



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

**RE: Testimony in Support of S.B. 2312, Relating to Government Contracts**  
Hearing: February 3, 2026 at 3:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency. Thank you for the opportunity to submit testimony in **strong support** of S.B. 2312 and **recommending a clarifying amendment**.

The Uniform Information Practices Act (UIPA) is a critical tool for ensuring an open and transparent government. This bill addresses a loophole in the UIPA, where an agency contracts away its right to obtain records related to a private company's performance of a government function.

As a notable illustration, the University of Hawai'i Board of Regents outsourced its presidential search function and agreed to relinquish its rights to "any candidate information." Stewart Yerton, *UH Contract Specifically Hides President Search Details from the Public*, Honolulu Civil Beat (Dec. 6, 2024) (<https://www.civilbeat.org/2024/12/uh-contract-hides-president-search-details-from-public/>); accord Sen. Stand. Comm. Rep. No. 321 (2025) ("Your Committee finds that outsourcing contracts that hire contractors to perform government functions often result in the public losing access to documents that would have otherwise been available for inspection as government records under the [UIPA]."). Such action plainly violates the intent of the UIPA to require "the discussions, deliberations, decisions, and action of government" to be "conducted as openly as possible." HRS § 92F-2.

S.B. 2312 ensures that the public's right to know is not be diminished when agency functions are outsourced to private companies. It closes the loophole by affirmatively establishing that contracts for the performance of an agency function require the contractor to retain and provide the agency with access to records related to performance under the contract. It also addresses concerns raised in response to a similar measure introduced last session – S.B. 1255 (2025) – regarding existing protection for trade secrets. Nothing in this proposal limits or dilutes the disclosure exemptions under HRS § 92F-13, including the protections for trade secrets.



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In consultation with the Office of Information Practices, we respectfully recommend **replacing** “government function” **with** “agency function” at page 1, lines 5, 9, & 14; and page 2, lines 5 & 18 to avoid potential confusion with the existing “frustration of a legitimate government function” exemption under HRS § 92F-13(3).

Thank you again for the opportunity to testify in strong support of S.B. 2312.