



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

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**TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE SENATE COMMITTEES
ON
WAYS AND MEANS
AND
GOVERNMENT OPERATIONS
MARCH 28, 2025, 10:01 AM**

**HOUSE BILL 1155, HD1
RELATING TO PROCUREMENT**

Chair Dela Cruz, Chair McKelvey, Vice Chair Moriwaki, Vice Chair Gabbard, and members of the committees, thank you for the opportunity to submit testimony on House Bill 1155, HD1. The State Procurement Office (SPO) strongly supports HB1155, HD1, which aims to amend Section 103D-102(b) of the Hawaii Revised Statutes to exempt specific construction projects from the requirements of the Hawaii Public Procurement Code under certain conditions. This legislation is a pragmatic approach to addressing challenges that arise in the procurement process for construction projects.

The key benefits of HB1155, HD1, are as follows:

1. **Increased Efficiency.** By allowing the Chief Procurement Officer to exempt projects where competitive procurement, under the traditional 103D method, is determined to be either not practicable or not advantageous to the State. This safeguard prevents misuse while providing room for adaptability.
2. **Enhanced Adaptability.** Construction projects often face unique challenges that may not align with traditional procurement methods. HB1155 ensures that procurement processes can be adapted to fit the specific needs of a project, reducing delays and promoting timely completion.
3. **Alignment with Public Interests.** By prioritizing practicality and efficiency without compromising oversight, this measure serves the public interest. It balances the need for competitive procurement with the flexibility required to address unique construction needs.

This bill reflects consideration of the complexities involved in government procurement for construction. It provides a balanced solution that maintains accountability while empowering agencies to act swiftly and effectively when circumstances demand.

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

SAH - Subcontractors Association of Hawaii

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

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

March 28, 2025

Testimony To: Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair

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

Presented By: Tim Lyons, President

Subject: H.B. 1155, HD 1 – RELATING TO PROCUREMENT.

Chair Dela Cruz, Chair McKelvey and Members of the Joint Committees:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following eleven 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 ASSOCIATION OF HAWAII

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

HAWAII ARCHITECTURAL GLASS AND METAL ASSOCIATION

MASON CONTRACTORS ASSOCIATION OF HAWAII

We are strongly opposed to this bill.

We are often perplexed by the fact that this legislature has always been in favor of a Procurement Code to be sure that there is a level playing field for all bidders and state operational factors. What perplexes us is that it never fails that everyone seems to come in at one time or another, one by one, and ask for an exemption from this Code. They don't want to play by the rules.

In prior testimony it was indicated that this is needed in order to handle emergency situations. There is however a statute already on the books, 103D-307 Emergency Procurements. It is our opinion that if the kind of emergencies that arise do not fit into this section, that we should be talking about amending 307 in order to accommodate those kinds of situations. This bill however, goes much further and allows for an exception anytime the Procurement Code is "either not practical or not advantageous to the State". That is extremely broad and terribly ambiguous and further latitude is then provided as long as the Policy Board determines it by its rules.

We are strongly opposed to this because there are other items in the Procurement Code that have been inserted in order to prompt fairness and even-handed dealing. These include prompt payment, retainage equality and subcontractor listing and when, as this bill does, you exempt construction from the code, you also exempt subcontractors and others who need the code from that fair dealing.

In summary, we think if an emergency situation needs to be addressed, we should be looking at 103D-307 and NOT looking at a wholesale exemption from the Procurement Code just because it is convenient for the State.

Thank you.



Iron Workers Stabilization Fund

T. George Paris
Managing Director

March 28, 2025
10:01 AM

Senate Ways and Means and Senate Committee on Government Operations
CR 229 & Videoconference

Re: HB1155- Relating to Procurement- Testimony in Opposition

Chairs Delacruz, McKelvey, Vice Chairs Morikwaki, Gabbard and members of the committees,

The Hawaii Ironworkers Stabilization Fund is in strong opposition to the proposed exemption of certain construction projects from the Hawai'i Public Procurement Code. We firmly believe the Procurement Code serves a vital purpose: ensuring a level playing field for all bidders and safeguarding the responsible expenditure of taxpayer funds.

While we acknowledge that certain unique circumstances may necessitate exemptions, these exemptions must be clearly and narrowly defined. The language in this bill, which allows exemptions when "procurement by competitive means is either not practical or not advantageous to the State," is dangerously vague. Even with rulemaking authority granted to the Procurement Policy Board, this broad language leaves the door open to potential abuse, favoritism, and a lack of transparency.

The public deserves assurance that their tax dollars are being used efficiently and fairly. Exempting construction projects based on subjective criteria undermines the very principles the Procurement Code was designed to uphold. We urge the committee to reject this bill and instead focus on strengthening, not weakening, the integrity of our public procurement process and the health and safety of all workers.

T. George Paris
Managing Director



International Union of Painters and Allied Trades District Council 50

March 26, 2025

Senator Donovan Dela Cruz, Chair
Senate Committee on Ways and Means
415 South Beretania Street
Honolulu, Hawaii 96813

Senator Angus McKelvey, Chair
Senate Committee on Government Operations
415 South Beretania Street
Honolulu, Hawaii 96813

Re: House Bill 1155, HD1 (Relating to Procurement)
Hearing Date: March 18, 2025
Time: 1:00 p.m.

Chairs Dela Cruz, McKelvey, and Committee Members:

Thank you for hearing this bill and for this opportunity to testify in **strong opposition** to House Bill 1155, HD1.

The International Union of Painters and Allied trades, District Council 50, is an organization that consists of five (5) local unions: the Painters, Local 1971; the Glaziers Architectural and Glass Metal Workers, Local 1889; the Carpet Linoleum and Soft Tile, Local 1926; the Drywall, Tapers Finishers, Local 1944; and the Pearl Harbor Metal Trades Specialty Workers, Local 1941 – in all, approximately two thousand (2000) members statewide.

This measure would allow the Procurement Policy Board or the Chief Procurement Officer to make procurement of construction exempt from the Public Procurement Code (the “Procurement Code”), Chapter 103D, Hawaii Revised Statutes, based on a determination that procurement by competitive means is either not practicable or not advantageous to the State.

DC50 opposes this measure as HRS §103D-302(b) is used to list specific types of services and goods that are intended to be exempt from the Procurement Code. If the proponents of this measure believe that certain types of construction procurement should be exempt, then at the very least, those specific types should be listed the same way that specific goods and services are listed throughout subsection (b), instead of being placed in a catch-all provision of subsection (b).

Also, the terms “not practicable” and “not advantageous to the State” are not defined in Chapter 103D or in the bill. In the context of construction procurement, which is unlike other types of procurement, these overly broad, vague and undefined limitations on the power to create exemptions could easily be exploited to circumvent the Procurement Code’s provisions designed to ensure transparency and fairness in construction procurement. Increasing the use of non-competitive means of public procurement will increase the potential for corruption, fraud, waste, and/or abuse.

Finally, we ask the Committees to consider that currently, two of five Procurement Policy Board members are general contractors, while there are **no subcontractors** represented on the Board. This measure will empower the unbalanced and unfairly composed Board to circumvent the Procurement Code to the possible detriment of subcontractors and the union members that are employed by those subcontractors.

For these reasons, we respectfully request that the Committees defer this measure indefinitely. Thank you for this opportunity to testify in **strong opposition** to this measure.

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March 28, 2025

TO: HONORABLE DONOVAN DELA CRUZ, CHAIR, HONORABLE SHARON MORIWAKI, VICE CHAIR, COMMITTEE ON WAYS AND MEANS. HONORABLE ANGUS MCKELVEY, CHAIR, HONORABLE MIKE GABBARD, VICE CHAIR, COMMITTEE ON GOVERNMENT OPERATIONS.

SUBJECT: **OPPOSITION TO H.B. 1155 HD1, RELATING TO PROCUREMENT.**
Exempts from the Hawaii Public Procurement Code contracts by government bodies to procure certain construction projects.

HEARING

DATE: Friday, March 28, 2025
TIME: 10:01 a.m.
PLACE: Capitol Room 211

Dear Chair Dela Cruz, Vice Chair Moriwaki, Chair McKelvey, Vice Chair Gabbard 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 **opposition** to H.B. 1155 HD1, which exempts from the Hawaii Public Procurement Code contracts by government bodies to procure certain construction projects.

The primary purpose of the Procurement Code is to ensure fair and ethical procurement while maximizing the use of public funds.

This measure would go against the two prongs of the purpose of a procurement code. This measure would allow a procurement officer to award a contract without any checks and balances. The GCA is concerned that this will open the door to unethical behavior with government construction contracts. Currently, there are no details or parameters explaining when "procurement by competitive means is either not practical or not advantageous to the State."

The rationale for this measure is to allow for CM-GC projects. However, the 103D-303, HRS, RFP process can already be used to allow these types of projects. This measure is unnecessary and will erode confidence in state procurement.

For these reasons, the GCA opposes HB 1155 HD1.



INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 1260 EMPOWERING THE PACIFIC

THIRTY-THIRD LEGISLATURE, 2025

Joint Committee on Ways and Means and Government Operations

HEARING DATE: Friday, March 28, 2025

TIME: 10:01 a.m.

PLACE: Room 211

RE: House Bill 1155 HD1 Relating to Procurement- IN STRONG OPPOSITION

Aloha Honorable Chair(s) Dela Cruz and McKelvey, Vice-Chair(s) Moriwaki and Gabbard, and Joint Committee Members;

The International Brotherhood of Electrical Workers Local 1260 (IBEW1260) would like to offer the following testimony in **STRONG OPPOSITION** to **House Bill 1155 HD1** which proposes to exempt certain construction projects from the Hawaii Public Procurement Code by governmental bodies.

IBEW Local 1260 is comprised of approximately 3,000 members throughout Hawaii and Guam and consists of a diverse and highly-skilled workforce that supports the electric utility infrastructure across our state as well as government service contracts and broadcasting. We are committed to protecting the well-being of the members we serve and the community at large.

Hawai'i's procurement laws are based upon the 1979 American Bar Association Model Code ("MPC"). In 1992, the State Auditor was tasked with undertaking a study to recommend changes to the procurement code and subsequently suggested Hawai'i enact revisions consistent with the 1979 Model Code. As a result, §103D was enacted in 1993 with some, but not all, of the MPC's innovations and continues to be revised as needed, with the MPC as a guide. 1993 Haw. Spec. Sess. Laws Act 8, at 37-82.

Article 1- General Provisions of ABA Model Procurement Code¹ lists its purpose and policies in part as follows: **"To provide for increased public confidence in the procedures followed in public procurement; to ensure the fair and equitable treatment of all persons who deal with the procurement system of the State; and to provide safeguards for the maintenance of a procurement system of quality and integrity."**

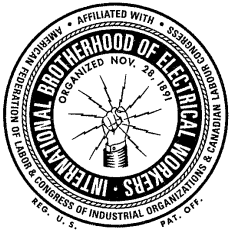
The exemptions sought in HB1155 HD1 undermines our procurement process and opens it up to arbitrary decision-making and ambiguity which may lead to misuse, fraud, and abuse; and the unfair or unethical procurement and expenditure of public taxpayer dollars on public works.²³

The integrity of our procurement process is paramount to ensuring that the construction of public works and use of public taxpayer dollars is done so in the most efficient and fair way possible. The exemptions sought in HB1155 HD1 runs counter to the fundamental intent and purpose of procurement standards in public works and as such, we respectfully request that you **HOLD** this measure.

¹ The 2000 BA Model Procurement Code, The American Bar Association, July 2000

² <https://archives.starbulletin.com/2004/01/23/news/story5.html>

³ December 15 2003 News Release No. 2003_69 Airport Bid Rigging Investigation



International Brotherhood of Electrical Workers

LOCAL UNION NO. 1186 • Affiliated with AFL-CIO

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TO: SENATE COMMITTEE ON WAYS AND MEANS & SENATE COMMITTEE
ON GOVERNMENT OPERATIONS

Hearing on Friday, March 28, 2025 at 10:01 a.m., Conference Room 211

RE: TESTIMONY IN STRONG OPPOSITION OF HB 1155 HD1

Honorable Chairs Donovan M. Dela Cruz and Angus L.K. McKelvey and Members of the Committee on Ways and Means and on Government Operations:

The International Brotherhood of Electrical Workers Local Union 1186 (IBEW 1186), is comprised of over 3,000 men and women working in electrical construction, telecommunications, civil service employees, and educator and faculty associations.

IBEW 1186 **STRONGLY OPPOSES** this bill which would **exempt certain construction projects** from the requirements of Hawaii's Procurement Code.

It is crucial to address the argument that procurement laws are the primary cause of delays or hindrances to important and/or "unique" projects. While the procurement process involves necessary steps to ensure due diligence and fairness, it is not designed to be obstructive. Project delays often stem from other factors, such as inadequate planning, funding issues, environmental concerns, or unforeseen circumstances. **Exempting procurement laws is not the solution to these challenges.** Instead, efforts should focus on improving project management, streamlining administrative processes within agencies, and ensuring that projects are adequately prepared before entering the procurement and solicitation process.

The procurement code exists for a reason - **to protect the public interest.** By mandating open and competitive bidding, listing of all contractors and subcontractors that will perform work, and evaluating the past performance of contractors, it ensures that taxpayer dollars are spent wisely and efficiently. Exempting construction from this oversight invites many problems that could ultimately cost the State more in the long run.

This exemption could erode transparency and accountability in government spending. The public has a right to know how their tax dollars are being spent. Procurement laws provide this transparency, ensuring that government officials are accountable for their contracting decisions. Removing this transparency breeds distrust and makes it difficult to detect and prevent misuse of funds.

This exemption could open the door to increased corruption and fraud. Without the transparency and accountability imposed by the procurement code, construction contracts could be awarded based on personal connections or incentives, rather than on the merits of the bids. This creates an environment for abuse, where public funds are vulnerable to misuse and fraud.

This exemption could stifle competition and ultimately drive up costs. The competitive bidding process ensures that multiple contractors have the opportunity to vie for projects, which keeps prices competitive. Removing this requirement may allow a favored contractor to inflate their prices, knowing they face less or even no competition. This will inevitably lead to higher costs for taxpayers.

Furthermore, it is important to recognize that **Hawaii's existing Procurement Code already provides flexibility for situations where competitive sealed bidding may not be the most practical or advantageous approach.** Section 103D-303 (along with Hawaii Administrative Rules Section 3-122, Subchapter 6) provisions allow for an alternative process when competitive sealed bidding is "not practicable or not advantageous to the State," demonstrating that the code is not rigid but offers flexibility when justified. There is no need to create a blanket exemption for construction projects, as the code already allows for exceptions in appropriate circumstances.

In conclusion, exempting construction from the procurement code is a misguided proposal that could lead to increased corruption, higher costs, lower quality work, a lack of transparency, and a myriad of unintended consequences.

IBEW 1186 STRONGLY OPPOSES this bill and asks these committees to reject it.



DAMIEN T.K. KIM
President
IBEW 1186

MARC YAMANE
Vice President
Elevator Constructors
Local 126

PETER IRIARTE
Secretary/Treasurer
Operative Masons &
Plasterers Local 630

DOUGLAS FULP
Sergeant-At-Arms
Insulators Local 132

VALENTINO CERIA
Trustee
Plumbers & Fitters
Local 675

KEVIN HOLU
Trustee
Hawaii Teamsters Local 996

ART TOLENTINO
Sheetmetal Workers, I.A.
Local 293

JACOB EVENSON
Boilermakers Local 627

JEFF ORNELLAS
Bricklayers Local 1

LEROY CHINCIO
IBEW Local 1260

ANA TUIASOSOPO
Operating Engineers Local 3

**JOSEPH O'DONNELL and
T. GEORGE PARIS**
Ironworkers Local 625

PETER GANABAN
Laborers Local 368

RYDEN VALMOJA
District Council 50
Painters & Allied Trades
Local 1791
Carpet, Linoleum & Soft Tile
Local 1926
Drywall, Tapers & Finishers
Local 1944
Glaziers, Architectural Metal
&
Glassworkers Local 1889

VAUGHN CHONG
Roofers, Waterproofers, &
Allied Workers Local 221

March 26, 2025

Chair Donovan Dela Cruz
Vice Chair Sharon Moriwaki
Senate Committee on Ways & Means

Chair Angus McKelvey
Vice Chair Mike Gabbard
Senate Committee on Government Affairs

RE: TESTIMONY IN OPPOSITION OF HB 1155, HD1

Aloha Chairs Dela Cruz & McKelvey, Vice-Chairs Moriwaki, & Gabbard, and members of the Committees:

The Hawaii Building & Construction Trades Council (HBCTC) represents 18 construction trade unions here in the State of Hawaii. The HBCTC is in **STRONG OPPOSITION** to HB1155 which would exempt certain projects from the Hawaii Procurement Code.

The Hawaii Procurement Code ensures a level playing field for all bidders and protects the public/taxpayer interest by ensuring that the construction of public works and the use of public taxpayer dollars are done so in the most efficient and fair way possible.

The exemptions sought in HB1155 HD1 would undermine the procurement process and opens the door to unethical behavior such as fraud, lack of transparency, and corruption.

In this day and time of worsening financial hardship and rising cost of living, it is vital to ensure policies like the Hawaii Procurement Code are maximized to their fullest potential to serve the greater community rather than looking for exemptions that would deteriorate it.

For these reasons, the Hawaii Building & Construction Trades Council **STONGLY OPPOSES** HB1155 HD1 and respectfully requests that the committees defer this measure. **MAHALO!!!**



March 28, 2025

Testimony To: Senate Committee on Ways and Means, Senator Donovan M. Del Cruz, Chair
Senate Committee on Government Operations, Senator Angus L.K. McKelvey, Chair

Subject: Testimony in Opposition to HB1155 HD1
Related to Procurement

Chair, Vice Chair, and Members of the Committee:

I'm Michael Mazzone President of Statewide General Contracting & Construction, Inc.

We strongly oppose HB1155 HD1, which seeks to expand exemptions to the Hawaii Public Procurement Code by allowing government agencies to bypass competitive procurement when it is deemed “not practicable or not advantageous to the State.”

The Procurement Code was established to ensure fairness, transparency, and accountability in the expenditure of public funds. It is a cornerstone of good governance, creating a level playing field for all qualified vendors and protecting taxpayers from favoritism, inefficiency, and waste.

We recognize that certain specialized circumstances may warrant narrowly defined exemptions, and we are not opposed to carefully considered exceptions where justified. However, this bill introduces language that is overly broad and undefined. What constitutes a situation where competitive procurement is “not practicable” or “not advantageous”? The bill provides no standards or criteria for such determinations, leaving critical decisions to subjective interpretation or administrative rulemaking, which lacks sufficient safeguards.

Such ambiguity invites inconsistent application and undermines the very intent of the Procurement Code. Without clear definitions or objective thresholds, this bill risks opening the door to abuse, reduced competition, and diminished public confidence.

For these reasons, and due to the lack of clarity and necessary guardrails in the current language, we respectfully urge this committee to hold HB1155 HD1.

Thank you for the opportunity to testify.

Michael Mazzone
President

HB-1155-HD-1

Submitted on: 3/26/2025 12:11:05 PM

Testimony for WAM on 3/28/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Al Itamoto	Testifying for Electrical Contractors Association of Hawaii	Oppose	Written Testimony Only

Comments:

We oppose this measure as it takes away all the parameters that the present procurement code protect subcontractors like sub listings, prompt pay and sealed bids. The current code already provides for emergency situations that the procurement agencies can utilize. This measure takes away the level playing field for all involved in the procurement process.



1088 BISHOP STREET #408
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PH: (808) 597-1216

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via E-File

March 21, 2025

Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice-Chair
Senate Committee on Ways and Means

Senator Angus L.K. McKelvey, Chair
Senator Mike Gabbard, Vice-Chair
Senate Committee on Government Operations

Chairs Dela Cruz and McKelvey, Vice-Chairs Moriwaki and Gabbard, and Members of the Committees:

SUBJECT: HB1155 HD1 – RELATED TO PROCUREMENT

The Plumbing and Mechanical Contractors Association of Hawaii is the State's largest association representing contractors in the plumbing, air conditioning, refrigeration, steamfitter, and fire sprinkler trades throughout Hawaii.

PAMCA is **opposed to HB1155 HD1** which allows for undefined exemptions from competitive bidding on State and County construction projects.

The State procurement code was enacted to ensure that state funds are spent in a transparent, fair, and ethical manner which encourages competition, maximizes the use of tax payer dollars, and elevates public confidence. HB1155 HD1, however, undermines this process by providing procuring agencies with an exemption from the competitive bidding process, when procurement by competitive means is deemed not practical or advantageous to the State.

We certainly acknowledge prior testimony which references situations where emergency construction is required, or where proprietary technology is needed, however, the State's procurement code already provides established procedures to address situations such as emergency procurement and sole source procurement.

This brings up the question: In what other situations would competitive bidding not be practical or advantageous to the State? HB1155 HD1 is ambiguous and fails to define the specific situations or the parameters agencies will use to deem that competitive bidding is not advantageous to the State. This creates a system that is vulnerable to abuse.

Procurement exemptions can be extremely detrimental to fair competition, and any such allowances should be carefully administered and clearly defined in the procurement code, therefore, we must strongly oppose this bill.

Thank you for this opportunity to provide our testimony in opposition to HB1155 HD1.

Respectfully,

A handwritten signature in black ink, reading "Gregg S. Serikaku", is positioned above the printed name.

Gregg S. Serikaku
Executive Director



March 26, 2025

Senate Committee on Ways and Means

Senator Donovan M. Dela Cruz, Chair Senator Sharon Y. Moriwaki, Vice Chair

Senate Committee on Government Operations

Senator Angus L.K. McKelvey, Chair Senator Mike Gabbard, Vice Chair

Re: H.B 1155 – Relating to Procurement

Aloha Chair Dela Cruz and Chair McKelvey,

My name is Kevin Hirayama, Executive Director of the Sheet Metal Contractors Association (SMCA). SMCA represents more than 30 Sheet Metal Contractors in the State of Hawaii on all islands.

SMCA have some major concerns about the proposed changes to the Procurement Code.

We believe the Procurement Code was enacted to ensure a level playing field for all bidders in the expenditure of taxpayers' money. The code provides essential guidelines to uphold fairness in the procurement process.

This bill's broad exemptions allowing bypassing of competitive procurement when it is "not practical" or "not advantageous" to the state is insufficient (even with oversight from the Procurement Policy Board).

In this bill, there are no definitions on what is impractical or disadvantages to the State. Without safeguards and parameters, this could be applied too broadly undermining the principles of the Procurement Code.

SMCA strongly opposes the passage of H.B. 1155.

Mahalo,

Kevin Hirayama, Executive Director

Sheet Metal Contractors Association (SMCA)

Sheet Metal Air Conditioning National Association Hawaii Chapter (SMACNA Hawaii)

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Honolulu, HI 96813



LOCAL UNION NO. 126

OF THE

International Union of Elevator Constructors

AFFILIATED WITH THE AFL-CIO

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The Thirty-Third Legislature
Regular Session of 2025
The Senate
Committee on Ways and Means
Committee On Government Operations

Friday, March 28, 2025
10:01 AM, Conference Room 211

HB 1155, HD1 – Relating to Procurement (In Strong Opposition)

The Honorable Chairs Donovan Dela Cruz & Angus McKelvey, Vice-Chairs Sharon Moriwaki & Mike Gabbard, and Esteemed Members of the Committees on Ways and Means and Government Operations

My name is Marc Yamane and I am the Business Representative-Financial Secretary of the International Union of Elevator Constructors, Local 126, as well as the Vice-President of the Hawai'i Building and Construction Trades Council and I am providing testimony in **Strong Opposition** to House Bill 1155, HD1, which proposes to exempt certain construction projects from the vital requirements of the Hawaii Public Procurement Code by governmental bodies.

As we understand, HB1155, HD1, seeks to amend Section 103D-102(b) of the HRS to create an exemption for procuring certain construction projects when "procurement by competitive means is either not practicable or not advantageous to the State". While proponents argue this will increase efficiency and allow for innovative procurement methods, we believe this amendment fundamentally undermines the foundational principles of our procurement laws and creates significant risks for the State.

Hawaii's procurement laws core purpose is "to provide for increased public confidence in the procedures followed in public procurement; to ensure the fair and equitable treatment of all persons who deal with the procurement system of the State; and to provide safeguards for the maintenance of a procurement system of quality and integrity". The proposed exemptions in HB1155, HD1 directly contradict these fundamental principles by opening the door to a procurement process that lacks essential transparency and oversight. Our primary concerns are as follows:

- **Lack of Transparency:** The broad and undefined language of "not practicable or not advantageous to the State" creates a significant loophole in the procurement process. Without clear parameters, the decision to exempt a construction project from competitive bidding could become subjective and arbitrary. This lack of clear criteria erodes the transparency that Chapter 103D was designed to ensure, making it difficult for the public to understand how taxpayer dollars are being spent on crucial infrastructure projects.
- **Diminished Oversight:** Competitive bidding, as mandated by the current Procurement Code, provides a crucial layer of oversight. It ensures that multiple bids are considered, allowing for a thorough evaluation of price and qualifications. Exempting projects based on the vague criteria in HB1155, HD1 reduces this essential oversight mechanism. This diminished scrutiny increases the risk of poorly negotiated contracts, inflated costs, and a lack of accountability in the expenditure of public funds.

- **Increased Possibility of Fraud and Abuse:** The lack of transparency and reduced oversight inherent in the proposed exemptions creates an environment where fraud and abuse can more easily occur. When decisions about awarding significant construction contracts are made without the rigor of competitive bidding, the potential for favoritism, self-dealing, and other unethical practices rises substantially.

While we acknowledge the arguments for efficiency and the potential benefits of innovative procurement methods like the CM/GC approach, we firmly believe that these benefits should not come at the cost of compromising the fundamental principles of transparency, oversight, and integrity that underpin our public procurement system. The potential for abuse and the erosion of public trust far outweighs any perceived gains in efficiency offered by this broadly defined exemption.

Therefore, we stand in **Strong Opposition** to House Bill 1155, HD1 to protect the integrity of Hawaii's Public Procurement Process.

Thank you for your time and consideration.

HB-1155-HD-1

Submitted on: 3/27/2025 1:36:05 PM

Testimony for WAM on 3/28/2025 10:01:00 AM

Submitted By	Organization	Testifier Position	Testify
Dwayne Bautista	Individual	Support	In Person

Comments:

HB 1155 HD1 Relating to procurement

Aloha Chair Angus L.K McKelvey, Vice Chair Mike Gabbard and the members of the Senate Committee on Government Operations and Chair Donovan M. Dela Cruz., Vice Chair Sharon Y, Moriwaki and members of the Senate Committee of the Ways and Means.

My name is Dwayne Bautista, and I represent the Hawaii Iron Workers Stabilization Fund. I am here today to voice my strong opposition to House Bill 1155. This bill's proposal to exempt construction projects from the Hawaii Public Procurement Code represents a significant risk to the responsible management of public taxpayer dollars. Weakening oversight through these exemptions could lead to misuse of funds, potential fraud, and ultimately erode the trust of the people of Hawaii place in our government's ability to build infrastructure effectively and ethically. I implore you to HOLD this bill.

Thank you for your time and consideration.



March 27, 2025

Dear Chair McKelvey, Chair Dela Cruz, and Members of the Committee,

My name is Daryl Suehiro, and I am writing to express my strong opposition to HB1155, HD1, which seeks to exempt certain construction projects from the Hawaii Public Procurement Code. I appreciate the opportunity to provide written testimony on this important matter. As a concerned citizen, I believe that HB1155, HD1 will have significant negative impacts on the transparency and accountability of government procurement processes.

Exempting certain construction projects from the procurement code will reduce transparency in government contracts. This exemption could lead to favoritism and corruption, undermining public trust in government operations. The lack of competitive bidding may result in higher costs for taxpayers. Without the checks and balances provided by the procurement code, there is a risk of inflated prices and inefficient use of public funds. The bill raises serious legal and ethical issues. It contradicts the principles of fair competition and equal opportunity, which are fundamental to public procurement laws. Instead of exempting projects from the procurement code, the government should focus on improving the existing procurement processes to ensure efficiency and fairness. Enhanced oversight and stricter enforcement of procurement regulations can address any issues without compromising transparency.

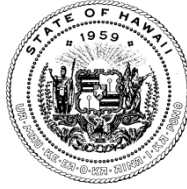
In conclusion, I urge the committee to reject HB1155, HD1 due to the reasons outlined above. We must prioritize transparency, accountability, and fairness in government procurement to protect the interests of taxpayers and maintain public trust.

Thank you for considering my testimony. I am available to provide further information or answer any questions you may have via email at daryl@dsehawaii.com.

Sincerely,

Daryl S. Suehiro

President | D. Suehiro Electric, Inc. (dba DSE Hawaii)



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF TRANSPORTATION | KA 'OIHANA ALAKAU
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March 28, 2025
10:01 a.m.
State Capitol
Conference Room 211 & Videoconference

H.B. 1155 H.D. 1
RELATING TO PROCUREMENT

The Senate Committee on Ways and Means and
Committee on Government Operations

The Department of Transportation (DOT) **supports** the bill amending subsection (b), of Section 103D-102, Hawaii Revised Statutes, to procure certain goods, services, or construction that are available from multiple sources, but for which procurement by competitive means is either not practicable or not advantageous to the State.

Purchasing goods, services, and construction shall align with ethical and competitive procurements. There is transparency and safeguards in place with procurement exemptions. When the procuring agency determines that it is not practicable nor advantageous to procure without an exemption from procurement and the chief procurement officer approves, the requirement is to post the exemption request to the Hawaii Awards and Notices Data System for seven days to allow for comments and challenges to the exemption. All interested parties have an opportunity to voice concerns and to challenge the proposed exemption.

And while the DOT supports this measure, it may appear overly broad and instead the DOT proposes a statutory waiver to 103D-405, Hawaii Revised Statutes. Providing for a waiver in statute allows for innovative project delivery methods that have been used successfully by other states and federal agencies.

An example of an innovative procurement method is the construction manager general contractor (CM/GC) method of procurement, allowable in federal contracting. The CM/GC method of procurement follows this general process, the procurement agency procures the design engineer in the usual way through qualifications; the construction manager is procured in the usual way through qualifications. The construction manager is contractually responsible for price, schedule, quality during construction. The construction manager provides preconstruction advice to the procuring agency on constructability, pricing, scheduling, staging, and value engineering. The procuring agency, the designer, and the construction manager have the option to agree on a "Guaranteed Maximum Price" for construction, then the construction manager begins to function like the General Contractor and is responsible for completing the work on

schedule at the guaranteed price. Additionally, the procuring agency has the option to issue an invitation for bids should there be no agreement on a fair and reasonable guaranteed maximum price for construction.

The benefits to the State on alternative project delivery methods such as use of the CM/GC method is that it fosters innovation, mitigates risk, improves design quality, improves cost control, and optimizes construction schedules.

Therefore, the DOT proposes revision to Section 103D-405, Hawaii Revised Statutes to allow for the CM/GC project delivery method.

Section 103D-405, Hawaii Revised Statutes, is amended to read as follows:

"§103D-405 Maximum practicable competition. (a) All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs, and shall not be unduly restrictive.

(b) Specifications, to the extent practicable, shall emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the State.

(c) The State shall procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

(d) Outside contractors may be utilized to prepare specifications and work statements in the development of a solicitation. Contractors paid for those services shall be precluded from bidding on or receiving a contract when they participated in ~~[any way in]~~ the development of the solicitation package or any resulting contract~~[.]~~ unless the Chief

procurement officer determines in writing that it is in the best interest of the State and authorizes a waiver. Waivers shall only be authorized when the solicitation package calls for a procurement method that is allowable by federal statute, federal regulation, federal special experimental, demonstration project, or by federal approval of the procurement method."

Thank you for the opportunity to provide testimony.