

House Committee on Judiciary and Hawaiian Affairs
Honorable David A. Tarnas, Chair
Honorable Mahina Poepoe, Vice Chair

RE: Testimony in Support of S.B. 2312 S.D. 1, Relating to Government Contracts
Hearing: March 17, 2026 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at Public First Law Center, a Hawai`i nonprofit organization that promotes open government. Thank you for the opportunity to submit testimony in **strong support** of S.B. 2312 S.D.1.

Current law provides that the public may ask agencies for records concerning government contracts. And when the agency follows normal procurement, that includes the records of the government contractor.¹ That is existing law.

S.B. 2312 S.D. 1 simply would provide that agencies cannot waive a standard condition of government contracting – the *agency's* right to review contractor records. *E.g.*, AG-008 103D General Conditions (Rev. 1/10/23) ¶¶ 28 (“Audit of Books and Records of the CONTRACTOR”) & 31 (“Records Retention”). There is no reason for an agency to waive its right to review contractor records.

The exemption for ERS is unnecessary and overbroad and may be read to make contractor records of ERS *less accessible than existing law*. We therefore respectfully recommend that the Committee **delete the ERS exemption at page 2, lines 15-16**.

The public’s right to know should not be diminished when agency functions are outsourced to private companies. Taking this action now is important as our state and county governments increasingly rely on private contractors to perform important government functions.

We are willing to continue working with all stakeholders to find a solution – during the interim if necessary – that achieves the intent of this proposal.

Thank you again for the opportunity to testify in strong support of S.B. 2312 S.D. 1.

¹ The fact that someone requested contractor records does not mean that records will be disclosed. Disclosure always is subject to the exceptions in HRS § 92F-13.

