

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



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

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March 1, 2017

TO: HONORABLE DONNA MERCADO KIM, CHAIR, HONORABLE RUSSELL RUDERMAN, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

HONORABLE ROSALYN BAKER, CHAIR, HONORABLE CLARENCE NISHIHARA, VICE CHAIR AND MEMBERS OF THE COMMITTEE ON COMMERCE, CONSUMER PROTECTION AND HEALTH

SUBJECT: **SUPPORT OF S.B 1068, PROPOSED SD1, 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.

Decision Making Hearing
DATE: March 1, 2017
TIME: 9:00 a.m.
PLACE: Conference Room 229

Dear Chair Mercado Kim and Chair Baker,

Thank you very much for scheduling S.B. 1068, Relating to Procurement for Decision Making hearing on Wednesday, March 1st.

GCA **supports** S.B. 1068, Relating to Procurement, and the Proposed SD1 which was agreed upon by the Contractors License Board. As currently drafted, the bill would amend Section 103D-302(g) allowing the procurement officer the ability to determine whether a listed subcontractor's license is valid at award, which would prevent a bid from being thrown out for reasons related to a listed subcontractor's status based on Chapter 444 requirements. This measure would still require that all listed subcontractors be properly licensed at award. The Proposed SD1 version of the measure 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, and bond if they are able to cure such license status within a reasonable amount of time.

Thank you for the opportunity to work with the Contractors License Board on language that would satisfy their concerns regarding ensuring that unlicensed activity is not condoned in the procurement of public works projects, while also being able to preserve a bid whose subcontractor list may have included a subcontractor whose license status is in question due to chapter 444, HRS licensing requirements, including workers compensation, insurance and bond requirements. We look forward to continue working with the stakeholders on the bill's language to address the need to curb bids being thrown out

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.

S.B. 1068, SD1 (Proposed)

DRAFT #3– February 23, 2017

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the delivery and
2 award of public works construction projects can be hindered by
3 bid challenges resulting in a lapse in funding and other
4 procurement issues. Many times there are communications from a
5 bidder indicating flaws or technical discrepancies in a low-
6 bidder's proposal before a determination has been made that the
7 low bidder is the responsible and responsive bidder. Several
8 recent informal inquiries and bid challenges related to
9 subcontractor listing and licensing issues have caused major
10 delays and cost increases for public works construction
11 projects.

12 The legislature further finds that due to the large number
13 of licenses available, it has become increasingly difficult for
14 general contractors to verify whether a subcontractor has the
15 proper license to perform the type of work that the
16 subcontractor has been contracted to perform. Ensuring that
17 subcontractors meet all of the necessary requirements to perform
18 contracted work on State and county projects will address

S.B. 1068, SD1 (Proposed)

1 licensing concerns and greatly minimize bid challenges
2 pertaining to the verification of subcontractor qualifications
3 and licensing.

4 The purpose of this Act is to authorize procurement
5 officers to consider a subcontractor's license as valid if a
6 listed subcontractor is appropriately licensed at the time of
7 award; provided that the subcontractor was previously licensed
8 prior to bid opening, and prior to award has restored its
9 license to a continuous current and active status from the time
10 of bid to the time of award by submitting satisfactory proof of
11 continuous insurance and bond coverages under section 444-11.1.
12 This Act also requires procurement officers to report any
13 unlicensed activity to the contractors license board.

14 SECTION 2. Section 103D-302, Hawaii Revised Statutes, is
15 amended by amending subsection (g) to read as follows:

16 "(g) Correction or withdrawal of inadvertently erroneous
17 bids before or after award, or cancellation of invitations for
18 bids, awards, or contracts based on such bid mistakes, shall be
19 permitted in accordance with rules adopted by the policy board.
20 After bid opening no changes in bid prices or other provisions
21 of bids prejudicial to the interest of the public or to fair
22 competition shall be permitted~~[.]~~; provided that:

S.B. 1068, SD1 (Proposed)

- 1 (1) If a procurement officer determines that a listed
2 subcontractor's license under chapter 444 is not valid
3 at the time of bid due to a lapse in continuous
4 insurance and bond coverages under section 444-11.1,
5 the bid may not be disqualified or rejected if:
6 (A) The subcontractor was previously licensed under
7 chapter 444 prior to the time of bid;
8 (B) Prior to award, the subcontractor submits
9 satisfactory proof of continuous insurance and
10 bond coverages under section 444-11.1 to the
11 contractors license board; and
12 (C) Prior to award, the subcontractor has its license
13 under chapter 444 restored to a continuous
14 current and active status from at least the time
15 of bid to the time of award; and
16 (2) The procurement officer shall report any unlicensed
17 activity at the time of bid to the contractors license
18 board.

19 Except as otherwise provided by rule, all decisions to permit
20 the correction or withdrawal of bids, or to cancel awards or
21 contracts based on bid mistakes, shall be supported by a written

S.B. 1068, SD1 (Proposed)

1 determination made by the chief procurement officer or head of a
2 purchasing agency."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

S.B. 1068, SD1 (Proposed)

Report Title:

Procurement Officers; Subcontractor Listing.

Description:

Authorizes procurement officers to consider a subcontractor's license as valid if a listed subcontractor is appropriately licensed at the time of award, provided that the subcontractor was previously licensed prior to bid opening, and prior to the award has restored its license to a continuous current and active status from at least the time of bid to the time of award.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

From: mailinglist@capitol.hawaii.gov
To: [GVO Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB1068 on Mar 1, 2017 09:00AM*
Date: Monday, February 27, 2017 4:19:31 PM

SB1068

Submitted on: 2/27/2017

Testimony for GVO/CPH on Mar 1, 2017 09:00AM in Conference Room 229

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual | 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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