



**STATE OF HAWAII**  
**STATE PROCUREMENT OFFICE**  
P.O. Box 119  
Honolulu, Hawaii 96810-0119  
Tel: (808) 587-4700 Fax: (808) 587-4703  
<http://hawaii.gov/spo>

June 29, 2012

PROCUREMENT CIRCULAR NO. 2012-03

TO: Chief of Staff, Office of the Governor  
Chief of Staff, Office of the Lieutenant Governor  
Executive Department Heads  
State Librarian, Hawaii State Public Library System

Chief Procurement Officers (CPOs):  
Department of Education, Superintendent  
University of Hawaii, President  
Office of Hawaiian Affairs, Chairperson of the Board  
Hawaii Health Systems Corporation, Chief Executive Officer  
Judiciary, Administrative Director of the Courts  
Senate, President  
House, Speaker of the House of Representatives

Counties of Hawaii, Kauai, Maui and City & County of Honolulu:  
Executive Branch, Finance Director  
Legislative Branch, Chairperson of the County Council  
Board/Departments of Water Supply, Manager/Chief Engineer  
Honolulu Authority for Rapid Transportation, Executive Director

FROM: Aaron S. Fujioka *Aaron S. Fujioka*

SUBJECT: ACT 173, SLH 2012, (HB No. 2265 HD 2, SD 2, CD1): SECTIONS 1, 3 and 4  
LEGAL AND CONTRACTUAL REMEDIES - HRS Chapter 103D, Part VII

House Bill No. 2265, HD 2, SD 2, CD1 was signed into law as Act 173 by the Governor on June 27, 2012 with an effective date of June 30, 2012. The following are changes to HRS chapter 103D, Part VII, Legal and Contractual Remedies relating to protest, administrative proceedings and judicial review.

SECTION 1 - adds a new section as follows:

"§103D- Procurement statistics. The state procurement office shall keep statistics on solicitations and awards protested under section 103D-701 for the purpose of improving procurement procedures. The statistics shall include information on protests involving inadvertent errors and amounts forfeited from procurement protests."

To implement this mandate, departments/agencies and all CPO jurisdictions shall report protest information by completing form SPO-043, *Report on Procurement Protest* for any protest received from June 30, 2012. Form SPO-043 is available on the SPO homepage at <http://hawaii.gov/spo>; select *SPO Forms* under Toolbox/Quicklinks. Please e-mail completed forms to [state.procurement.office@hawaii.gov](mailto:state.procurement.office@hawaii.gov) no later than ten days after the final outcome of the protest and or appeals, as applicable.

**SECTION 3** - amends HRS §103D-709 on administrative proceedings for review of protest decisions by:

- 1) requiring hearings officers to conduct hearings and issue written decisions “...not later than forty-five days from receipt of the request [protest appeal]...”;
- 2) referencing HRS §91-10 on rules of evidence;
- 3) setting dollar threshold amounts to qualify for a review;
- 4) requiring the aggrieved party to deposit with the Department of Commerce & Consumer Affairs (DCCA) cash or a protest bond to initiate a review; and
- 5) adding a definition for “estimated value of the contract” or “estimated value” to determine dollar threshold amounts.

**SECTION 4** - amends HRS §103D-710 on judicial review proceedings by:

- 1) requiring the hearings officer to transmit the administrative record within ten calendar days of the filing for judicial review;
- 2) requiring the circuit court to complete its review and issue a decision no later than thirty days [calendar] from the filing of an application for judicial review; and
- 3) removing jurisdiction from the circuit court when the court fails to resolve its review by the thirtieth day from the filing of the application, with the result that the hearings officer's decision is upheld.

*Instructions for Legal and Contractual Remedies* along with a flowchart reflecting the amendments is available at <http://hawaii.gov/spo> under the *Reference* menu, click on *Procurement Circulars*. A complete listing of all current Procurement Circulars is also available at this page.

Your staff may contact Donn Tsuruda-Kashiwabara at 586-0565 or e-mail [donna.tsuruda-kashiwabara@hawaii.gov](mailto:donna.tsuruda-kashiwabara@hawaii.gov), if there are any questions, or you may call me at 587-4700.