent of this bill: There can be a range of lag time (typically 3 days to 90 days), between time of bid submittal to time of award. When is the license confirmed? Does the Procurement Specialist have to scan all licenses the night before? The day of? What about all the routings it needs before it's officially awarded? Do we scan before the AG reviews the award for form and function? Or after? It may become a issue of daily

reviews until award? What if the award takes six months plus to be effected? SPO recommends a considered definition of this phrase for the intent of this bill, to include a time range constraint.

Exemption from Ch 444: During last Legislative Session, the Regulated Industries Complaints Office (RICO), suggested that procurement specialists might be found to be 'aiding and abetting' prime contractors who submitted unlicensed subcontractors. Thus, verbiage that waives procurement specialists from this requirement is recommended. Allowing for licenses to be valid at time of bid will require a clear and express legislative exemption from the HRS Ch 444 interpretation that licensing must be in place at the time of submission of proposal.

Impact of Subcontractor Listing to Construction Costs (Reference: Task Force Report, submitted February 3, 2016): The subcontractor listing requirement has also resulted in increased construction costs when the apparent low bidder is displaced due to an error or omission in the subcontractor listing. This occurred for approximately 1% of construction projects awarded in each of fiscal years 2013 and 2014. For the four government agencies who submitted complete data, the listing requirement resulted in \$498,353 of increased construction costs for awards of construction contracts awarded in FY2013 totaling \$897,117,463 (or 0.06%) and \$1,775,321.12 of increased construction costs for construction contracts awarded in FY2014 totaling \$521,725,488 (or 0.34%). It should be noted that the impact on the cost of construction for an individual project can be substantial. For example, on a small project, the apparent Low Bidder "A" whose bid amount was \$150,000 was rejected due to a flaw in the listing of subcontractor(s). The final awarded amount to the 2nd Low Bidder "B" was \$235,000 which increased the bid amount by \$55,215 which is 36.8% more than the original price. Therefore, what the data shows is that impacts to construction costs are relatively small overall, but there could be significant costs impacts to individual projects.

In conclusion, the SPO would need to see the areas of concern above addressed in order to fully support this Bill.

Thank you.



1088 BISHOP STREET #408
HONOLULU, HI 96813
PH: (808) 597-1216

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via Email

January 31, 2017

Representative Aaron Ling Johanson, Chair
Representative Daniel Holt, Vice-Chair
House of Representatives Committee on Labor and Public Employment
The Twenty-Ninth Legislature, Regular Session of 2017

Chair Johanson, Vice Chair Holt, and Members of the Committee:

SUBJECT: HB826 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 HB826 in its current form.

This bill allows a procurement officer to accept the listing of a subcontractor whose license is not valid at time of bid if the subcontractor's license to perform the scope of work is valid at the time of award. While the intent of this bill is to preserve bids that are deemed unresponsive due to administrative licensing issues, we are concerned that the current language is too broad and will create opportunities for abuse. We believe that language should be added that requires the listed subcontractor to have been previously licensed in the current license year and further that the time period to restore the subcontractors license should be limited to 30 days following the bid due date.

Our Association is working in good faith with representatives from the General Contractors Association of Hawaii (GCA) to clarify the issues this allowance is intended to remedy and **we propose that representatives from both parties continue to work together on language that will help to address each parties' specific concerns to minimize frivolous protests, while maintaining a fair bidding environment.**

We therefore respectfully urge the committee to hold this bill in its current form.

Respectfully yours,

A handwritten signature in black ink that reads "Gregg S. Serikaku".

Gregg S. Serikaku
Executive Director



ELECTRICAL CONTRACTOR'S ASSOCIATION OF HAWAII

NECA Hawai'i Chapter
1286 Kalani Street, Suite B-203
Honolulu, Hawai'i 96817
PH: (808) 847-7306
FX: (808) 841-8096
Email: ecah@ecahi.com



January 31, 2017

To: House Labor & Public Employment Committee
Honorable Chairman Johanson & Vice Chairman Holt

From: Al Itamoto, Executive Director
Electrical Contractors Association of Hawaii
National Electrical Contractors Association, Hawaii Chapter

Subject: HB 826 Relating to Procurement

Notice of Hearing

Date: Tuesday, February 2, 2017
Time: 9:00 AM
Place: Conference Room 309
State Capitol
415 South Beretania Street

Dear Chair Johanson and Committee members:

The Electrical Contractors Association of Hawaii (ECAH) is a non-profit association representing over 100 electrical contractors doing business in the State of Hawaii. ECAH **opposes** the intent and purpose of HB 826 as written that would allow the procurement office to consider an invalid sub contractor's license if it can be remedied before the bid award. We would support this bill if the time to consider an invalid license to be remedied by no more than 30 days after the bid submission vs. at the time of bid award. In addition, the bill should include that the listed subcontractor must have been previously licensed in the classification listed during the current license year or within 30 days prior to the bid due date.

Based on the above, ECAH **opposes** the passage of HB 826 as written.

Thank you for the opportunity to provide testimony on this issue.

**PRESENTATION OF THE
CONTRACTORS LICENSE BOARD**

TO THE HOUSE COMMITTEE ON
LABOR & PUBLIC EMPLOYMENT

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Thursday, February 2, 2017
9:00 a.m.

TESTIMONY ON HOUSE BILL NO. 826, RELATING TO PROCUREMENT.

TO THE HONORABLE AARON LING JOHANSON, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Peter H.M. Lee, Chairperson of the Contractors License Board (“Board”) Legislative Committee. Thank you for the opportunity to testify on House Bill No. 826, which proposes to authorize procurement officers to consider a subcontractor’s license as valid if the subcontractor was licensed to perform the scope of work indicated at the time of the award.

The Board has not had the opportunity to discuss this bill and will be discussing this measure at its next meeting on February 17, 2017. However, in the past the Board has expressed concerns on similar measures that amends Hawaii Revised Statutes (“HRS”) section 103D-302 to allow a subcontractor with a defective license (i.e., forfeited, inactive, revoked, suspended, etc.) to be deemed valid as long as that subcontractor is properly licensed at the time of award.

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 submittal to and through the time the contract is awarded. 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.

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 House Bill No. 826.

SAH - Subcontractors Association of Hawaii

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

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

February 2, 2017

Testimony To: House Committee on Labor & Public Employment
Representative Aaron Ling Johanson, Chair

Presented By: Tim Lyons, President

Subject: H.B. 826 - RELATING TO PROCUREMENT

Chair Johanson and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we support the intent of 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 understand the predicament that general contractors sometimes find themselves in as far as licensing discrepancies that may exist at the time of bidding. We are however, somewhat concerned about allowing a contractor an extended time to qualify as a responsible contractor between the time of bid and the time of award. We believe that there has to be some time frame put on that such as thirty (30) days. We also do not want to have a contractor who was not licensed at all provide bids for doing work, wait to see if they get the work and then arrange to get their license at some extended date in the future. Therefore, we believe there also needs to be language that the contractor was previously licensed.

Again, we understand the predicament that the prime contractors can be in however we also want to see the integrity of the Contractors License Law and procurement process maintained. We would be happy to work with the Committee and the proponents on suitable and acceptable language.

Thank you.

**HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND**



Affiliated AFL-CIO
OPEIU - 8 - AFL-CIO (8)

*Uniting our strengths and working together
for a better tomorrow.*

February 1, 2017

Honorable Aaron Johanson, Chair
Honorable Daniel Holt, Vice Chair
Honorable Members of the house committee on Labor and Public Employment

RE: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes procurement officers to consider a subcontractor's license as valid if it was valid at the time of award of a bid.

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

The Hawaii Operating Engineers Industry Stabilization Fund (HOEISF) is a labor management fund representing 4000 unionized members in the heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

Hawaii Operating Engineers Industry Stabilization Fund **supports** H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. 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.

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. Thus, 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,

Pane Meatoga III
Community Liaison
Hawaii Operating Engineers Industry Stabilization Fund



Contractor's License No. ABC1036

- MAIN OFFICE: 648 PIILANI STREET, P.O. BOX 4669, HILO, HAWAII 96720
PHONE (808) 935-7194 FAX (808) 961-6417
- KONA BRANCH: 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 LABtestimony@capitol.hawaii.gov
Fax to (808) 586-6189

February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes procurement officers to consider a subcontractor's license as valid if it was valid at the time of award of a bid.

HEARING

DATE: Thursday, February 1, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

Isemoto Contracting Co., Ltd. **supports** H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. 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.

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 could potentially result 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,

A handwritten signature in black ink, appearing to read "Leslie Isemoto", written in a cursive style.

Leslie Isemoto,
President

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



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR
AND PUBLIC EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes
procurement officers to consider a subcontractor's license as valid if it was valid
at the time of award of a bid.

HEARING

DATE: Thursday, February 1, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred 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** H.B. 826, 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 at award; meanwhile this bill will 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 measure would not only allow subcontractors within their respective scopes of work the ability to cure their status before award, but also preserve an apparent low bid that may have been found non-responsive due to a subcontractor's license status. 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. 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 could potentially result in lapse of project funding.

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.



February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON
LABOR AND PUBLIC EMPLOYMENT

SUBJECT: SUPPORT OF H.B. 826, RELATING TO PROCUREMENT Authorizes procurement
officers to consider a subcontractor's license as valid if it was valid at the
time of award of a bid.

HEARING

DATE: Thursday, February 2, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

TOMCO CORP. supports H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. 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.

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 could potentially result 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.

1007 Makepono Street, Honolulu, Hawaii 96819
Telephone #: (808) 845-0755 Fax #: (808) 845-1021
Lic# ABC 16941



general contractor license #ABC 21576

Sent via email to LABtestimony@capitol.hawaii.gov

Fax to (808) 586-6189

February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes procurement officers to consider a subcontractor's license as valid if it was valid at the time of award of a bid.

HEARING

DATE: Thursday, February 1, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

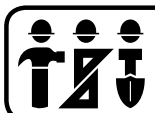
LYZ, Inc. supports H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time.

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 could potentially result 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.

A handwritten signature in black ink, appearing to read 'James N. Kurita', is written over a circular scribble.

James N. Kurita
Vice President/ Chief Operating Officer



RALPH S. INOUE CO LTD
GENERAL CONTRACTOR

500 Alakawa St., #220E
Honolulu, Hawaii 96817

T: 808.839.9002
F: 808.833.5971

License No. ABC-457
Founded in 1962

Sent via email to LABtestimony@capitol.hawaii.gov
Fax to (808) 586-6189

February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND
PUBLIC EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes
procurement officers to consider a subcontractor's license as valid if it was valid
at the time of award of a bid.

HEARING

DATE: Thursday, February 2, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt 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** H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided its license is valid at time of award. 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.

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 could potentially result 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 kind consideration.



S & M SAKAMOTO, INC.
GENERAL CONTRACTORS

LATE

LATE

Sent via email to LABtestimony@capitol.hawaii.gov
Fax to (808) 586-6189

February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT, VICE CHAIR
AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC
EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes procurement
officers to consider a subcontractor's license as valid if it was valid at the time of award of
a bid.

HEARING

DATE: Thursday, February 1, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

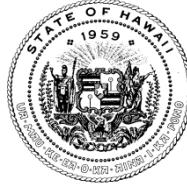
S & M Sakamoto, Inc. supports H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. This measure would prevent an otherwise responsive bid from being thrown out for largely technical reasons related to a listed subcontractor's license status at bid time.

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 could potentially result 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,
S & M Sakamoto, Inc.

Gerard Sakamoto
Chairman of the Board



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 2, 2017
9:00 a.m.
State Capitol, Room 309

**H.B. 826
RELATING TO PROCUREMENT**

House Committee on Labor & Public Employment

The Department of Transportation (DOT) **opposes** the intent of this bill which proposes to allow procurement officers to consider a subcontractor's license as valid if it was valid at the time of the award. Currently, bid submittals for State funded projects are nonresponsive to the project invitation for bids when a listed subcontractor does not hold a valid license at the time of the bid deadline.

According to Hawaii Revised Statutes § 444 (HRS) and Hawaii Administrative Rules (HAR) Title 16 Chapter 77, there are several ways a contractor's license becomes invalid, suspended or forfeited. Failure or refusal to renew license (HAR 16-77-50); not showing proof of financial integrity (HAR 16-77-55) this includes current tax clearance, continuous coverage of workers' compensation insurance, liability and property damage insurance, proof of current surety bond. Other instances include not giving notice of the death, dissociation, or disability of the Responsible Managing Employee (RME).

The HAR lists the "grace period" deadlines for the submittal of proof of financial integrity, license renewal, and notice given for the death, dissociation, or disability of the RME.

Allowing the acceptance of a bid with listed subcontractor(s) not holding a valid license would not have the effect of limiting protests. On the contrary, there will still be challenges, yet as proposed, the law would shift the responsibility to check whether the invalid licensed subcontractor to the Procuring State Agency. The question arises, what would the reasonable amount of time for the Procuring State Agency to "wait" for the subcontractor to hold a valid license before an award is made? Moreover, there could be instances when a bid may have more than one invalid subcontractor listed.

The DOT construction contracts are many, with over 30 project engineers administering construction contracts, the current subcontractor listing law and the reliability and efficiency of verifying that a project bid is responsive, including verification that the listed

LATE

LATE

LATE

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

subcontractors all hold valid licenses at the time of bid deadline carries with it no subjectivity, no discretion, in turn holding true to procurement transparency.

Having an invalid, forfeited or suspended license seems to be a material deviation that may affect at least the quality or delivery of the project. Moreover, HRS 103D-302(g) requires that after the bids are opened, “no changes in bid prices or other provisions of bids prejudicial to the interest of the public or to fair competition shall be permitted.”

The public interest and the requirement of ethical public procurement for the government agencies to “act as a fiduciary and trustee of public moneys” requires strict compliance and therefore, acceptance of a bid that includes a subcontractor whose license has been suspended or forfeited is not in line with the ethical considerations under the Procurement Code.

Thank you for the opportunity to provide testimony.



SHARING YOUR VISION. BUILDING SUCCESS.

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Sent via email to LABtestimony@capitol.hawaii.gov
Fax to (808) 586-6189

February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes procurement officers to consider a subcontractor's license as valid if it was valid at the time of award of a bid.

HEARING

DATE: Thursday, February 2, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

Nordic PCL Construction, Inc. supports H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. 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.

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 could potentially result 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.

Yours truly,

NORDIC PCL CONSTRUCTION, INC.

Glen Kaneshige
President

NORDIC PCL CONSTRUCTION, INC.

1099 Alakea Street, Suite 1600, Honolulu, HI 96813
Telephone: 808-541-9101 ♦ Fax: 808-541-9108 ♦ www.nordicpcl.com



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

LATE LATE LATE

February 1, 2017

TO: HONORABLE AARON JOHANSON, CHAIR, HONORABLE DANIEL HOLT,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON LABOR
AND PUBLIC EMPLOYMENT

SUBJECT: **SUPPORT OF H.B. 826, RELATING TO PROCUREMENT** Authorizes procurement
officers to consider a subcontractor's license as valid if it was valid at the
time of award of a bid.

HEARING

DATE: Thursday, February 1, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 309

Dear Chair Johanson and Vice Chair Holt and Members of the Committee,

Hawaiian Dredging Construction Company, Inc. supports H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. 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.

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 could potentially result 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 blue ink, appearing to read 'J. Majkut', is written over the typed name and title.

Joseph P. Majkut
President
Hawaiian Dredging Construction Company, Inc.

PRESIDENT
EVAN FUJIMOTO
GRAHAM BUILDERS, INC.

PRESIDENT-ELECT
DEAN UCHIDA
SSFM INTERNATIONAL, INC.

VICE PRESIDENT
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HOMEWORKS CONSTRUCTION, INC.

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DOUGLAS PEARSON
CASTLE & COOKE HOMES

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PHYSICAL:
94-487 AKOKI STREET
WAIPAHU, HAWAII 96797

LATE**LATE****LATE****Testimony to the House Committee on Labor & Public Employment****February 2, 2017****9:00 am****Conference Room 309****RE: HB 826 – Relating to Procurement**

Chair Johanson, Vice-Chair Holt, and members of the committee:

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

BIA-Hawaii supports H.B. 826, Relating to Procurement, which would amend Section 103D-302(g) by authorizing the procurement officer to consider a listed subcontractor's license as valid provided certain conditions are met and their license is valid at time of award. 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.

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 could potentially result in lapse of project funding.

Thank you for the opportunity to express our support of this legislation.

LATE

LATE

LATE

LABtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 2, 2017 9:25 AM
To: LABtestimony
Cc: stab625@yahoo.com
Subject: *Submitted testimony for HB826 on Feb 2, 2017 09:00AM*

HB826

Submitted on: 2/2/2017

Testimony for LAB on Feb 2, 2017 09:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Arnold	Ironworkers Stabilization	Oppose	No

Comments:

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.

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