DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendment and Compilation of Chapter 3-130

Interim

Hawaii Administrative Rules

October 30, 2014

SUMMARY

1. §§3-130-2, 3-130-3, 3-130-5(c), 3-130-6, 3-130-8(d), 3-130-9(a), 3-130-10, 3-130-11, and 3-130-12 are amended.

2. Chapter 130 is compiled.

1. §3-130-2 is amended for the definition of "Property custodian" to read as follows:
"Property custodian" means [the chief procurement officer, or the head of any state governmental unit that is not by law under the control of a chief procurement officer,] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" or any person designated by that "officer or" head, who is responsible for the accountability of all state property in their possession, custody, control, or use.

2. §3-130-3 is amended to read as follows:

Accountability. [The chief procurement officer, or the head of any state governmental unit that is not by law under the control of a chief procurement officer] "The head of the department, or the head of any board, commission, agency, bureau, or office of the State", shall be responsible for the accountability of all state property in the possession, custody, control, or use of the unit or jurisdiction, including the several counties, which the [officer or] head presides. The [officer or] head may designate specific individuals or positions to be personally responsible for the property within their jurisdiction. The assignment of responsibilities does not relieve the [officer or] head of the overall accountability responsibility.
[Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp:HRS §§103D-1202, 103D-1204)

3. §3-130-5(c) is amended to read as follows:
(c) Each state agency shall be accountable for all acquired supplies. Internal records shall be maintained for consumable supplies if an agency's annual expenditure, for such supplies, exceeds five thousand dollars, and for non-consumable supplies with a unit cost of two hundred fifty dollars but less than one thousand dollars. These records shall contain information on purchases "for all supplies", usage "for non-consumable supplies", transfers "for non-consumable supplies", and disposals "for non-consumable supplies", and are subject to audit.
Supplies include the following:
(1) Consumable supplies are items consumed in the normal course of an agency operations such as food, clothing, stationery and other supplies which are normally used only once or have a useful life of less than one year;
(2) Non-consumable supplies are items not

consumed in the normal course of an agency operations, that have a useful life of more than one year and a unit cost "of two hundred fifty dollars to" less than one thousand dollars, but excludes weapons and controlled items. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §103D-202) (Imp: HRS §103D-1205)

4. §3-130-6 is amended to read as follows:

§3-130-6 Physical inventory. (a) Each [§3-130-8] designated property custodian or governmental "unit" shall conduct an annual inventory, to be verified by physical count of all state property in their possession, custody, control, or use.

(b) If there is a change in the designated property custodian, [the chief procurement officer] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" or the custodial department's fiscal office shall take action to have a physical inventory taken at that time.

(c) Immediately upon the completion or termination of any agency or property account, for whatever reason, a complete physical inventory shall be taken pursuant to the direction of [the chief procurement officer] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" or the custodial department's fiscal office. [Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §103D-202) (Imp: HRS §103D-1205)

5. §3-130-8(d) is amended to read as follows:

(d) The designated property custodian shall submit a disposal application to [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" in accordance with section 3-130-11(c).

6. §3-130-9(a) is amended to read as follows:

(a) To obtain maximum utilization and to minimize the procurement of new items, each state department or agency shall, be responsible for making excess state property available and facilitate the transfer of the property to other state departments or agencies[.]", excluding weapons, work of arts, historical treasures, patents, inventions, and copyrights, and real property."

7. §3-130-10 is amended to read as follows:

§3-130-10 Disposal and restrictions relating to state property. (a) No state property shall be sold, traded, destroyed, or otherwise disposed of, except in accordance with the following rules:

(1) Land and interest in land owned by the State.

(A) Approval for disposal shall be obtained from the department of land and natural resources; and

(B) A copy of the approval, together with the disposal application, shall be submitted to [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State."

(2) Surplus property shall be disposed of using one of the following methods:

(A) Disposal by trade-in to a vendor for credit on an acquisition which must receive [the chief procurement officer's]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State's" prior approval and determination shall be based on:

(i) The urgency of need by other state governmental units; or

(ii) Whether the trade-in value is expected to exceed the value realized through the sale of the property;

(B) Disposal to the state surplus property office of the state procurement office, which may, at its discretion, refuse to accept the property;

(C) Disposal by sale of property through competitive sealed bids, public auctions, established markets, or posted prices.

(i) Notice of sale by competitive sealed bid sale and public auction shall be publicized[in accordance with the provisions of section 3-122-24(c)];

(ii) The following conditions of sale by competitive sealed bid and public auction shall be included in the publicized notice, in the solicitations, and in the notices posted at the site of sale: It is the buyer's responsibility to remove the items within a stipulated time after purchase; no guarantees or warranties are given by the State for the items; major defects, if known, are listed, but the State makes no claim that all

defects are known; no sale will be invalid if defects are discovered in the item after the sale; and the State assumes no responsibility or liability once the items are sold;

(iii) Competitive sealed bidding method shall be in accordance with the following: Notice of sealed bid sale shall be advertised and made publicly available from the selling department or agency at least ten days before the date set for bid opening; the notice shall list the materials offered for sale, their location, availability for inspection, the terms and conditions of sale and instructions to bidders including the place, date, and time set for bid opening; bids shall be opened publicly at the time and place announced; the award shall be made in accordance with the provisions of the notice of sealed bid sale to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the designated property custodian; if the designated property custodian determines that the bid is not advantageous to the State, such officer may reject the bids in whole or in part and may re-solicit bids or such officer may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder;

(iv) Public auctions shall be advertised no less than six days before the auction date and all terms and conditions will be available to the public at least twenty-four hours prior to the auction date. The solicitation to bidders shall stipulate all the terms and conditions of any sale. When appropriate, an experienced auctioneer may be used to cry the sale and assist in preparation of the sale;

(v) Posted price (pre-established price) may be used for items for which there is no regular market, demand is erratic, or for items that received unacceptable prices through competitive bids or public

auction and the items shall be available on a first-come basis;

(vi) Only United States postal money orders, certified checks, cashiers' checks, or cash shall be accepted for sales of surplus property unless approved by the designated property custodian or for sales of less than one hundred dollars;

(D) Sale "in accordance to one of the methods and requirements describe on §3-130-10(a)(2)(C)(i) thru (iv), or dispose" to dealers for recycling, salvaging, or scrap;

(E) [Sale to employees, provided that an employee of the owning or disposing state governmental unit shall not directly or indirectly purchase or agree with another person to purchase surplus property;]

(F) [Other disposition methods, including, but not limited to, solicitation by phone, appraisal, or barter, provided such officer makes a written determination, approved by the chief procurement officer, that such procedure is advantageous to the State;]

(G) "(E)" Donation to the following organizations, provided the designated property custodian makes a written justification, approved by [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State," that the donation would be advantageous to the State:

(i) City or county agency within the State; or

(ii) "A nonprofit tax-exempt charitable activity" is defined as an institution or organization whose earnings are used to help the poor or needy, and no part of the net earnings of which are used or is applied to the benefit of any private shareholder or individual and has been held to be tax-exempt under the provisions of the Federal Internal Revenue Code and the State of Hawaii tax laws;

(H) "(F)" Cannibalize the usable parts and destroy, dispose in trash bin, incinerator, or landfill.

(3) Any weapon, if not transferred to another

"statutorily authorized" state agency in accordance with section 3- 130-9, shall be disposed of as follows, and the supporting documents shall be attached to the disposal application or certificate of disposal:

(A) Traded or sold to a federally licensed firearm dealer; or

(B) Donated to the local police department.

(b) No state property shall be given or loaned to any individual or non-government organization; however, a state agency may furnish state property to a private contractor to facilitate the performance of services for the State by the contractor, so long as the agency includes a provision for the furnished state property in the procurement document.

(c) Approval for disposal of controlled items and supplies shall be obtained from the designated property custodian of the items and state agencies shall be responsible for maintaining adequate records to account for the disposal of such items.

(d) Whenever any designated property custodian desires to dispose or remove any equipment, weapon, or real property from their inventory, other than by transfer to another state agency, the designated property custodian must, before the action, submit a written disposal application to [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" requesting approval of the requested disposition. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D-1202)

8. §3-130-11 is amended to read as follows:

§3-130-11 Disposal application. (a) Disposal applications shall be submitted [in triplicate] to [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" for approval, and if the application has been approved:

(1) The original shall be retained by [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State"; and

(2) Two copies shall be returned to the applying department's fiscal office, which in turn shall keep one copy and forward the other copy to the applying agency.

(b) Disposal application shall contain the following information:

(1) Statement and certification: "Application is hereby made for the disposal of government property under my custody and control. Pursuant to chapter 3-130, HAR, I do solemnly

swear and affirm the accuracy of this application.";

(A) Designated property custodian's signature;

(B) Designated property custodian's name, official position, and phone number;

(2) Property information: complete information as shown on the current inventory printout;

(3) Present condition and estimated value of the property;

(4) Reason for requesting to delete or dispose of the property;

(5) Proposed method of disposal:

(A) If an item is to be used as a trade-in for new equipment, the application shall identify the name of the vendor, the price of the new item, and the amount of the trade-in allowance;

(B) If an item is to be sold by competitive sealed bidding, public auction, or posted prices, the application shall list the names and offers from interested parties, the party purchasing the property, and if applicable, a copy of the public notice shall be attached to the disposal application. If the information is not available when submitting the disposal application, it shall be provided with the submission of the certificate of disposal;

(C) If an item is to be donated, the application shall provide the name of the city or county agency or the nonprofit tax-exempt charitable activity to receive the donation, and justification for the donation;

(D) If an item is to be sold "or disposed " for recycling, salvaging, or scrap, the application shall list the name of the party purchasing "or disposing" the property and the amount offered for the property", if applicable";

(E) If an item is to be discarded, the application shall state the means of disposal; i.e., to be cannibalized for usable parts or destroyed and disposed in trash bin, or sent to local incinerator or landfill.

(c) Lost, stolen, or damaged items shall not be reported on the same disposal application with other equipment to be disposed of by choice, but shall be reported separately. A number of items may be listed on the same application provided the incident and

circumstance surrounding the loss, theft, or damage are the same. The following information shall be provided in the application:

(1) Information as required in subsections (b)(1), (b)(2), (b)(3), and (b)(4);
(2) Date and explanation of the circumstances surrounding the loss, theft, or damage;
(3) Description of internal control procedures and security measures in effect at the time of the loss, theft, or damage;
(4) Applicant's conclusion or opinion as to the cause of the loss, theft, or damage;
(5) Description of internal control procedures or security improvements to be implemented to prevent or minimize future losses; and
(6) Statement whether the police or attorney general's office was notified, and if so, attach any supporting documents to the application.

(d) Upon receipt of the application, [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" shall:

(1) Evaluate the application, and, if necessary, request additional information;
(2) Grant or deny the requested action; or
(3) Direct disposition of the property in such other manner as determined to be in the best interest of the State.

(e) State property approved for destruction or discarding may be disposed at the agency's location, or may be taken to an incinerator or landfill for disposal. The following procedure shall apply:

(1) Any mark or decal indicating State of Hawaii ownership shall be removed or obliterated before disposing of the property;
(2) The property shall be destroyed in such a manner to prevent reuse by other parties.

(f) The certificate of disposal is a certification by the applying agency that the property listed on the applicable disposal application was disposed in the manner approved by [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State." The following is the distribution sequence of the certificate of disposal:

(1) Following [the chief procurement officer's]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State's" approval of the disposal application, except for applications for lost or stolen items, [the chief procurement officer]"the head of the

department, or the head of any board, commission, agency, bureau, or office of the State" shall forward [two copies] "a copy" of the approved disposal application [and three copies of the

certificate of disposal] to the applying custodian's fiscal office. The applying custodian's fiscal office shall then forward to the applying agency one copy of the disposal application [and three copies of the certificate of disposal];

(2) Upon completion of the disposal transaction, the applying agency shall confirm the final disposition of the property by returning copies of the completed certificate of disposal as follows:

(A) One copy to [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State"; and

(B) One copy to the applying agency's fiscal office.

(g) All disposal records such as disposal applications, certificates of disposal, and actions taken pursuant thereto by an applying agency shall be kept for audit purposes by the applying agency's office, the applying department's fiscal office, and [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State." [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §§103D-202, 103D- 1202) (Imp: HRS §103D-1202)

9. §3-130-12 is amended to read as follows:

§3-130-12 Exceptions. If any requirement of this chapter results in undue hardship for the agency, [the chief procurement officer] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" may[, upon written request from the head of the agency,] grant", in writing," an exception to that requirement if [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" determines such action to be in the best interest of the State.

Each exception granted by [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" shall be by written determination approved by the administrator of the state procurement office. [Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D-

1202)

10. Chapter 130 is complied to read as follows:

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 11

PROCUREMENT POLICY BOARD

CHAPTER 130

INVENTORY MANAGEMENT

§3-130-1	Purpose
§3-130-2	Definitions
§3-130-3	Accountability
§3-130-4	Internal control
§3-130-5	Property inventory record file
§3-130-6	Physical inventory
§3-130-7	Annual inventory reporting
§3-130-8	Lost, stolen, or damaged property
§3-130-9	Excess state property
§3-130-10	Disposal and restrictions relating to state property
§3-130-11	Disposal application
§3-130-12	Exceptions

Historical Note: Chapter 130, Subtitle 11 of Title 3, Hawaii Administrative Rules, is based upon Chapter 61 of Title 3, HAR, Rules and Regulations Governing the Disposal of Property Owned by the State of Hawaii of the department of accounting and general services. [Eff 6/1/81; R 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02]

§3-130-1 Purpose. (a) The purpose of these rules is to implement the requirements of section 103D-1202, HRS, and prescribe procedures governing the management, control, and disposal of property owned by the State, including state property accounted for by the several counties, and reported to the administrator of the state procurement office.

(b) This chapter 130, subtitle 11 of title 3, Hawaii Administrative Rules, replaces rescinded interim rules previously adopted on 6/9/01 (file no. 2363) and 11/15/01 (file no. 2399). [Eff 12/15/95; comp 6/9/01; comp 11/15/01; am and comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D-1202)

§3-130-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Accountability" means the responsibility for maintaining continuous records, periodically reporting the location and condition, ensuring proper usage, safekeeping, and maintenance of all property.

"Controlled items" includes property not classified as equipment, real property, or weapons, but having a useful life of more than a year, and considered a theft sensitive item, or determined by the property custodian to be critical to the agency's operation, or important for safekeeping and property management. Two or more physically or functionally identical controlled items located within the same inventory area may be combined into a single line item.

"Excess property" means any property that has a remaining useful life but which is no longer required by the using agency in possession of the property.

"Expendable" means property consumed or which loses its identity in use.

"Equipment" includes all nonexpendable state property having a unit cost of one thousand dollars or more, or other amounts that may be applicable to the counties' inventory, a useful life of more than one year, but excluding real property and weapons. Equipment shall be accounted for individually by make, model, serial number, and decal number.

"Nonexpendable" means property not consumed in use, retaining its original identity when used for the purpose for which it was designed.

"Property custodian" means [the chief procurement officer, or the head of any state governmental unit that is not by law under the control of a chief procurement officer,] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" or any person designated by that "officer or" head, who is responsible for the accountability of all state property in their possession, custody, control, or use.

"State property" means all things, tangible and intangible, owned by the State of Hawaii, excluding the several counties, including equipment, weapons, real property, controlled items, supplies, works of art, historical treasures, patents, inventions, and copyrights.

"Real property" includes land, land improvements, buildings, building improvements, and infrastructures.

"Supplies" means all state property not classified as equipment, real property, a weapon, or controlled item.

"Surplus property" means any property that no longer has any use to the State.

"Tangible" means having a physical existence and capable of being appraised at an actual or approximate

value.

"Theft sensitive item" means small and attractive property that is easily converted to personal use or easily pawned, including personal computer equipment, cameras, television sets, videocassette recorders, video cameras, and communication equipment.

"Weapons" mean handguns, rifles, shotguns, grenade launchers, and other explosive devices used for law enforcement or security purposes. These items shall be accounted for individually by make, model, serial number, and decal number, regardless of the cost or expected life of the item. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §103D-202) (Imp:HRS §103D-1201)

§3-130-3 Accountability. [The chief procurement officer, or the head of any state governmental unit that is not by law under the control of a chief procurement officer] "The head of the department, or the head of any board, commission, agency, bureau, or office of the State", shall be responsible for the accountability of all state property in the possession, custody, control, or use of the unit or jurisdiction, including the several counties, which the [officer or] head presides. The [officer or] head may designate specific individuals or positions to be personally responsible for the property within their jurisdiction. The assignment of responsibilities does not relieve the [officer or] head of the overall accountability responsibility. [Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §§103D-1202, 103D-1204)

§3-130-4 Internal control. (a) The designated property custodian shall establish, maintain, and enforce written internal control procedures to ensure accountability for all state property in their possession, custody, control, or use.

(b) The purpose of the written internal control procedures is to ensure that all employees are aware of the proper handling of state property.

(c) "Internal control procedures" shall include and address the following:

(1) Assigning of responsibility which includes providing the names and positions of personnel responsible for custody of property at each location;

(2) Recordkeeping of property which includes accounting for all acquired state property; conducting of physical inventory; updating the master inventory listing; maintaining an accurate audit trail; and conducting internal audits;

(3) Proper usage of property which includes assuring property is used by authorized

personnel and only for official state purposes; training personnel on the proper use of vehicles and equipment;

(4) Safekeeping of property which includes affixing of property identification or decal; documentation for authorized loan, movement from location, and transfer to another agency; guidelines pertaining to property declared excess, surplus, obsolete, beyond economical repair, lost, or stolen; guidelines for sale of property;

(5) Safeguards for property which includes procedures for security of property during and after working hours; special care of items that are of a sensitive or theft prone nature; investigating and reporting of thefts, or vandalism; appointment of key or lock custodian; and

(6) Care and maintenance of property which includes a preventive maintenance schedule; management of warranty file; repair of broken property; and guidelines for damaged or destroyed property. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §103D-202) (Imp: HRS §103D-1205)

§3-130-5 Property inventory record file. (a) Each chief procurement officer for their respective jurisdiction shall establish, manage, and maintain a centralized property inventory record file for all equipment, real property, weapon, and controlled items of state property in the possession, custody, control, or use of the jurisdiction which the officer presides.

(b) The file shall consist of the following information for each property:

(1) Office or agency having the responsibility of accountability of the property;

(2) Physical location of property;

(3) Type of property, which includes land, land improvements, buildings, building improvements, infrastructures, vehicles, equipment, weapons, work of arts, historical treasures, and controlled items;

(4) Description of property, which includes land tax map key, and executive order number, and for vehicle or equipment the manufacture, model, and serial number;

(5) Date of acquisition;

(6) Acquisition cost of property; and

(7) State identification number.

(c) Each state agency shall be accountable for all acquired supplies. Internal records shall be maintained for consumable supplies if an agency's annual expenditure, for such supplies, exceeds five thousand dollars, and for non-consumable supplies with a unit cost of two hundred fifty dollars but less than one thousand dollars. These records shall contain

information on purchases "for all supplies", usage "for non-consumable supplies", transfers "for non-consumable supplies", and disposals "for non-consumable supplies", and are subject to audit.

Supplies include the following:

(1) Consumable supplies are items consumed in the normal course of an agency operations such as food, clothing, stationery and other supplies which are normally used only once or have a useful life of less than one year;

(2) Non-consumable supplies are items not consumed in the normal course of an agency operations, that have a useful life of more than one year and a unit cost "of two hundred fifty dollars to" less than one thousand dollars, but excludes weapons and controlled items. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §103D-202) (Imp: HRS §103D-1205)

§3-130-6 Physical inventory. (a) Each [§3-130-8] designated property custodian or governmental "unit"

shall conduct an annual inventory, to be verified by physical count of all state property in their possession, custody, control, or use.

(b) If there is a change in the designated property custodian, [the chief procurement officer] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" or the custodial department's fiscal office shall take action to have a physical inventory taken at that time.

(c) Immediately upon the completion or termination of any agency or property account, for whatever reason, a complete physical inventory shall be taken pursuant to the direction of [the chief procurement officer] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" or the custodial department's fiscal office. [Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §103D-202) (Imp: HRS §103D-1205)

§3-130-7 Annual inventory reporting. The chief procurement officers, the administrative heads of the executive departments, and all other persons, offices, and boards of a public character that are not by law under the control and direction of any of the officers specifically named in this section shall prepare and file with the administrator of the state procurement office an annual inventory return of state property in their possession, custody, or control. The annual inventory return shall be filed before September 16 of each year. The annual inventory return shall contain information in accordance with section 103D-1206, HRS. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §103D-202) (Imp: HRS §103D-1206)

§3-130-8 Lost, stolen, or damaged property. (a) The theft of state property shall be immediately reported to the appropriate law enforcement agency.

(b) All lost, stolen, or damaged equipment shall be reported by the state governmental unit within ten days after discovery of the loss to the designated property custodian.

(c) The designated property custodian shall conduct an investigation of the incident and initiate the appropriate action to prevent future loss.

(d) The designated property custodian shall submit a disposal application to [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" in accordance with section 3-130-11(c).

(e) Any such equipment deleted from the inventory that is subsequently located shall be added back to the inventory. [Eff 12/15/95; comp 6/9/01; comp 11/15/01;

comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D-1202)

§3-130-9 Excess state property. (a) To obtain maximum utilization and to minimize the procurement of new items, each state department or agency shall, be responsible for making excess state property available and facilitate the transfer of the property to other state departments or agencies[.]", excluding weapons, work of arts, historical treasures, patents, inventions, and copyrights, and real property."

(b) Each state department or agency shall to the maximum extent practicable, fulfill its requirements for property by obtaining excess property from other state departments or agencies instead of initiating a new procurement.

(c) Agencies receiving or transferring excess property shall establish controls over the processing of transfer documents and shall establish and maintain an adequate system of property accountability. [Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D-1202)

§3-130-10 Disposal and restrictions relating to state property. (a) No state property shall be sold, traded, destroyed, or otherwise disposed of, except in accordance with the following rules:

(1) Land and interest in land owned by the State.
  (A) Approval for disposal shall be obtained from the department of land and natural resources; and
  (B) A copy of the approval, together with the disposal application, shall be submitted to [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State."

(2) Surplus property shall be disposed of using one of the following methods:
  (A) Disposal by trade-in to a vendor for credit on an acquisition which must receive [the chief procurement officer's]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State's" prior approval and determination shall be based on:
    (i) The urgency of need by other state governmental units; or
    (ii) Whether the trade-in value is expected to exceed the value realized through the sale of the property;

(B) Disposal to the state surplus property office of the state procurement office, which may, at its discretion, refuse to accept the property;

(C) Disposal by sale of property through competitive sealed bids, public auctions, established markets, or posted prices.

(i) Notice of sale by competitive sealed bid sale and public auction shall be publicized[in accordance with the provisions of section 3-122-24(c)];

(ii) The following conditions of sale by competitive sealed bid and public auction shall be included in the publicized notice, in the solicitations, and in the notices posted at the site of sale: It is the buyer's responsibility to remove the items within a stipulated time after purchase; no guarantees or warranties are given by the State for the items; major defects, if known, are listed, but the State makes no claim that all defects are known; no sale will be invalid if defects are discovered in the item after the sale; and the State assumes no responsibility or liability once the items are sold;

(iii) Competitive sealed bidding method shall be in accordance with the following: Notice of sealed bid sale shall be advertised and made publicly available from the selling department or agency at least ten days before the date set for bid opening; the notice shall list the materials offered for sale, their

location, availability for inspection, the terms and conditions of sale and instructions to bidders including the place, date, and time set for bid opening; bids shall be opened publicly at the time and place announced; the award shall be made in accordance with the provisions of the notice of sealed bid sale to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the designated property custodian; if the designated property custodian determines that the bid is not advantageous to the State, such officer may reject the bids in whole or in part and may re-solicit bids or such officer may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder;

(iv) Public auctions shall be advertised no less than six days before the auction date and all terms and conditions will be available to the public at least twenty-four hours prior to the auction date. The solicitation to bidders shall stipulate all the terms and conditions of any sale. When appropriate, an experienced auctioneer may be used to cry the sale and assist in preparation of the sale;

(v) Posted price (pre-established price) may be used for items for which there is no regular market, demand is erratic, or for items that received unacceptable prices through competitive bids or public auction and the items shall be available on a first-come basis;

(vi) Only United States postal money orders, certified checks, cashiers' checks, or cash shall be accepted

for sales of surplus property unless approved by the designated property custodian or for sales of less than one hundred dollars;

(D) Sale "in accordance to one of the methods and requirements describe on §3-130-10(a)(2)(C)(i) thru (iv), or dispose" to dealers for recycling, salvaging, or scrap;

(E) [Sale to employees, provided that an employee of the owning or disposing state governmental unit shall not directly or indirectly purchase or agree with another person to purchase surplus property;]

(F) [Other disposition methods, including, but not limited to, solicitation by phone, appraisal, or barter, provided such officer makes a written determination, approved by the chief procurement officer, that such procedure is advantageous to the State;]

(G) "(E)" Donation to the following organizations, provided the designated property custodian makes a written justification, approved by [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State," that the donation would be advantageous to the State:

(i) City or county agency within the State; or

(ii) "A nonprofit tax-exempt charitable activity" is defined as an institution or organization whose earnings are used to help the poor or needy, and no part of the net earnings of which are used or is applied to the benefit of any private shareholder or individual and has been held to be tax-exempt under the provisions of the Federal Internal Revenue Code and the State of Hawaii tax laws;

(H) "(F)" Cannibalize the usable parts and destroy, dispose in trash bin, incinerator, or landfill.

(3) Any weapon, if not transferred to another "statutorily authorized" state agency in accordance with section 3- 130-9, shall be disposed of as follows, and the supporting documents shall be attached to the disposal application or certificate of disposal:

(A) Traded or sold to a federally licensed firearm dealer; or

(B) Donated to the local police department.

(b) No state property shall be given or loaned to any individual or non-government organization; however, a state agency may furnish state property to a private contractor to facilitate the performance of services for the State by the contractor, so long as the agency includes a provision for the furnished state property in the procurement document.

(c) Approval for disposal of controlled items and supplies shall be obtained from the designated property custodian of the items and state agencies shall be responsible for maintaining adequate records to account for the disposal of such items.

(d) Whenever any designated property custodian desires to dispose or remove any equipment, weapon, or real property from their inventory, other than by transfer to another state agency, the designated property custodian must, before the action, submit a written disposal application to [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" requesting approval of the requested disposition. [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D- 1202)

§3-130-11 Disposal application. (a) Disposal applications shall be submitted [in triplicate] to [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" for approval, and if the application has been approved:

(1) The original shall be retained by [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State"; and

(2) Two copies shall be returned to the applying department's fiscal office, which in turn shall keep one copy and forward the other copy to the applying agency.

(b) Disposal application shall contain the following information:

(1) Statement and certification: "Application is hereby made for the disposal of government property under my custody and control. Pursuant to chapter 3-130, HAR, I do solemnly swear and affirm the accuracy of this application.";

(A) Designated property custodian's signature;

(B) Designated property custodian's name, official position, and phone number;

(2) Property information: complete information as shown on the current inventory printout;

(3) Present condition and estimated value of the property;

(4) Reason for requesting to delete or dispose of the property;

(5) Proposed method of disposal:

(A) If an item is to be used as a trade-in for new equipment, the application shall identify the name of the vendor, the price of the new item, and the amount of the trade-in allowance;

(B) If an item is to be sold by competitive sealed bidding, public auction, or posted prices, the application shall list the names and offers from interested parties, the party purchasing the property, and if applicable, a copy of the public notice shall be attached to the disposal application. If the information is not available when submitting the disposal application, it shall be provided with the submission of the certificate of disposal;

(C) If an item is to be donated, the application shall provide the name of the city or county agency or the nonprofit tax-exempt charitable activity to receive the donation, and justification for the donation;

(D) If an item is to be sold "<u>or disposed</u> " for recycling, salvaging, or scrap, the application shall list the name of the party purchasing "<u>or disposing</u>" the property and the amount offered for the property"<u>, if applicable</u>";

(E) If an item is to be discarded, the application shall state the means of disposal; i.e., to be cannibalized for usable parts or destroyed and disposed in trash bin, or sent to local incinerator or landfill.

(c) Lost, stolen, or damaged items shall not be reported on the same disposal application with other equipment to be disposed of by choice, but shall be reported separately. A number of items may be listed on the same application provided the incident and

circumstance surrounding the loss, theft, or damage are the same. The following information shall be provided in the application:

(1) Information as required in subsections (b)(1), (b)(2), (b)(3), and (b)(4);

(2) Date and explanation of the circumstances surrounding the loss, theft, or damage;

(3) Description of internal control procedures and security measures in effect at the time of the loss, theft, or damage;

(4) Applicant's conclusion or opinion as to the cause of the loss, theft, or damage;

(5) Description of internal control procedures or security improvements to be implemented to prevent or minimize future losses; and

(6) Statement whether the police or attorney general's office was notified, and if so, attach any supporting documents to the application.

(d) Upon receipt of the application, [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" shall:

(1) Evaluate the application, and, if necessary, request additional information;

(2) Grant or deny the requested action; or

(3) Direct disposition of the property in such other manner as determined to be in the best interest of the State.

(e) State property approved for destruction or discarding may be disposed at the agency's location, or may be taken to an incinerator or landfill for disposal. The following procedure shall apply:

(1) Any mark or decal indicating State of Hawaii ownership shall be removed or obliterated before disposing of the property;

(2) The property shall be destroyed in such a manner to prevent reuse by other parties.

(f) The certificate of disposal is a certification by the applying agency that the property listed on the applicable disposal application was disposed in the manner approved by [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State." The following is the distribution sequence of the certificate of disposal:

(1) Following [the chief procurement officer's]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State's" approval of the disposal application, except for applications for lost or stolen items, [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" shall forward [two copies] "a copy" of the approved

disposal application [and three copies of the certificate of disposal] to the applying custodian's fiscal office. The applying custodian's fiscal office shall then forward to the applying agency one copy of the disposal application [and three copies of the certificate of disposal];

(2) Upon completion of the disposal transaction, the applying agency shall confirm the final disposition of the property by returning copies of the completed certificate of disposal as follows:

(A) One copy to [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State"; and

(B) One copy to the applying agency's fiscal office.

(g) All disposal records such as disposal applications, certificates of disposal, and actions taken pursuant thereto by an applying agency shall be kept for audit purposes by the applying agency's office, the applying department's fiscal office, and [the chief procurement officer.]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State." [Eff 12/15/95; am and comp 6/9/01; am and comp 11/15/01; am and comp 11/8/02] (Auth: HRS §§103D-202, 103D- 1202) (Imp: HRS §103D-1202)

§3-130-12 Exceptions. If any requirement of this chapter results in undue hardship for the agency, [the chief procurement officer] "the head of the department, or the head of any board, commission, agency, bureau, or office of the State" may[, upon written request from the head of the agency,] grant", in writing," an exception to that requirement if [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" determines such action to be in the best interest of the State. Each exception granted by [the chief procurement officer]"the head of the department, or the head of any board, commission, agency, bureau, or office of the State" shall be by written determination approved by the administrator of the state procurement office. [Eff 12/15/95; comp 6/9/01; comp 11/15/01; comp 11/8/02] (Auth: HRS §§103D-202, 103D-1202) (Imp: HRS §103D- 1202)

11. Material, except source notes, to be repealed is bracketed. New material is underscored.

12. Additions to updates source notes to reflect these amendments are not underscored.

13. These amendments to chapter 3-120, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on September 29, 2014 by the Procurement Policy Board, and filed with the office of the Lieutenant Governor.

GREGORY LEE KING
Chairperson
Procurement Policy Board

DEAN H. SEKI
State Comptroller

Dated: OCT 30 2014

FILED

APPROVED AS TO FORM:

Deputy Attorney General