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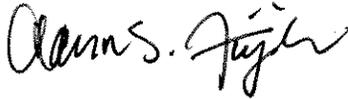


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April 28, 2008

PROCUREMENT CIRCULAR NO. 2008-02

TO: Executive Department Heads
FROM: Aaron S. Fujioka 
SUBJECT: Hawaii Administrative Rules (HAR) Chapter 3-131,
Compliance (Interim)

The Procurement Policy Board has amended sections of HAR Chapter 3-131 (Interim), effective 4/14/08, to address the requirements of Act 142, SLH 2007 (SB 1929, SD2, HD2, CD1) amending HRS §103D-106 on Penalties. The following details the amendments to HAR Chapter 3-131:

- Title name change from 'Procurement Violations' to 'Compliance'.
- §3-131-1 Definitions.
Adds terms "Business integrity" and "Purchasing ethics", expands the role of a "Reviewing Officer".
- §3-131-1.01 Applicability.
New section to define application of chapter 3-131 applicable to a governmental employee or an offeror.
- §3-131-1.02 Procurement code of ethics.
New section details ethical conduct on procurement activities, including appropriate "purchasing ethics" for public employees and "business integrity" for an offeror, contractor or business.
- §3-131-4 Civil and criminal penalties.
Amended to add provisions for a chief procurement officer (CPO) determination on assessment of penalties, including administrative fines for a governmental employee or an offeror.
- §3-131-5 Corrective action.
Amended to add the word "procurement".

- §3-131-6 Report of findings and corrective actions.
Amended title from "Processing procurement violations", and deleted unnecessary language.
- §3-131-7 Interim rules.
Repealed, and incorporated into Historical Notes on page 131-1.
- §3-131-8 Administrative fine.
New section on the assessment of administrative fines. After a review of the procurement actions of all parties, and upon determination by a CPO that deliberate actions resulted in a procurement violation, an administrative fine may be imposed for each violation in amounts:
 - Not to exceed \$5000 for a procurement in excess of \$50,000; or
 - Not to exceed \$1000 for a procurement less than \$50,000

As Chief Procurement Officer (CPO) for the Executive Departments, my responsibility is to ensure compliance with procurement requirements pursuant to HRS Chapter 103D. Most procurement violations are usually inadvertent, a result of administrative error, lack of appropriate knowledge, or simple carelessness. However, these amendments provide a CPO the authority to review a situation to make a determination that a serious procurement violation is deemed subject to an administrative fine, and appropriate corrective actions are taken by all affected parties.

The ramseyer version is attached and the standard version is available on the SPO website at <http://www.spo.hawaii.gov/statutes-and-rules>. A complete listing of all current Procurement Circulars may be viewed on the SPO homepage at <http://www.spo.hawaii.gov/>, under the *Quick Links* section, click on *Procurement Circulars*.

If your staff has any questions, they may be directed to Colin Tanaka, at 586-0558 or colin.y.tanaka@hawaii.gov, or you may call me at 587-4700.

Attachment