



STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
STATE PROCUREMENT OFFICE

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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEES
ON
GOVERNMENT OPERATIONS
AND
AGRICULTURE AND ENVIRONMENT
FEBRUARY 13, 2024, 3:00 PM

SENATE BILL 2436
RELATING TO CONSTRUCTION WASTE

Chair McKelvey, Chair Gabbard, Vice Chair Richards, and members of the committees, thank you for the opportunity to submit testimony on Senate Bill 2436. The State Procurement Office (SPO) supports the intent of the bill but opposes the language that would require a “priority” designation to offerors who have greater recycling construction content or the ability to recycle construction waste.

Comments: The use of the term “priority” is currently used only when conducting a procurement through the competitive sealed proposal process (RFP), pursuant to 103D-303, Hawaii Revised Statutes (HRS). It indicates those offerors whose proposals have been deemed acceptable or potentially acceptable. The award is based on the offeror who ranked highest, based on the evaluation criteria, of which recycling content and recycling debris can be among them.

Unlike the RFP process, the competitive sealed bidding process pursuant to 103D-302 HRS, the award is based on lowest cost, technically acceptable, responsive, and responsible bidder.

In either method of procurement, a major concern is that offerors could inflate the quantity of recycled material, or debris material to be recycled, to obtain a competitive advantage. The State may find that managing a contract with recycled content and/or recycling debris is extremely challenging to validate and monitor.

For the past three calendar years, a handful of construction procurements used the RFP method. Therefore, if it is the intent of the Legislature to use the competitive sealed proposal process, the impact will be minimal.

If the Legislature considers a bill similar to language in HRS 103D-1005, Hawaii Products, which allows for price preferences. There is a very high likelihood that solicitations, with price preferences for recycled materials, will result in increased construction costs.

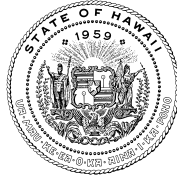
Recommendations: Before construction recycle preferences are statutorily mandated, the SPO recommends that industry leaders and government experts meet to discuss the implications and challenges a price preference will have, as there may be unintended consequences.

The SPO recommends removing the mandate for integrating the recycling of construction and demolition debris into priority offeror selections and forming a working group tasked with proposing a more appropriate means of increasing e recycling content and recycling of construction and demolition debris.

The SPO also recommends adopting the proposed language in the companion bill, House Bill 2101, HD1.

Thank you.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'AINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

COMMITTEE ON GOVERNMENT OPERATIONS
AND THE
COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TUESDAY FEBRUARY 13, 2024, 3:00P.M.
CONFERENCE ROOM 225 AND VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 2436

RELATING TO CONSTRUCTION WASTE

Chairs McKelvey and Gabbard, Vice Chairs Gabbard and Richards, and Members of the Committees, thank you for the opportunity to submit testimony on Senate Bill (S.B.) 2436.

Although the Department of Accounting and General Services (DAGS) appreciates the intent of this bill, which seeks to increase the recycling of construction and demolition debris, DAGS **opposes** the proposed method for achieving that intent for the following reasons:

- When a preference is introduced with little practicum in its application, implementation of the preference would reduce the perception of fairness.

in the procurement process for construction, thereby increasing the potential for protests and cost escalation due to the resultant delays.

- The conditions for application of the preference detailed in lines 4-9 on page three are problematic because:
 - All three are based on proposed actions, which cannot be verified when considering an offer.
 - The State does not have any guarantee that the offeror will actually meet its proposed goals for the volume of recycled materials.
 - There are no measures to prevent offerors from artificially inflating the quantities of materials to be recycled to obtain a competitive advantage.
 - Unless there is a guaranteed, demonstrated demand for the recycled materials in accordance with lines 13 thru 17 on page three of the bill, even a well-intended offeror may not be able to meet its stated goals for recycling.
 - Monitoring an offeror's compliance with their proposal during construction would increase the administrative burden on the State at a time when it already has staffing issues. Further, if a contractor is non-compliant with their offer, the State has no recourse for correction.
- The preference allows for the increased cost of construction (by as much as 10%) without evidence that this cost increase is the best use of taxpayer money.

HRS Section 196-9(b)(1) and (7) already encourage recycling and waste minimization and management efforts in construction. DAGS agrees that the goal of increasing the recycling of construction and demolition debris is important but disagrees that the best way of achieving this is through the procurement code by altering the selection process for construction contractors. We recommend instead that the State work with industry leaders and experts in government and the construction industry to: 1) assess the current status of the recycling industry in Hawaii(including the identification of issues/barriers); 2) examine the feasibility of recycling/using various forms of construction waste; and 3) determine the best course(s) of action to focus, facilitate, and incentivize efforts to improve the recycling industry and to make it attractive for more contractors to recycle construction waste in Hawaii.

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



**HAWAII STATE SENATE
COMITTEE ON GOVERNMENT OPERATIONS, AND AGRICULTURE AND ENVIRONMENT
Conference Room 225 & Videoconference
State Capitol
3:00 PM**

February 13, 2024

Subject: SB 2436 - RELATING TO CONSTRUCTION WASTE

Chairs McKelvey & Gabbard, Vice-Chairs Gabbard & Richards, and members of the Committee:

My name is Max Lindsey, Government Relations Committee Chair 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. Our members build the communities we all call home.

SB 2436 requires recycling of construction and demolition materials and use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the state or any county.

While we support the intent of the proposed legislation, we believe it is somewhat premature as there are a limited number of firms that specialize in recycling construction and demolition waste in Hawaii. PVT, the privately operated landfill, currently diverts construction and demolition waste from the Waimanalo Gulch landfill and will be closing soon. Also, Re-Use Hawaii has a limited reach into the types of construction and demolition waste it will recycle. Asphalt shingles and roofing materials, and dry wall are currently not recycled in Hawaii because the quantity of material does not make recycling economical.

We suggest the legislature consider encouraging the development of a construction and demolition waste recycling industry by providing the following:

1. Permitted sites where companies can operate;
2. Storage areas to store recycled materials;
3. Subsidies for shipping costs both interisland and transoceanic shipping;
4. Funding for more research and development of new ways to recycle ALL construction and demolition waste material;
5. Any other support to encourage the development of a construction and demolition waste recycling industry in Hawaii.

We appreciate the opportunity to provide our comments on SB 2436.

SAH - Subcontractors Association of Hawaii

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

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

February 13, 2024

Testimony To: Senate Committee on Government Operations
Senator Angus L.K. McKelvey, Chair

Senate Committee on Agriculture and Environment
Senator Mike Gabbard, Chair

Presented By: Tim Lyons, President

Subject: S.B. 2436 – RELATING TO CONSTRUCTION WASTE.

Chair McKelvey, Chair Gabbard and Members of the Joint Committees:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. 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

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL AND AIR CONDITIONING NATIONAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We are opposed to this bill.

At the outset, let us say that we are not opposed to recycling materials and particularly to have them to be used on state jobs. The concern is that in providing for a preference by square foot, tonnage, or amount of material, the 10% preference would easily apply to materials that are not designed for their particular use and/or their necessary life. Merely because the product is recyclable does not mean it is the best product for the job.

Additionally, we find that the preference would apply even to a contractor who perhaps, under the past performance concept, has not provided the State or the County with the proper construction practices however they now bid and use recycled materials so they get the 10% even if that recycled material is inferior.

Based on that we do not agree with this bill although we are inclined to support the concept of recycling.

Thank you.



February 13, 2024

TO: HONORABLE ANGUS L.K. MCKELVEY, CHAIR, HONORABLE MIKE GABBARD, VICE CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS. HONORABLE MIKE GABBARD, CHAIR, HONORABLE HERBERT M. "TIM" RICHARDS, III, VICE CHAIR

SUBJECT: **COMMENTS ON S.B. 2436, RELATING TO CONSTRUCTION WASTE.**
Requires recycling of construction and demolition materials and use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the State or any county.

HEARING

DATE: Tuesday, February 13, 2024
TIME: 3:00 a.m.
PLACE: Capitol Room 225

Dear Chair McKelvey, Vice Chair Gabbard, Chair Gabbard, Vice Chair Richards 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. 2436, which requires recycling of construction and demolition materials and use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the State or any county.

GCA is concerned that this measure will be another potential source of bid protests that will slow procurement down and increase costs. We are also unsure how the information will be verified.

The recycling of construction waste is already done by the processes used by the various landfills in the types of materials they will accept for disposal. We recommend expanding that State's ability to recycle construction waste as there is very limited sites who restrict the materials that can be recycled.

Additionally, it is unclear if the language mandates the selection of the offeror using the greatest amount of recycled material even if there are issues raised with past performance. We suggest that the Legislature look for ways to incentivize the recycling of construction waste instead.

Thank you for the opportunity to provide comments.

SB-2436

Submitted on: 2/12/2024 10:37:40 AM

Testimony for GVO on 2/13/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
William Turley	Testifying for C&D Recycling Association	Support	Written Testimony Only

Comments:

The Construction & Demolition Recycling Association promotes the recycling of construction materials in the United States. By weight, construction and demolition (C&D) waste is more than 660 million tons annually in the U.S., and the recovery of it provides several economic and environmental benefits. Hawaii’s share of that generated C&D is estimated to be 2000 tons per day, yet the state has minimal recycling capacity and dwindling landfill capacity to handle it. Once those landfills are full, what currently costs under \$100 a ton to dispose of will skyrocket to more than \$500 a ton as the material will have to be shipped to the mainland U.S. as there is nowhere else to put it. Hence the construction industry should back this bill which will save them money in the long term because that extra cost will be added to every demolition and construction project, helping drag down the local economy and slowing their business.

The CDRA is considered the leading national experts on C&D recycling and we feel strongly that SB2436 provides an excellent strategy to promote that recycling and save the construction industry millions of dollars while benefiting the environment and providing green jobs.

SB2436 doesn’t mandate all construction materials must be recycled, which can be difficult to enforce and won’t work if there are no end markets. Instead, the bill proposes an economic driver to promote recycling. If there is a market for the end products of recycling, an infrastructure will spring up to serve the need. SB2436 does that by having recycled materials a preferred choice for construction projects.

The environmental benefits of recycling construction materials are well known, such as saving natural resources.

We urge the State Legislature to review and pass this bill which will provide the construction industry a proactive answer to a looming disposal problem.



February 12, 2024

Senate on Agriculture and Environment
Chair Mike Gabbard & Vice Chair Tim Richards III
Senate Committee on Government Operations
Chair Angus. L.K. McKelvey & Vice Chair Mike Gabbard

Regarding: SUPPORT FOR SB2436

Honorable Members of Committees,

Re-use Hawai'i strongly supports SB2436, which would require the recycling of construction and demolition materials and the use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the State or any county.

We face surmounting and terrifying environmental challenges like our landfills closing due to overfill as early as 2028, with no secondary site selected. There has been a continual underinvestment in managing the material waste created by the construction industry here on O'ahu. As an island region, our community safety is at risk the more years we go without significant funding and planning toward sustainable construction requirements, waste management, and environmental protection.

Hawai'i urgently needs additional resources to conserve and protect our ecosystems, native species, coastlines, and the community livelihoods that depend on these resources.

This measure is a critical step to ensure those within the construction and development industry are paying their fair share for the waste they create, visit, and experience during their time here, which includes regions within state parks and outside of them. If passed, HB3406 should help distribute funds to implement solutions for State and community programs working to restore our natural and cultural resources across the State.

There is immense public support for this initiative, and SB2436 is a clear pathway to protecting, restoring, and enhancing Hawai'i for our local communities and the visitors we share it with for future generations and beyond.

Your attention and diligence on this topic will help to shape a healthier Hawai'i for residents, visitors, and the keiki of the future. Re-use Hawai'i is eager to work in these decisions and partnerships that protect the environment.

Mahalo Nui Loa no Kou Kokua,


Faith Chase
Director of Strategic Communications
Re-use Hawai'i



Date: February 13, 2024

To: The Honorable Chair Mckelvey, Chair/Vic Chair Gabbard, Vice Chair Richards and Members of the Agriculture and Environment and Government Operations Committees
From: Hawaii Environmental Change Agents (HECA) - Solid Waste Task Force
Re: SB2436 - Requires recycling of construction and demolition materials

Aloha Chair Mckelvey, Chair/Vic Chair Gabbard, Vice Chair Richards and Members of GOV/AEN Committees,

The HECA Solid Waste Task Force is **submitting comments** on this legislation that will require recycling of construction and demolition materials and use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the State or any county. The Solid Waste Task Force supports policies that follow the zero waste hierarchy which prioritizes waste reduction and reuse ahead of recycling/composting and considers incineration or burning or converting waste for fuel as an unacceptable means to manage solid waste.

Construction and Demolition materials are one of the largest categories of waste that are currently being landfilled. Much of the materials that are discarded could be reused or recycled but legislation is needed to encourage a shift in demolition practices and create business opportunities and markets for reused and recycled materials. Unfortunately, we cannot support this legislation as currently written as it would open the door to false solutions of "waste to fuel" which will pollute the environment and wastes resources.

We would support this legislation with one small amendment: We respectfully request that the definition of recycling be modified to remove the use of C&D materials for fuel.

For the purposes of this section, "recycling" means reuse or resale of construction or demolition waste material, or conversion of construction or demolition waste material into new building materials, or products, ~~or fuel for transportation or renewable gaseous fuel.~~"

Thank you for considering this recommendations.

Mahalo nui loa,

~HECA Solid Waste Task Force

Jennifer Navarra, Ted Bohlen, Ruta Jordans, and Jolie Ryff



February 12, 2024

Senate on Agriculture and Environment
Chair Mike Gabbard & Vice Chair Tim Richards III
Senate Committee on Government Operations
Chair Angus. L.K. McKelvey & Vice Chair Mike Gabbard

Regarding: SUPPORT FOR SB2436

Honorable Members of Committees,

Re-use Hawai'i strongly supports SB2436, which would require the recycling of construction and demolition materials and the use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the State or any county.

We face surmounting and terrifying environmental challenges like our landfills closing due to overfill as early as 2028, with no secondary site selected. There has been a continual underinvestment in managing the material waste created by the construction industry here on O'ahu. As an island region, our community safety is at risk the more years we go without significant funding and planning toward sustainable construction requirements, waste management, and environmental protection.

Hawai'i urgently needs additional resources to conserve and protect our ecosystems, native species, coastlines, and the community livelihoods that depend on these resources.

This measure is a critical step to ensure those within the construction and development industry are paying their fair share for the waste they create, visit, and experience during their time here, which includes regions within state parks and outside of them. If passed, HB3406 should help distribute funds to implement solutions for State and community programs working to restore our natural and cultural resources across the State.

There is immense public support for this initiative, and SB2436 is a clear pathway to protecting, restoring, and enhancing Hawai'i for our local communities and the visitors we share it with for future generations and beyond.

Your attention and diligence on this topic will help to shape a healthier Hawai'i for residents, visitors, and the keiki of the future. Re-use Hawai'i is eager to work in these decisions and partnerships that protect the environment.

Mahalo Nui Loa no Kou Kokua,


Faith Chase
Director of Strategic Communications
Re-use Hawai'i

THE HOUSE
THE THIRTY-FIRST LEGISLATURE SESSION OF 2024
TESTIMONY ON SENATE BILL NO. 2436, RELATING TO CONSTRUCTION WASTE
Position: **Strong Support**

To the Honorable Senator Angus L.K. McKelvey, Chair and Senator Mike Gabbard, Vice Chair; Senator Mike Gabbard, Chair and Senator Herbert M. "Tim" Richards, III, Vice Chair; and Members of the Committee:

Please accept this testimony in **Strong Support** of this bill, which provides an incentive to the construction and demolition industry to recycle construction and demolition materials.

At this time, the majority of mixed construction and demolition debris generated in Honolulu is landfilled, since there is little infrastructure or incentive to separate and recycle it. What recycling there is, is limited to artisanal demolition for resale of doors/windows/furniture; grinding pallets for mulch; and source-segregated scrap metal and concrete crushing and recycling. The rest of the material, which can be over 75% of the volume of waste generated, is landfilled, since there are no incentives or end-markets in Hawaii to recycle it.

Our company is an Oahu-based small business developing a plant in Campbell Industrial Park in Kapolei, Hawaii to divert construction and demolition materials from landfilling and sort the mixed waste into materials for recycling into new building products, renewable energy, and even organic fertilizer for local use. We have been developing our "Aloha Carbon" process to divert construction and demolition debris from landfilling in Nanakuli, Hawaii, and instead convert it to renewable fuel and recycled-material building products, since August 2020. Our Aloha Sustainable Materials Recycling and Fertilizer Facility (Aloha SMRFF) under development in Campbell Industrial Park in Kapolei is designed to divert over 200 tons per day of construction and demolition waste from the state's only C&D landfill, and displace over 10,000 tons per year of imported fossil fuels and building materials. We are in the process of demolishing an abandoned cement and concrete manufacturing plant at our project site, in order to install this small but state-of-the-art Materials Recycling Facility to receive construction and demolition waste direct from job sites, and separate and transform the hard-to-recycle components of the construction and demolition waste. For example:

- Painted, treated, glued, and laminated wood; furniture; unrecyclable hard and film plastics; fabrics and rubber will be converted to renewable fuel to power the sorting plant;
- Sheetrock and drywall will be recycled into agricultural gypsum, organic fertilizer, and concrete to displace mined and imported single-use materials; and
- Window glass will be recycled into sand and secondary cementitious materials.

Sincerely,



Marie-Joelle Simonpietri
President

SB-2436

Submitted on: 2/12/2024 1:51:14 PM

Testimony for GVO on 2/13/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mamiko Carroll	Individual	Support	Written Testimony Only

Comments:

Testimony in SUPPORT of SB 2436, Relating to Construction Waste
Hearing February 13, 2024, 3:00 p.m. in CR 225

Chairs, Vice Chairs, and committee members,

Please pass SB 2436, requiring the recycling of construction and demolition materials and the use of recycled materials to factor into priority offerer selections for competitive procurements of construction or demolition services by the state or any county. Working towards a more circular economy for building material, especially in a time and place where resources are limited and so much has to be shipped over, is a worthwhile goal.

Thank you for the opportunity to testify in SUPPORT of SB 2436.

Mamiko Carroll
Senate District 23
House District 48

SB-2436

Submitted on: 2/12/2024 2:44:44 PM

Testimony for GVO on 2/13/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Alexis Schultz	Individual	Support	Written Testimony Only

Comments:

Individual Testimony in Support of SB2436

Committee on Government Operations &

Committee on Agriculture and Environment

Senate Committee on Government Operations

Chair Angus. L.K. McKelvey &

Vice Chair Mike Gabbard

Senate Committee in Agriculture and Environment

Chair Mike Gabbard &

Vice Chair Tim Richards

Honorable Members of the Committees,

My name is Alexis Schultz and I am submitting written testimony in strong support of SB2436, which would require the recycling of construction and demolition materials and the use of recycled materials to factor into priority offeror selections for competitive procurements of construction or demolition services by the State or any county. I am a resident of Palolo Valley, Honolulu, O’ahu. This issue is vital to preserving the resources we have on island, keeping them in circulation, and out of our landfills that are already close to capacity.

We face surmounting and terrifying environmental challenges like our landfills closing due to overfill as early as 2028, with no secondary site selected, and underinvestment in managing the material waste created by the construction industry here on O’ahu. As an island region, our community safety is at risk the more years we go without significant funding and planning toward sustainable construction requirements, waste management, and environmental protection.

This measure is a critical step to ensuring those within the construction and development industry are paying their fair share for the waste they create during their time here. I urge the committee to pass measures that would require construction businesses to clean up after themselves and properly dispose of building material waste to protect our ‘āina, restore our waste streams, and manage our natural resources to build resilience and public safety.

As elected leaders, you have a responsibility this year to help safeguard our communities and environment from the threat of waste mismanagement. SB2436 is a clear pathway to protecting, restoring, and enhancing Hawai‘i for our local communities and the visitors we share it with, for future generations and beyond.

Mahalo Nui Loa for taking the time to read my testimony and I appreciate your care and consideration.

Mahalo for the opportunity to testify,

Alexis Schultz

SB-2436

Submitted on: 2/12/2024 4:25:23 PM

Testimony for GVO on 2/13/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicole Hurdt	Individual	Support	Written Testimony Only

Comments:

To Whom it May Concern:

Pollution is a problem around the world. It's important to start tackling the issue on a state level. Requiring construction companies to recycle waste and favoring companies that use recycled materials will only help to encourage others to follow suit. In addition, with more used construction material available, there will be less in our landfill, which only has so much space. But more importantly, it will give locals access to more affordable building materials which will help us in the struggling economy.