

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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Honolulu, Hawaii 96810-0119
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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS

February 13, 2018, 2:55 PM

Senate Bill 2600
RELATING TO PROCUREMENT

Chair Kim, Vice-Chair Ruderman and members of the committees, thank you for the opportunity to submit testimony on SB 2600. The State Procurement Office (SPO) supports the intent of the bill but has concerns.

This bill amends HRS 103D-302 Part (b) by requiring that bids at or above the amount of \$5,000,000 be required to list all sub and joint contractors and that bids below that amount only be required to list joint and subcontractors for the "five sacred trades".

The SPO believes this will add to the complexity and confusion already existing around subcontractor listing. A subcontractor for a trade outside of the "five sacred trades" could be required to be listed for a solicitation just under the dollar threshold and not required for a solicitation just over the dollar threshold. DAGS Public Works has stated most of their protests on subcontracting are for solicitations over the dollar threshold.

As stated in the bill:

"...the federal government does not require the listing of subcontractors on any bid proposal. In fact, the federal government does not require a general contractor's license to bid on or perform construction work, nor do over twenty states. The legislature further recognizes that the 2000 American Bar Association's Model Procurement Code, the model for Hawaii's procurement code, does not include such a subcontractor listing requirement..."

Many other states do not require the subcontractor listing or, if they do, often have fewer, less complicated laws governing licensure of trades. While Hawaii has some unique features not present in other states, it is not clear that the subcontractor listing is made necessary by them.

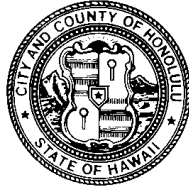
The SPO believes it would be better to eliminate the requirement for the listing of subcontractors from the solicitation and instead require a stronger post award management component.

It is the contractor's responsibility to ensure subcontractors are properly licensed. It is the contract administrator's responsibility to ensure the contractor has procedures in place to do so and to conduct spot checks as part of quality assurance.

Thank you.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



NELSON H. KOYANAGI, JR.
DIRECTOR

MANUEL T. VALBUENA
DEPUTY DIRECTOR

TESTIMONY OF NELSON H. KOYANAGI, JR.
DIRECTOR OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
February 13, 2018, Conference Room 224

Senate Bill SB 2600, "Relating To Procurement"

Position: IN SUPPORT

TO: The Honorable Senator Donna Mercado Kim, Chair
and Members of the Committee on Government Operations

The Honorable Senator Donovan M. Dela Cruz, Chair
and Members of the Committee on Ways and Means

The Department of Budget and Fiscal Services (BFS) of the City and County of Honolulu **strongly supports** Senate Bill No. SB 2600, Relating To Procurement.

BFS **strongly supports** this bill that will relax the requirement of contractors listing all joint subcontractors and subcontractors under the estimated contract value of five (5) million dollars.

Subcontractor listing and licensing issues have caused protests and award delays, which in turn affects funds being lapsed and project start dates. Requiring contractors to list joint subcontractors and/or subcontractors to the "five (5) sacred trades" (under \$5 million) will still maintain controls of the procurement, while allowing contractors to finalize their subcontractor list in a timely manner which will minimize delays and lapsing of funds.

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

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

February 13, 2018

TO: HONORABLE DONNA MERCADO KIM, CHAIR, HONORABLE RUSSELL RUDERMAN, VICE CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS

SUBJECT: **STRONG SUPPORT OF S.B. 2600 RELATING TO PROCUREMENT.**
Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: Tuesday, February 13, 2018
TIME: 2:55 p.m.
PLACE: Capitol Room 229

Dear Chair Mercado Kim, Vice Chair Ruderman 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. The 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 is in **strong support** of S.B. 2600, Relating to Procurement, which requires that for construction contracts with a total value of more than \$5,000,000 that the list of subcontractors be required, and for projects that bidders estimate at less than \$5,000,000 no subcontractor listing is required, except for the listing the following trades on bid documents, electrical, plumbing, asbestos, boilermaker, and elevator, due to the individual licenses such trades require.

S.B. 2600 modeled after Washington State Procurement Code

The dollar threshold and the limited listing of certain trades are modeled after Washington State's law which has been in place since 1993. However, Washington's state's law limits subcontractor listing requirements to projects over \$1 million dollars, and additionally allows submission of the list one hour after the bid closes, and also only requires three trades to be listed electrical, plumbing and heat, ventilation and air conditioning (HVAC). See Washington State Statute Revised Code of Washington 39.30.060 attached. Upon speaking the Washington State sister chapter in Seattle, Washington they verified that the Code has continued to work for them and bid protests related to subcontractor listing has not been an issue of concern.

The GCA **strongly supports** this bill because the bid protests due to the subcontractor listing requirements continue to increase the cost of public works construction and delay the delivery of projects. Additionally, the mandated subcontractor listing requirement is not consistent with the *American Bar Association Model Procurement Code* (ABA Model Procurement Code), which Hawaii's Procurement Code is modeled after. Furthermore the federal government does not require subcontractor listing on any of their projects thus protests on this issue do not exist. While we understand the concern with regard to bid shopping and bid peddling, we have grave concerns about whether the original intent of the subcontractor listing law is still applicable in its entirety.

Background of the Subcontractor Listing Requirement

In the last decade, the subcontractor listing requirement has been used beyond its legislative intent by many non-low bidders to identify errors in bids that either fail to list a subcontractor or inadvertently commits a listing error in the haste to submit a bid by the deadline. As a result of the subcontractor listing requirement, the failure to list such subcontractor altogether or a subcontractor whose work would total more than one percent of the total contract could trigger an inquiry which could lead to a formal bid protest whereby a higher bidder could replace the apparent lowest bidder from being awarded the contract. These protests have historically resulted in delays in contract awards and in the event the low bidder is disqualified, there is additional cost to the agency and taxpayers if the contract is awarded to the higher bidder.

Some examples of projects that encountered issues related to subcontractor listing and caused delay in starting construction include, but are not limited to:

- Kamamalu Building (Oahu) - *Subcontractor listed by 4 lowest bidders considered non-responsive, thus awarded to fifth lowest bidder.*
 - Bid Date: May 2014
 - Project Awarded: *5 months after Bid Close* October 2014 at \$24.8 Million
 - **Awarded to 5th lowest bidder at increased of price of \$3.3 M over lowest bid**
- Kona Judiciary Complex (Big Island) *Issue raised over listed subcontractors among other issues.*
 - Bid Date: January 2016
 - Project Awarded: *10 months after Bid Close* October 2016 at \$79 Million
 - **Awarded to 3rd lowest bidder at increased price of \$1.7 M over lowest bid**
- Maui Car Rental Facility (Maui) – *Subcontractor listed alleged to be in error, among other protest issues that went to Office of Administrative Hearings for final disposition*
 - Bid Date: June 2014
 - Project Awarded: *18 months after Bid Close* December 2015 at \$331 million
 - **Awarded to 4th lowest bidder at increased price of \$3.8 M over lowest bid**

Under current law HRS, Section 103D-302(b) requires the bidding contractor to list subcontractors and joint contractors and their scope of work to be employed on all public works projects unless the prime contractor has the required specialty license or will do the work themselves. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project. This measure does not preclude a state agency from requiring a list of subcontractors to be submitted prior to start of construction which would provide them with the information necessary to know who would be working on the project.

More recently, **the subcontractor listing has been one of the main reasons why public works projects are being awarded to non-low bidders.** Further the subcontractor listing requirement has led to administratively filed bid protests, resulting in increased cost of public projects, delay of contract award and further administrative burden for affected agencies

The subcontractor listing law has resulted in increased cost for taxpayers, delay in delivery of much needed projects, and the potential of lapsing funds for public works projects. We appreciate this Committee's consideration of changing the subcontractor listing requirement as applied to certain dollar threshold. Thank you for this opportunity to **support** this bill and we respectfully request the Committee to move this measure forward.

RCW 39.30.060**Bids on public works—Identification, substitution of subcontractors.**

(1) Every invitation to bid on a prime contract that is expected to cost one million dollars or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW **39.04.010** or an institution of higher education as defined under RCW **28B.10.016** shall require each prime contract bidder to submit as part of the bid, or within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter **18.106** RCW; and electrical as described in chapter **19.28** RCW, or to name itself for the work. The prime contract bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

(2) Substitution of a listed subcontractor in furtherance of bid shopping or bid peddling before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover monetary damages from the prime contract bidder who executed a contract with the public entity and the substituted subcontractor but not from the public entity inviting the bid. It is the original subcontractor's burden to prove by a preponderance of the evidence that bid shopping or bid peddling occurred. Substitution of a listed subcontractor may be made by the prime contractor for the following reasons:

- (a) Refusal of the listed subcontractor to sign a contract with the prime contractor;
- (b) Bankruptcy or insolvency of the listed subcontractor;
- (c) Inability of the listed subcontractor to perform the requirements of the proposed contract or the project;
- (d) Inability of the listed subcontractor to obtain the necessary license, bonding, insurance, or other statutory requirements to perform the work detailed in the contract; or
- (e) The listed subcontractor is barred from participating in the project as a result of a court order or summary judgment.

(3) The requirement of this section to name the prime contract bidder's proposed HVAC, plumbing, and electrical subcontractors applies only to proposed HVAC, plumbing, and electrical subcontractors who will contract directly with the prime contract bidder submitting the bid to the public entity.

(4) This section does not apply to job order contract requests for proposals under *RCW **39.10.130**.

[**2003 c 301 § 5**; **2002 c 163 § 2**; **1999 c 109 § 1**; **1995 c 94 § 1**; **1994 c 91 § 1**; **1993 c 378 § 1**.]

NOTES:

***Reviser's note:** RCW **39.10.130** was recodified as RCW **39.10.420** pursuant to 2007 c 494 § 511, effective July 1, 2007.

Intent—2002 c 163: "This act is intended to discourage bid shopping and bid peddling on Washington state public building and works projects." [**2002 c 163 § 1**.]

Application—1994 c 91: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after June 9, 1994." [**1994 c 91 § 2**.]

Application—1993 c 378: "This act applies prospectively only and not retroactively. It applies only to invitations to bid issued on or after July 25, 1993." [**1993 c 378 § 2**.]



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

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via Email

February 6, 2018

Senator Donna Mercado Kim, Chair
Senator Russel E. Ruderman, Vice-Chair
Senate Committee on Government Operations
The Twenty-Ninth Legislature, Regular Session of 2018

Chair Kim, Vice Chair Ruderman, and Members of the Committee:

SUBJECT: SB2600 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 **strongly opposed** to SB2600.

This bill increases the threshold for contracts that require the subcontractor listing and scope of work to projects with an estimated contract value greater than \$5,000,000, and also specifies that certain designated trades shall be listed on all contracts regardless of estimated value.

Once again, the proponents of this bill continue to create disharmony and distrust between general contractors and subcontractors by proposing rules that degrade the integrity of the procurement process, increase bid challenges, incite bid shopping, and reduce the number of competitive bids being submitted on public works projects.

Over the past several years, the proponents of this bill have repeatedly submitted similar bills under the pretense of reducing bid protests. Since these bills created considerable friction between general contractors and subcontractors, the legislature in 2013 passed S.C.R. 92 SD2 which created a task force to study these issues and to collect 3 years of protest data in order to determine the true extent of such protests and whether the protests were frivolous in nature or justified. In 2015 the procurement task force culminated 2 years of data gathering, meetings and discussion with stakeholders in the procurement process, with a report to the legislature that looked at the overall efficiency of procurement on government projects. The data from this report indicates that only a very small percentage of the total construction jobs procured by the reporting agencies were protested, and that the increase in the contract price of bids going to the non-low bidder due to protests was less than 1%. These results clearly show that the number and costs of protests are minimal, and in most cases responsible prime bidders were able to correctly follow the procurement rules and subcontractor listing requirements currently in place.

In summary, there is no justification to dilute the sublisting requirement by increasing the listing threshold. The proposed thresholds represent sizable contracts for many contractors, especially for the small and medium sized companies and these companies, which form the backbone of the local construction industry, should not be discounted and exposed to bid shopping.

We therefore respectfully urge the committee to hold this bill.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Gregg S. Serikaku".

Gregg S. Serikaku
Executive Director

IRONWORKERS STABILIZATION FUND

February 12, 2018

Donna Mercado Kim, Chair
Committee on Government Operations
State Senate
State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Dear Honorable Chair Kim and Members of the Committee on Government Operations:

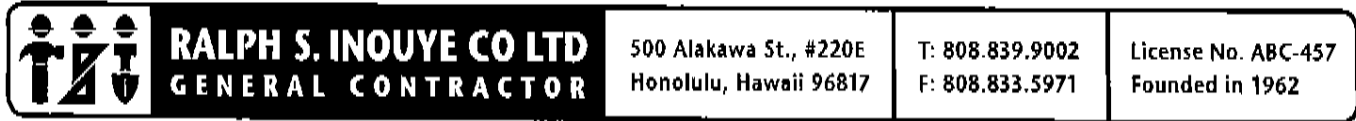
Re: Strong Opposition for SB 2600 – Relating to Procurement

We are in strong opposition of SB 2600, Relating to Procurement; that requires public procurement bids to list subcontractors and joint contractors only for contracts of \$5,000,000 or more.

The purpose of this bill strongly goes against HRS Section 103D that the legislature has passed and the State of Hawaii has used to provide a fair and open process to bidding for public funded projects. We believe that it is in the best interest of the public that they know all the subcontractors and joint contractors for any jobs. This will also ensure that the public can view if all the parties involved is licensed and has not had any wrong doing in the past. We perceive this bill is trying to hide information from the general public.

Consequently, we believe to modify the procurement law will jeopardize the integrity of the process.

We strongly oppose this measure for the working men and women of Hawaii. Thank you for your time and consideration.



February 12, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

Ralph S Inouye Co, Ltd (RSI), supports the passage of **S.B. 2600, Relating to Procurement**, which would amend the current subcontractor listing requirement under HRS Section 103D-302, S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000. For bids on a public works project less than \$5,000,000 no subcontractor listing would be required except for disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law HRS, Section 103D-302(b) requires the bidding contractor to list subcontractors and joint contractors and their scope of work to be employed on all public works projects of any size. The listing of subcontractors has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increasing costs to the state and taxpayers, and delaying projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from performing, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

RFI supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.



S & M SAKAMOTO, INC.
GENERAL CONTRACTORS

February 13, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

S & M Sakamoto, Inc. **supports** the passage of S.B. 2600, **Relating to Procurement**, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000,. However for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

S & M Sakamoto, Inc. **supports** S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

Very truly yours,

Gerard Sakamoto
Chairman of the Board



Alan Shintani Inc.
GENERAL CONTRACTOR ABC 13068

February 13, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

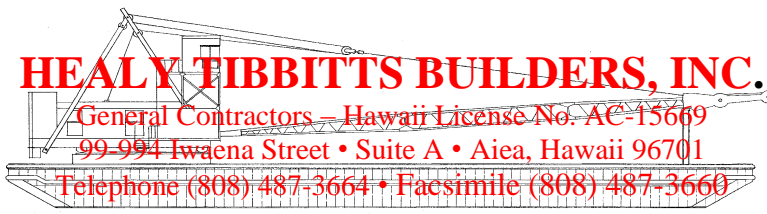
Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

Alan Shintani, Inc. supports the passage of S.B. 2600, Relating to Procurement, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000,. However, for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result, not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

Alan Shintani, Inc. supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

Alan Shintani
President
Alan Shintani, Inc.



February 11, 2018

Sent Via E-mail to: GVOtestimony@capitol.hawaii.gov

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018

TIME: 2:55 p.m.

PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman 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.

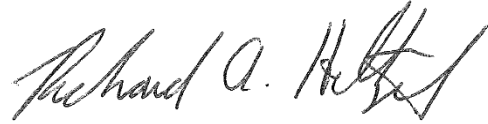
Healy Tibbitts Builders, Inc. **supports the passage of S.B. 2600, Relating to Procurement**, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000. However, for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result not only do the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

Healy Tibbitts Builders, Inc.

Healy Tibbitts Builders, Inc. **supports** S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

Very truly yours,
Healy Tibbitts Builders, Inc.

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

Richard A. Heltzel
President



NORDIC PCL CONSTRUCTION, INC.

1099 Alakea Street, Suite 1600, Honolulu, HI 96813

Telephone: 808-541-9101 ♦ Fax: 808-541-9108 ♦ www.nordicpcl.com

February 13, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018

TIME: 2:55 p.m.

PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

Nordic PCL Construction, Inc. supports the passage of S.B. 2600, Relating to Procurement, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still by require the subcontractor listing to apply for all public works project over \$5,000,000. For bids on a public works project less than \$5,000,000 no subcontractor listing would be required except for disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law HRS, Section 103D-302(b) requires the bidding contractor to list subcontractors and joint contractors and their scope of work to be employed on all public works projects unless the prime contractor has the required specialty license or will do the work themselves. The listing of subcontractors has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increasing costs to the state and taxpayers, and delaying projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from performing, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

Nordic PCL Construction, Inc. supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

Yours truly,

NORDIC PCL CONSTRUCTION, INC.

Glen Kaneshige
President

Lindemann Construction Inc.
500 Ala Kawa St. #216-J
Honolulu, HI 96817

February 13, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

Lindemann Construction Inc. supports the passage of S.B. 2600, Relating to Procurement, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000,. However for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

Lindemann Consturction Inc. supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.



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

February 13, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

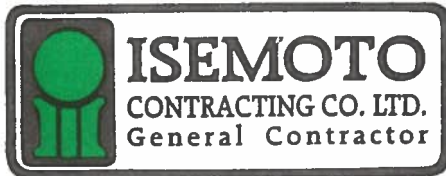
Hawaiian Dredging Construction Company, Inc. supports the passage of S.B. 2600, Relating to Procurement, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000,. However for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

Hawaiian Dredging Construction Company, Inc. supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

With best regards,


J. Majkut
President
Hawaiian Dredging Construction Company, Inc.



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

February 13, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

Isemoto Contracting Co., Ltd. supports the passage of S.B. 2600, Relating to Procurement, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000,. However for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

Isemoto Contracting Co., Ltd., supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

Leslie Isemoto,
President



general contractor license #ABC 21576

February 12, 2018

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

SUBJECT: **SUPPORT OF S.B. 2600, RELATING TO PROCUREMENT.** Requires the listing of all joint contractors and subcontractors for construction contracts subject to the procurement code where the total estimated contract value is \$5,000,000 or higher. Requires the listing of joint contractors and subcontractors in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts subject to the procurement code where the total estimated contract value is less than \$5,000,000.

HEARING

DATE: February 13, 2018
TIME: 2:55 p.m.
PLACE: Conference Room 224

Dear Chair Donna Mercado Kim, Vice Chair Ruderman and Members of the Committee,

LYZ, Inc. supports the passage of S.B. 2600, Relating to Procurement, which would amend the current procurement subcontractor listing requirement under Section 103D-302, HRS. S.B. 2600 would still require the subcontractor listing to apply for all public works project over \$5,000,000,. However for bids less than \$5,000,000 no subcontractor listing would be required except for the disclosure of any subcontractors on the project in the trades of electrical, plumbing, asbestos, elevators and boilermaker for construction contracts.

Under current law Section 103D-302(b), HRS requires the bidding contractor to all subcontractors and joint contractors and their scope of work to be employed on all project unless the prime contractor has the required specialty license or will do the work themselves. The subcontractor listing requirement has become a way in which bidders attack the responsiveness of a proposal, resulting in awards to non-low bidders, increased costs to the state and taxpayers, and delayed projects due to a technicality in the submitted subcontractor list. As a result not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state could end up paying more for the project. This bill proposes to limit which projects the subcontractor listing applies to based on the cost of the project, which will in turn limit these types of challenges.

LYZ, Inc. supports S.B. 2600 and respectfully request that this Committee pass this measure. Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'James N. Kurita'.

James N. Kurita
Vice President/ Chief Operating Officer

SB-2600

Submitted on: 2/5/2018 12:14:21 PM

Testimony for GVO on 2/13/2018 2:55:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Louise Storm		Support	No

Comments:

Can this (these) requirement(s) also cover procurements by counties when the state is asked to contribute funds for their projects? I find it deeply disturbing that Mayor Caldwell cannot or will not tell the public what happened to the state money his rail project was already given and yet wants the state to give more.

Louise Storm



ELECTRICAL CONTRACTOR'S ASSOCIATION OF HAWAII

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



February 12, 2018

To: Senate Committee on Government Operations
Honorable Chairperson Donna Mercado Kim & Vice Chairman Russell Ruderman

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

Subject: SB 2600 Relating to Procurement

Notice of Hearing

Date: Tuesday, February 13, 2018
Time: 2:55 PM
Place: Conference Room 224
State Capitol
415 South Beretania Street

Dear Chair Kim 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 is the Hawaii Chapter of the National Contractors Association (NECA). ECAH **opposes** the intent and purpose of SB 2600 that requires public procurement construction bids to list subcontractors and joint contractors for contracts with a total value of more than \$5,000,000 and a carve out of certain listed subcontractors for work under \$5,000,000. While the electrical construction industry appreciate the carve out of the electrical contract work, we still believe that all subcontractors should be listed. This will ensure that no unethical activity such as bid shopping or bid peddling occur in all sub-trades. Bid shopping and bid peddling only enriches the bidding contractors and not the State and taxpayers. The \$5,000,000 threshold is still a large amount for many of the specialty contractors. The majority of specialty contractors are small businesses that depend on contracts below \$5,000,000. This measure would have a negative impact on their business.

Over 50 years ago, the California legislature passed the Subcontractor Listing Law to prevent the unfair practice of bid shopping and bid peddling. Their legislature found that the practice of bid shopping and bid peddling often resulted in poor quality of material and workmanship to the detriment of the public and deprived the public of the full benefits of fair competition among prime contractors and subcontractors. Citing that Federal projects do not require the sublisting is not a good reason for the State of Hawaii to follow. The fact is, many qualified local contractors refuse to bid of federal projects because it doesn't provide the protection to sub-contractors. This action prevents the procurement agency from receiving the best and most qualified contractors and sub-contractors.

The proposed bill cites the difficulties caused by the time constraints and inadvertent errors that have occurred that caused the bidder to be disqualified. Much of this could have been prevented in the due diligence process prior to bid deadlines.

Based on the above, ECAH **strongly opposes** the passage of SB 2600 and encourage this committee to stop this bill.

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