

July 13, 1999

PROCUREMENT CIRCULAR No. 1999-03

TO: All Department Heads

SUBJECT: Act 162, SLH 1999 (S.B. 1101) on
Remedies of Part VII, Chapter 103D, HRS

Effective July 1, 1999, Act 162, copy attached, amends the procurement code, specifically Part VII, Chapter 103D, HRS.

The purpose of this circular is to summarize the major changes and provide guidance in implementing the changes.

- 1) **The department head is the CPO designee for purposes of §§103D-701, 103D-703, 103D-705, and 103D-711, HRS.**
- 2) **Section 103D-701, HRS, Authority to resolve protested solicitations or awards.**

Change: Prior to Act 162, a protest could have been submitted to the CPO *or* the head of a purchasing agency. Under Act 162, a protest may be addressed to the CPO *or* a *designee as specified in the solicitation.*

Implementation: Solicitations issued by purchasing agencies shall specify in their Invitation for Bids (IFB) or Request for Proposals (RFP) *that any protest shall be submitted to its department head.* This is in keeping with the above delegation naming the department head as CPO designee.

For your information, protests resulting from solicitations *issued by the State Procurement Office (SPO) for your requirements when procurement assistance is specifically requested by your department* shall be submitted as follows:

IFBs shall specify that any protest shall be submitted to the SPO Procurement Officer.

RFPs issued by the SPO **for another agency's requirement** shall specify that any protest shall be submitted to the agency's department head.

Change: Clarifies that a protest shall be submitted in writing within five working days after the posting of award of the contract.

Implementation: Agencies must post the award of the contract, e.g., the notice of award letter, to start the five working days within which a protest must be submitted. SPO recommends that your solicitation include the location where the award will be posted. The posting of awards resulting from solicitations issued by this office will be the responsibility of the SPO.

3. Section 103D-702, HRS, Authority to debar or suspend.

Change: Prior to Act 162 the CPO and the head of a purchasing agency could debar or suspend a person for cause from consideration for award of contracts. As a result of Act 162, only the CPO is allowed to debar or suspend. Under Act 162, the CPO is allowed to debar a person from performance on any public contracts as well as debar a person for cause from consideration for award of all public contracts.

Also, Act 162 allows the CPO to make a written determination whether to allow the debarred or suspended person or firm to continue performance on any contract awarded prior to the effective date of the debarment or suspension.

4. Sections 103D-703, 103D-705, 103D-707, 103D-708, 103D-709, 103D-710, 103D-711, and 103D-712, HRS.

Change: These sections were amended to clearly define responsibilities and to provide remedies for the administration of the procurement process.

Questions or concerns on this circular may be directed to Ruth Yamaguchi at 586-0567.

LLOYD I. UNEBASAMI

RY:sk

Attach.

c: CPOs