# H.B. NO. 1686

# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1    SECTION 1.  Chapter 103D, Hawaii Revised Statutes, is

2  amended by adding a new section to be appropriately designated

3  and to read as follows:

4    "§103D-    **Substitution of subcontractors.**  (a)  Not

5  withstanding any provision to the contrary, a contractor may

6  substitute a subcontractor in place of the subcontractor listed

7  in the original bid or proposal pursuant to sections 103D-302(b)

8  and 103D-303(b) without the consent of the procurement officer

9  of the purchasing agency; provided that:

10    (1)  The subcontractor who is listed in the original bid or

11        proposal and who is being substituted has consented in

12        writing to the substitution;

13    (2)  The substituted subcontractor is equally qualified as

14        the subcontractor listed in the original bid or

15        proposal; and

16    (3)  Seventy-five per cent of any cost savings achieved

17        from the substitution of the subcontractor shall be

18        refunded to the purchasing agency by the contractor."

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1    SECTION 2. Section 103D-302, Hawaii Revised Statutes, is

2    amended by amending subsection (b) to read as follows:

3    "(b) An invitation for bids shall be issued, and shall

4    include a purchase description and all contractual terms and

5    conditions applicable to the procurement. If the invitation for

6    bids is for construction[-] with a contract value in excess of

7    $500,000, it shall specify that all bids include the name and

8    location of the place of business of each person or firm to be

9    engaged by the bidder as a joint contractor or subcontractor in

10   the performance of the contract and the nature and scope of the

11   work to be performed by each[-], provided that the value of the

12   work to be performed by the joint contractor or subcontractor

13   is in excess of $25,000. Construction bids that do not comply

14   with this requirement may be accepted if acceptance is in the

15   best interest of the State and the value of the work to be

16   performed by the joint contractor or subcontractor is equal to

17   or less than one per cent of the total bid amount."

18   SECTION 3. Section 103D-303, Hawaii Revised Statutes, is

19   amended by amending subsection (b) to read as follows:

20   "(b) Proposals shall be solicited through a request for

21   proposals. If the request for proposals is for construction

22   with an estimated contract value in excess of $500,000, the

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1  request for proposals shall specify that all proposals include

2  the name and location of the place of business of each person or

3  firm to be engaged by the offeror as a joint contractor or

4  subcontractor in the performance of the contract and the nature

5  and scope of the work to be performed by each, provided that the

6  value of the work to be performed by the joint contractor or

7  subcontractor is in excess of $25,000."

8  SECTION 4. This Act does not affect rights and duties that

9  matured, penalties that were incurred, and proceedings that were

10  begun before its effective date.

11  SECTION 5. Statutory material to be repealed is bracketed

12  and stricken. New statutory material is underscored.

13  SECTION 6. This Act shall take effect upon its approval.

14

INTRODUCED BY: _____

JAN 11 2012

**Report Title:**
Procurement; Construction; Subcontractors; Substitution; Savings

**Description:**
Requires solicitations for procurement of construction to require offerors to list subcontractors if the value of the contract is in excess of $500,000 and the work to be performed by the subcontractor is in excess of $25,000. Allows substitution of subcontractors if 75% of saving resulting from the substitution are refunded to the purchasing agency.

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