

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



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

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

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII'
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWE 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 JUDICIARY & HAWAIIAN AFFAIRS

FEBRUARY 16, 2023, 2:00 PM
CONFERENCE ROOM 325 & VIDEO CONFERENCE

H.B. 542 HD1

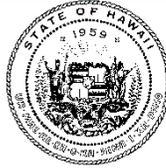
RELATING TO PROCUREMENT

Chair Tarnas, Vice Chair Takayama, and Members of the Committee, thank you for the opportunity to submit comments on House Bill (H.B.) 542 HD1, which intends to allow bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline, in addition to the time for correction or withdrawal of inadvertently erroneous bids before or after the award as permitted by rules adopted by the procurement policy board. In addition, this measure requires that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids.

The Department of Accounting and General Services (DAGS) supports the State Procurement Office's testimony on this measure and we defer to the State Procurement Office.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ACTING ADMINISTRATOR

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII'
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
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TESTIMONY
OF
BONNIE KAHAKUI, ACTING ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
JUDICIARY & HAWAIIAN AFFAIRS
FEBRUARY 16, 2023, 2:00 PM

HOUSE BILL 542, HD1
RELATING TO PROCUREMENT

Chair Tarnas, Vice Chair Takayama, and members of the committee, thank you for the opportunity to submit testimony on House Bill 542, HD1. The State Procurement Office (SPO) opposes the bill and provides comments.

HB 542, HD1 amends Section 103D-302 Competitive sealed bidding to allow bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline, in addition to the time for correction or withdrawal of inadvertently erroneous bids before or after the award as permitted by rules adopted by the procurement policy board. It also requires that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids and defines "immaterial or technical information." "Immaterial or technical information" does not include the identity of a subcontractor.

Comments: HB542, HD1 is not necessary as the mistakes are already addressed in statute and rules. If there is a mistake in bid, Section 103D-302(g), Hawaii Revised Statutes, already states that correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of invitations for bids, awards, or contracts based on such bid mistakes, shall be permitted in accordance with rules adopted by the policy board. Furthermore, Section 3-122-31(c), Hawaii Administrative Rules, addresses mistakes in bids, such as missing signatures or typographical errors, that are discovered after the deadline for receipt of bids but prior to award. Additionally, the procurement officer may correct or waive obvious mistakes that if allowed to be corrected or waived is in the best interest of the purchasing agency and is fair to other bidders, without a specific time limit.

It is not necessary to allow a bidder of a construction project to clarify and correct information up to twenty-four hours after bid submission deadline and mandate a twenty-four-hour waiting period after bid submission deadline before construction bids can be opened. It is the contractors' and subcontractors' responsibility to ensure the bid responses are accurate and conforms to the requirements of the solicitation. This added language adds complexity and delays to the procurement process.

Thank you.

SAH - Subcontractors Association of Hawaii

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

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

February 16, 2023

Testimony To: House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair

Presented By: Tim Lyons, President

Subject: H.B. 542, H.D. 1 – RELATING TO PROCUREMENT

Chair Tarnas and Members of the Committee:

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 support the intent of this bill.

This Committee may be aware that the subject of subcontractor listing has been one that has been around for several years and both sides are fairly set in their positions. The language in this bill tends to work towards a solution of what general contractors say is insufficient time as they put their bids together in order to check over the information and be sure they have not made an error. We are not sure that we would subscribe to that theory because we think that anytime a company is submitting a bid, it needs to be sure of the accuracy contained in it including the listing of subcontractors. However, with the parameters that are specified in this bill and in the "spirit of cooperation", we can support the intent.

We would respectfully ask the Committee to consider a two (2) year sunset clause instead of the stated five (5) years. This is an extremely important area to the financial health of subcontractors and while we hope it satisfies the generals, we respectfully request a trial run and to that extent, please modify the sunset clause. If this turns out to be a mistake we would hope it is short-lived.

Thank you.



February 16, 2023

TO: HONORABLE DAVID A. TARNAS, CHAIR, HONORABLE GREGG TAKAYAMA, VICE CHAIR, COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

SUBJECT: **SUPPORT OF H.B. 542 HD1, RELATING TO PROCUREMENT.** Allows bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline, in addition to the time for correction or withdrawal of inadvertently erroneous bids before or after the award as permitted by rules adopted by the procurement policy board. Requires that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids. Defines "immaterial or technical information". Repeals 6/30/2028. Effective 6/30/3000.

HEARING

DATE: Thursday, February 16, 2023
TIME: 2:00 p.m.
PLACE: Capitol Room 325

Dear Chair Tarnas, Vice Chair Takayama 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 supports H.B. 542 HD1, which allows bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline, in addition to the time for correction or withdrawal of inadvertently erroneous bids before or after the award as permitted by rules adopted by the procurement policy board. Requires that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids. Defines "immaterial or technical information". Repeals 6/30/2028.

This measure seeks to reduce the risks of protests due to the subcontractor listing requirements of the Procurement Code. 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.

Under this part, the procurement officer would close the bidding in the usual manner, but would not open the bids until twenty-four hours after the closing. Each bidder shall have twenty-four



GENERAL
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hours after the bid closing to clarify and correct minor technical issues with the subcontractors list requirements under Section 103D-302, HRS. The proposed change will permit the bidder to ensure that all subcontractors who have submitted bids to the general contractor have met all of the requirements to perform work on state and county projects, including meeting all licensing, bonding and insurance requirements, as applicable. The additional time is necessary because in most cases the general contractor does not receive bid prices from the various subcontractors until shortly before the bid must be submitted to the state agency. This means that the general contractor does not have time to check whether the subcontractors who have submitted bids meet the requirements to work on the job, especially the proper licenses issued by the Contractors License Board. Given the large number of “C” (currently over 100 issued and growing), it becomes increasingly difficult for the general contractor to ascertain licenses and verify whether every subcontractor has the proper license to perform the work he has submitted a bid to do.

This legislation is not an attempt to give general contractors an advantage in submitting bids, nor is it, as some may argue, an opportunity to bid-shop. Instead, this legislation is increasing efficiency in the procurement process by allowing contractors to verify the information that subcontractors provide. The bill does not permit the contractor to change its proposed bid amount. The twenty-four hours will permit the bidder to ensure the subcontractor/joint contractor list is complete and listed subcontractors/joint contractors are properly licensed, are bondable (where applicable), and have all the required insurance coverage. This will reduce the likelihood of errors and result in reducing the number of bid protests which often delay public works projects and, in some cases, increase the cost of public works project for the state. This will result in more complete and accurate bid submittals and reduce the number of potential bid protests.

This would be very similar to California’s process and was included as an unofficial suggestion in the independent report submitted by the State Procurement Office. The report can be found here:

https://spo.hawaii.gov/wp-content/uploads/2020/01/CPPR-Report_HR142-SLHL-2016-FINAL_01-13-20.pdf

The relevant portion starts on page 111 and the suggestion to adopt a variation of California’s model, which allows a 24-hour period to correct errors appears at the bottom of page 114 of the report. Further, the report specifies that in 2018, subcontractor listing accounts for over 60% of all construction related bid protests and that 45% of all protests the State received (including all protests related to non-construction) alleged a defect in the listing of subcontractors for a construction project.

The definition of “immaterial or technical information” is modeled after Utah’s Procurement Code. They define the term “immaterial error”:

https://le.utah.gov/xcode/Title63g/Chapter6a/C63G-6a_1800010118000101.pdf



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OF HAWAII**

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

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

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Painting Industry of Hawaii Labor Management Cooperation Trust Fund

Hawaii Tapers Market Recovery Trust Fund

Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889
AFL-CIO Stabilization Trust Fund

and

Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund

February 15, 2023

Representative David Tarnas, Chair
Representative Gregg Takayama, Vice-Chair
House Committee on Judiciary & Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawaii 96813

Re: House Bill 542, HD1 (Relating To Procurement)
Hearing date: February 16, 2023
Time: 2:00 p.m.

Dear Chair Tarnas, Vice Chair Takayama and Members of the Committee:

Thank you for this opportunity to submit testimony on behalf of the Painting Industry of Hawaii Labor Management Cooperation Trust Fund, Hawaii Tapers Market Recovery Trust Fund, Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund, and Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund in **opposition** to House Bill 542, HD1. The aforesaid organizations are labor management cooperation funds between the Painters Union, Tapers Union, Glaziers Union, and Carpet and Soft Tile Layers Union and their signatory contractors.

1. Section 1 of the Measure Should Be Deleted

As an initial matter, we strongly disagree with statements in Section 1 of the Bill finding that the subcontractor listing requirement of the procurement laws, "has the unintended consequence of increasing the number and complexity of construction protests." The foregoing language implies that the subcontractor listing requirement is a significant problem causing delays and increased cost for public construction projects. This could not be further from the truth. A task force convened pursuant to Senate Concurrent Resolution 92, S.D.2 (2013) to study the issue of bid protests related to subcontractor listing, among other things. This Task Force included participation by all relevant stakeholders, including the General Contractors of Hawaii, the Subcontractors Association of Hawaii, the Office of the Comptroller, the Department of Accounting and General Services, Department of Education, Department of Transportation, City and County of Honolulu and all relevant procurement offices. The resulting 16 page report and 91 pages of attachments which contain supporting documentation produced by the Task Force can be found online at the Department of Accounting and General Services' website at:

<https://ags.hawaii.gov/wp-content/uploads/2012/09/ProcurementTaskForceReportLS2013.pdf>

In the report, the Task Force found that, in general, bid protests did **not** result in any significant delays or increased costs. See Task Force Report at 8-9. The work of the Task Force revealed that protests related to the subcontractor listing requirement increased costs to the State by 0.06% in FY2013 and 0.34% in FY2014. See id. at 13. The Task Force, which included the Comptroller, the Department of Accounting and General Services, the State Procurement Office and other procurement agencies as participants, recommended **no changes be made to Chapter 103D with respect to the subcontractor listing requirement.** See id. at 10-11. We strongly suggest that this Committee take the time to read the report, especially the section on subcontractor listing.

We are aware of a report submitted by the State Procurement Office to the Legislature in 2020 (hereinafter the "IKASO Report") that was based on an investigation by a third-party mainland procurement administrator specializing in federal procurement. That report, which was tasked with identifying differences in state and federal procurement law in general, and not necessarily with deficiencies in state procurement law can be found on the SPO's website at:

https://spo.hawaii.gov/wp-content/uploads/2020/01/CPFR-Report_HR142-SLHL-2016-FINAL_01-13-20.pdf

In that report, IKASO makes an analysis of subcontractor listing protests in the year 2018. There is no indication that IKASO studied any other years. Thus, the IKASO report appears to be based on a very narrow time frame which may or may not be indicative of the existence of a problem over time. Moreover, the IKASO report only appeared to focus on the overall numbers of protests in that year - there is no indication that IKASO considered how many of the protests made that year were valid protests (for example where a bidder listed a debarred contractor). Finally, and most importantly, IKASO does not dispute the findings and conclusions of the State Procurement Task Force that bid protests related to subcontractor listing were not a statistically significant factor in increasing project costs or in increasing delays.

Because Section 1 of this Bill is deceptive and in some cases contrary to documented findings by a comprehensive study conducted by the procurement agencies and the affected stakeholders themselves, and at the very least is in dispute, this section should not be included in this measure.

2. The Bill Will Actually Allow Bid Shopping

The key problem with this measure is that, despite what it says, it will allow bid shopping to occur. Under this bill, the bidder will be allowed to correct its bid as a matter of law, but the procurement officer will not be able to open any of the bids until 24 hours after the deadline for submitting bids. Because the procurement officer is prevented by this bill from knowing what subcontractors are listed in previously submitted bids that are corrected within the 24 hour window in question, there is no way for them or anyone else to detect or prevent bid shopping. As an example, the bidder may drop off its bid at the deadline with subcontractor "A" listed. The bidder could then bid shop Subcontractor "A" in the 24 hour window, retract its bid and then submit a new bid with Subcontractor "B" instead. Because the procurement officer is prevented from seeing the subcontractors listed in the initial (now withdrawn bid), there is no way she can tell that bid shopping occurred. This is precisely the sort of conduct that the current law prevents by having a hard deadline and discouraging changes subsequent to that deadline.

Although it might be possible for the procurement agency to require that all submitted bids may not be retracted, something which is not explicitly required by this measure, the procurement officer would still have to go through each bid and any subsequent corrected bids to compare them in order to identify any changes. Any inadvertent error by the procurement officer at any step in this process would likely subject the award to a bid protest. Thus, the only way to provide a "check" against bid shopping would only create more work for the procurement agency and actually increase the chances of a protest.

3. The Bill Is Unnecessary Because Existing Law Expressly Permits Corrections

Finally, amending the Procurement Code to allow clarification or correction of non-material or technical information contained in or information omitted from a bid is entirely unnecessary, because such corrections are **already expressly allowed under Hawaii Revised Statutes** ("HRS") §103D-302(g). That section provides in pertinent part:

Correction or withdrawal of inadvertently erroneous bids before or after the award, or cancellation of invitations for bids, awards, or contracts based on such bid mistakes **shall be permitted** in accordance with rules adopted by the policy board.

Id. [Emphasis added]. Because the Procurement Code already expressly permits bid corrections, there is absolutely no need for this Bill.

To the extent that general contractors desire specific language indicating the exact circumstances under which a bid correction must be allowed (see p. 9 at lines 13-19 of the Bill), they should pursue such change by seeking the amendment of the Hawaii Administrative Regulations interpreting HRS §103D-302, not by changing the Hawaii Revised Statutes. It is well recognized that as the executive departments implementing the Hawaii Revised Statutes generally have a better understanding of and expertise with such nuances, they and not the Legislature should be the ones to adopt such language.

It is also worth noting here that the IKASO Report so frequently touted by the General Contractors Association studied the topic of modifications and corrections to submitted bids. See IKASCO Report at 74-77. IKASO reported its findings that, "[i]nterviewees did not express any issues with the State's bid modification and withdrawal policy." See IKASCO Report at 76. IKASCO therefore concluded with respect to the issue of the correction of bids as follows:

In general, the procedures for handling modifications, withdrawals, and correcting of mistakes at the State and Federal levels are very similar. Both entities share the same intent to allow corrections to obvious mistakes to occur and have processes set up to correct these in a fair and transparent way. Both entities do not want to punish bidders for mistakes, but want to encourage bids that are in the best interest of the government even if that means allowing a modification. Additionally, both entities require bidders to notify the office running the procurement of the modification or withdrawal, and that these can be accepted at any time before bid opening. Both entities also stress the importance of not being prejudicial to other bidders when correcting mistakes.

Accordingly, it is not clear that the present system can be more aligned to the Federal system in any meaningful way. **Therefore, no recommendation is made.**

See Id. at 77; 112-114. [Emphasis added]. Having studied the issue and finding no need to recommend change, the IKASCO Report supports the view that this measure is wholly unnecessary.

Based on all of the foregoing, there is no need for this bill. There is no credible, empirically based evidence that the proponents of this Bill can cite to showing the existence of any problems created by the subcontractor listing requirement. Even if a significant problem did exist, this measure does not do what it purports to do in allowing for small, insignificant corrections; it actually effectively removes the protections of HRS §103D-302(b) entirely. Again, this statute is the only source of protection that subcontractors have against bid shopping. Finally, the existing statute expressly allows for changes of the sort desired by the Bill's proponents; we should not be enacting duplicative and unnecessary legislation. Accordingly, we respectfully ask that the Committee defer this Bill indefinitely. Thank you again for this opportunity to share our **opposition** to this measure.

Jeffrey S. Masatsugu

Testimony of the Contractors License Board
Before the
House Committee on Judiciary and Hawaiian Affairs
Thursday, February 16, 2023
2:00 p.m.
Conference Room 325 and Videoconference

On the following measure:
H.B. 542, H.D. 1, RELATING TO PROCUREMENT

AMENDED TESTIMONY

Chair Tarnas and Members of the Committee:

My name is Candace Ito, Executive Officer, testifying for Neal Arita, the Chairperson and Legislative Liaison for the Contractors License Board (Board). The Board offers comments on this bill.

The purposes of this bill are to: (1) allow bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline, in addition to the time for correction or withdrawal of inadvertently erroneous bids before or after the award as permitted by rules adopted by the procurement policy board; (2) require that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids; and (3) define "immaterial or technical information."

The Board has serious concerns that this measure will allow a contractor with a suspended or forfeited license to perform work as long as the contractor was properly licensed at the time of award. The Board believes that this allowance conflicts with the requirements of Hawaii Revised Statutes (HRS) chapter 444 and the Board's longstanding interpretation that a person must be licensed as a contractor both at the time of submitting a proposal or bid, and at the time of award on a construction project. The Board has consistently taken the position that a contractor's license is required when a person submits a bid on a construction project to another person, entity, or government agency, as the person who is submitting the bid is acting, advertising, or holding the person's self out as a contractor and must therefore be licensed at that time.

AMENDED Testimony of the Contractors License Board

H.B. 542, H.D.1

Page 2 of 2

This bill appears to condone or authorize unlicensed activity from the time of bid submittal to and through the time the contract is awarded. An unlicensed contractor is subject to disciplinary action, including a fine. Additionally, the prime, general, or other specialty contractor that uses that unlicensed person's bid may also be subject to disciplinary action.

Thank you for the opportunity to testify on this bill.



February 15, 2023

Committee on Judiciary & Hawaiian Affairs
Conference Room 325
State Capitol
415 South Beretania Street

Re: HB 542, HD1 Relating to Procurement

Aloha Chair Tarnas, Vice Chair Takayama, and Committee Members,

My name is Gino Soquena, Executive Director of the Hawaii Building & Construction Trades Council (HBCTC) which is comprised of 18 construction trade unions here in the State of Hawaii. I would like to offer written testimony in **STRONG OPPOSITION** of HB 542, HD1 which allows bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline.

While we can appreciate the intent of this bill to deal with minor technical or immaterial changes to bids to prevent frivolous protests, we must **STONGLY OPPOSE** this bill. First, this bill is completely unnecessary as Hawaii Revised Statutes Section 103D-302(g) and Hawaii Administrative Rules Section 3-122-31(c) already provide the flexibility to make these immaterial and technical changes to the bid. Agencies have already testified that they have utilized these statutes and rules for exactly that purpose.

Second, this bill will only serve to open the door for precisely 24 hours to the unethical practice of bid shopping. All bid shopping does is allow the prime bidder, or general contractor, to increase profits by attempting to solicit lower prices from the subcontractors. This practice does not save the State any money; it only serves to increase profits for the bidder. The bill may state that the only changes that can be made are immaterial and technical, but there are no safeguards, rules, procedures, or anything in place to prevent other material and substantial changes made to the bid.

The Hawaii State Legislature has found that this practice is so unwanted that the Procurement Code was enacted to very specifically address this problem by requiring the subcontractors be listed, along with the scope and nature of their work, at the time bid.

We respectfully ask this committee to **INDEFINITELY DEFER** this bill and allow the existing laws and rules to address the concerns of immaterial and technical issues on bids.

Mahalo Nui Loa,

A handwritten signature in blue ink, appearing to read "Gino Soquena", is written over a faint, large watermark of the word "DRAFT" in the background.

Gino Soquena
Executive Director
Hawaii Building & Construction Trades Council



Hawaii Operating Engineers Industry
Stabilization Fund PAC
2181 Lauwiliwili Street
Kapolei, HI 96707
Phone: (808) 845-6221
Website: www.hoeisf.com

February 16, 2023

House Committee on Judiciary and Hawaiian Affairs
Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair

TESTIMONY IN SUPPORT
HB542 HD1, Relating to Procurement

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

Thank you for the opportunity to submit testimony on behalf of the Hawaii Operating Engineers Industry Stabilization Fund Political Action Committee (HOEISF PAC). The HOEISF PAC is a non-profit labor management organization whose core mission is to represent the interests of the Operating Engineers Local Union No. 3 and Hawaii's leading contractors and ensure that the industry is thriving and sustainable for the future.

We are writing in **support of HB542 HD1**, which allows bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline, in addition to the time for correction or withdrawal of inadvertently erroneous bids before or after the award as permitted by rules adopted by the procurement policy board. It also requires that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids and defines "immaterial or technical information".

The goal of this legislation is to reduce the risks of protests due to the subcontractor listing requirements of the Procurement Code. Unfortunately, the subcontractor listing requirement can be used by bidders to attack the responsiveness of a proposal, which can lead to contracts being awarded to non-low bidders and project delays. As a result, not only does the lowest bidder and their listed subcontractors get disqualified from the project, but the state (and taxpayer) ultimately could end up paying more for the project.

Thank you for the opportunity to provide our testimony in support of this measure.