

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

WEDNESDAY, FEBRUARY 23, 2022, 9:30 A.M.
VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 3034, S.D. 1

RELATING TO PROCUREMENT

Chair Baker, Vice Chair Chang, and Members of the Committee, thank you for the opportunity to submit testimony on S.B. 3034, S.D. 1. The Department of Accounting and General Services (DAGS) supports this bill which we believe will reduce delays in construction awards due to misinterpretation of the statutory requirement which can force the State to eliminate responsive bids and pay more for construction without any benefit.

Recently, bidders have begun to use the current language as a means to protest bids which failed to list subcontractors who are not required to be licensed under chapter 444, HRS, contrary to long-standing interpretation and practice. These protests cause delays in the construction procurements process and may result in award to the protestor at a higher price. One of the protests was appealed to the circuit court and to the intermediate court of appeals before the parties agreed to dismiss the appeal. It has become abundantly clear that clarification of the requirements of 103D-302(b) is necessary to prevent further confusion as to its meaning.

Thank you for the opportunity to submit testimony on this matter.

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 21, 2022

TO: HONORABLE ROSALYN H. BAKER, CHAIR, HONORABLE STANLEY CHANG, COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SUBJECT: **SUPPORT OF S.B. 3034 SD1, RELATING TO JOINT CONTRACTOR OR SUBCONTRACTOR LISTING.** Clarifies the listing of joint contractors and subcontractors required for construction bids under section 103D-302, Hawaii Revised Statutes.

HEARING

DATE: Wednesday, February 23, 2022

TIME: 9:30 a.m.

PLACE: Capitol Room 016

LATE

Dear Chair Baker, Vice Chair Chang and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of approximately five hundred (500) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. Our mission is to elevate Hawaii's construction industry and strengthen the foundation of our community.

GCA is in **support** of S.B. 3034 SD1, which clarifies the listing of joint contractors and subcontractors required for construction bids under section 103D-302, Hawaii Revised Statutes.

This measure will help clarify what has been long standing interpretation and practice in procurement. This will prevent unnecessary delays in construction awards due to misinterpretation of the subcontractor listing requirements.

However, we recommend that the measure actually specify the subcontractor specialties required to be listed instead. This will ensure that there is no unintended consequence if the license board adds a new profession under chapter 444 in the future that is not meant to be included in the subcontractor listing law. We also recommend simply deleting the joint contractor listing requirement to avoid confusion that a prime bidding joint venture should not have to list itself and a joint venture subcontractor entity needs to be appropriately licensed for the specialty it intends to perform and is therefore subsumed in the definition of a subcontractor.

For these reasons we ask that the Committee pass this measure.

Thank you for this opportunity to testify in support of this measure.