

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

COMMITTEE ON
GOVERNMENT REFORM

MARCH 23, 2022, 9:30 A.M.
VIA VIDEOCONFERENCE & CONFERENCE ROOM 309, STATE CAPITOL

S.B. 3034, S.D. 2

RELATING TO JOINT CONTRACTOR OR SUBCONTRACTOR LISTING

Chair McKelvey, Vice Chair Wildberger, and Members of the Committee, thank you for the opportunity to submit testimony on S.B. 3034, S.D. 2. The Department of Accounting and General Services (DAGS) strongly opposes the bill in its current form and offers the following recommendations for consideration:

- **Remove the entire term 'joint contractor'**

Justification:

1. This would address the concern raised by DCCA's Professional Licensing Division regarding the use of the term joint contractor.
2. Since the engagement of a contractor, whether general or specialty, makes that contractor a subcontractor to the bidder, we suggest removing the entire term 'joint contractor'.

Proposed Amendments

- Page 1, Line 12 – delete the words “contractor or”; and
 - Page 1, Line 15 – delete the words “contractor or”; and
 - Page 2, Line 3 – delete the words “contractor or”.
- **Remove the requirement to list the specialty or specialties of the work to be performed by each subcontractor.**

Justification: Requiring another piece of information to be added for each subcontractor:

1. Would make it more difficult for contractors to comply with the law. Prior GCA testimony indicates that general contractors already find it difficult to comply with the law in its current form, because they find it increasingly difficult to ascertain licenses and verify whether every subcontractor has the proper license to perform the scope of work for which quotes have been received.
2. Since it increases the amount of information bidders are required to provide at the time of bid, the proposed requirement increases the likelihood of the errors in the subcontractor listing produced by bidders, therefore increasing (not decreasing) the opportunity for protests.

Proposed Amendment

- Amend Page 1, Line 16 – to read “...and the nature and scope of the...”
- **Provide clarity regarding the types of subcontractors which must be listed.**

Justification:

1. In its current version, this bill does not address DAGS' concerns regarding the use of the current language 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.
2. HRS Chapter 444, entitled 'Contractors', defines the term 'Contractor'. DAGS asserts that any additions to Exhibit A of HAR §16-77 (which lists the Specialty Contractor Classifications) should be included in the subcontractor listing law, because it is in the State's best interest to ensure that work on its construction jobsites is performed by appropriately licensed contractors and subcontractors.

The concerns in this regard contained in the GCA's last testimony should be addressed in Chapter 444, not in the procurement code.

Proposed Amendment

- Amend Page 1, Line 17 – to read "...work to be performed by each; provided that the name and information of a subcontractor who is not required to be licensed under chapter 444 in the performance of its contract are not to be required to be included in bids. Construction bids that do not..."

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

SB-3034-SD-2

Submitted on: 3/22/2022 11:55:02 AM

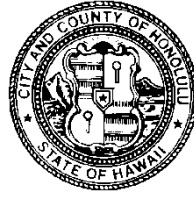
Testimony for GVR on 3/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
AGS-Wood, Gordon	Department of Accounting and General Services	Oppose	Remotely Via Zoom

Comments:

I am available for comments.

RICK BLANGIARDI
MAYOR



ANDREW T. KAWANO
DIRECTOR

CARRIE CASTLE
DEPUTY DIRECTOR

TESTIMONY OF ANDREW T. KAWANO
DIRECTOR OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM
March 23, 2022, 9:30 AM, Conference Room 309 and Videoconference

TO: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Government Reform

RE: SUPPORT OF SENATE BILL 3034, SD2, RELATING TO JOINT CONTRACTOR
OR SUBCONTRACTOR LISTING

The Department of Budget and Fiscal Services, City and County of Honolulu (City), **supports** Senate Bill (SB) 3034, SD2, Relating to Joint Contractor or Subcontractor Listing.

The procurement process requires clear legislative direction to award contracts to responsive, responsible bidders and to minimize protests on bids due to the ambiguous subcontractor listing requirement under section 103D—302(b), Hawaii Revised Statutes.

The City offers the following to be added in the sentence beginning in line 10 and ending in line 17:

"If the invitation for bids is for construction, it shall specify that all bids that include the engagement of a contractor or subcontractor in the performance of the contract shall include the name of each person or firm to be engaged by the bidder as a [joint] contractor or subcontractor [in the performance of the contract] and the nature [and], scope, and specialty or specialties of the work to be performed by each, **provided that the name and information of the contractors or subcontractors who are not required to be licensed under chapter 444 are not required to be included in the bid.**"

For the reasons stated above, the City supports Senate Bill 3034, SD2.

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

March 22, 2022

TO: HONORABLE ANGUS MCKELVEY, CHAIR, HONORABLE TINA WILDBERGER, VICE CHAIR, COMMITTEE ON GOVERNMENT REFORM

SUBJECT: **COMMENTS ON S.B. 3034 SD2, 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, March 23, 2022
TIME: 9:30 a.m.
PLACE: Capitol Room 309

Dear Chair McKelvey, Vice Chair Wildberger 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 provides **comments** on S.B. 3034 SD2, which clarifies the listing of joint contractors and subcontractors required for construction bids under section 103D-302, Hawaii Revised Statutes.

The intent of the measure as introduced was to 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, the most recent amendments, while attempting to address a concern that we raised in the previous committee, actually provide more confusion.

We respectfully ask that this measure be amended back to its original form.

Thank you for the opportunity to provide comments.