

PROCUREMENT POLICY BOARD MEETING

December 20, 2007

1:00 pm

Conference Room 410

1151 Punchbowl Street

Honolulu, Hawaii 96813

Members Present

Gregory King, Chair
Russ Saito, Secretary
Leslie Chinen, member
Darryl Bardusch, member
Keith Matsumoto, member
Pamela Torres, member

Excused

Daryle Ann Ho, member

Others

Aaron Fujioka, State Procurement Office
Ruth Yamaguchi, State Procurement Office
Justin Fo, State Procurement Office
Pat Ohara, Office of the Attorney General
Ross Tsukenjo, Office of Senator Donna Mercado Kim
T. E. Thomason, Alston Hunt Floyd & Ing
Nathan Higashida, Grainger Industrial

Agenda Item I - Call to Order

Chair Greg King called the meeting to order at 1:02 p.m.

Agenda Item II - Minutes

Mr. Darryl Bardusch made a motion, seconded by Ms. Pamela Torres, to approve the minutes of the November 15, 2007 meeting.

The motion was unanimously carried.

Agenda Item III

Mr. Aaron Fujioka presented copies to the board members of the University of Hawaii's response on mandatory training and said he is awaiting responses from the other jurisdictions.

A discussion followed whereby Mr. Bardusch suggested identifying 3 levels of employees or categories for training, i.e. 1. small purchase, pCard; 2. professional level and 3. executive-management level, and then for these various levels, determine what would be mandatory training from the current training courses and what would need to be developed.

Mr. Keith Matsumoto suggested the highest positions of authority begin the mandatory training and then move down to the various levels of authority for their training. The discussion continued on the various steps needed to accomplish the mandatory training.

Mr. Bardusch made a motion, seconded by Ms. Pamela Torres, to have the SPO create 3 categories of procurement employees, identify which of the existing procurement training classes are relevant to each of the 3 categories, and recommend which classes should be mandatory. The motion was unanimously carried.

Agenda Item IV

Mr. Fujioka reported to the board that SPO is in discussion with DAGS, Audit Division and is currently reviewing and discussing options utilizing the information in the SPO contract database, i.e. Procurement Violations (approximately 50 per year); Requests for Exemptions that are disapproved (following up on what the requesting agency does as a result of the disapproval); and the PRS (reviewing the consistency of reporting categories properly).

SPO will discuss with the DAGS, Accounting Division to determine if it has any concerns or sees any patterns in issuing audit slips.

Mr. Saito questioned whether SPO is taking into consideration activity based audits and random audits and how they would be worked into the recommendations.

Mr. Saito made a motion, seconded by Mr. Bardusch to keep random audit as a policy when the SPO updates the board on its audit recommendation. The motion was unanimously carried.

Agenda Item V

Mr. Fujioka said SPO has not received a reply to the letter. Mr. Matsumoto wanted to know if that meant HPI would not be preparing the proposed rules.

Chair King requested Mr. Terry Thomason to reply. Mr. Thomason indicated that Agenda Item VI is what HPI provided to the board.

Agenda Item VI

Mr. Matsumoto requested background information – did SBUC define emerging industries for small business. Chair King replied not yet. Mr. Matsumoto's concern is that emerging industries should be defined before the rules.

Mr. Fujioka apprised the board that SPO would be submitting its comments and recommendations on the small business rules for the board to consider at its next board meeting in January because the item was not included in the agenda for today's meeting. However, since a memo dated December 20, 2007 regarding the small business rules had been completed by SPO, Mr. Fujioka distributed it to the PPB members for information, explaining the memo was not for discussion or consideration today, but to allow the PPB members to prepare for the next PPB meeting when the memo will be placed on the agenda for discussion.

Mr. Saito explained that it has been almost 2 years since the law was passed and with this supplemental rule, jurisdictions may implement the small business set asides. He added that any flaws could be worked out later during the public hearing process.

Mr. Thomason stated that he assisted with drafting the initial rules as well as the supplemental rules being considered. He stated he could give a class for 50 minutes to anybody working with these rules and explain the class eligible to compete. Mr. Thomason also objected to the comments by SPO contained in SPO's December 20, 2007 memo, since the public has not had a chance to review them. Ms Ohara reminded Mr. Thomason that it has already been stated on the record that those SPO comments were only distributed to the board members today, not for discussion or consideration, but to allow the board members to prepare for its next meeting when the memo would be placed on the agenda for discussion.

Ms. Torres explained a 50 minute presentation on the rules underscores her concern that the rules were difficult to follow and was hoping to receive more information. Ms. Torres requested more time to discuss and review the rules because she did not feel comfortable passing out something that may have flaws.

Mr. Saito clarified that he did not mean to convey that the rules were an inferior product. He further explained that he felt it is a practical implementation of the law. Mr. Bardusch also felt that by delaying the adoption of the rules it would only be hurting small business, whereas passing the rules may help at least 1 or 2 small businesses.

Mr. Thomason explained that the supplemental rules were provided at the request of the board and that delaying the rules is hurting small business by not providing preferences. Mr. Thomason requested that if the PPB members do not like these rules, then the PPB should write the rules because he strongly objects to what SPO had previously submitted. He added that he was drafting the rules as a volunteer and delaying and asking for rewrites was not fair to him and his clients.

Ms. Torres thought FAR part 19 would have been edited and presented for the board to review as opposed to what was presented. Mr. Thomason replied that he prepared the rules in the manner it needed to be presented and that DAGS provided the justification.

Mr. Saito made a motion, seconded by Mr. Bardusch to approve the draft as interim rules. Mr. Saito, Mr. Bardusch, Mr. King and Mr. Leslie Chinen voted in favor of the motion. Ms. Torres voted against and Mr. Matsumoto abstained. The motion was carried.

Agenda Item VII

Mr. Fujioka stated that the next board meeting is tentatively scheduled for Thursday, January 17, 2008.

Agenda Item VIII

Mr. Saito made a motion, seconded by Mr. Bardusch, to adjourn the meeting. The motion was unanimously carried. The meeting was adjourned at 3:32 p.m.

Respectfully submitted,

1/11/08
Date

Russ K. Saito
RUSS K. SAITO, Secretary
Procurement Policy Board

Attachment: December 20, 2007 Agenda

PROCUREMENT POLICY BOARD

1151 Punchbowl Street
Conference Room 410
Honolulu, Hawaii 96813

Regular Meeting
December 20, 2007
1:00 pm

AGENDA

- I. Call to Order
- II. Approval of Minutes – Meeting of November 15, 2007
- III. Update on State Procurement Office's survey of mandatory training for procurement officials of all 20 procurement jurisdictions.
- IV. Update on recommended alternatives for an audit policy by the State Procurement Office in consultation with DAGS, Audit Division.
- V. Update on State Procurement Office's letter to Hawaii Procurement Institute requesting the status of the small business rules.
- VI. Submittal by Member Russ Saito, draft rules to supplement the draft DAGS previously submitted to the board.

HAR §3-124-73.1 Implementation of Small Business Preference by
Heads of Purchasing Agencies.
- VII. Announcements
- VIII. Adjournment

Individuals may present testimony on matters on the Procurement Policy Board's agenda when the agenda item is being discussed by the Board. Individuals intending to testify should contact the State Procurement Office at (808) 587-4700 at least 48 hours before the scheduled meeting. Written testimonies will be accepted through e-mail at procurement.policy.board@hawaii.gov or faxed to (808) 587-4703 until 1:00 pm, December 18, 2007. Testimonies received after the December 18, 2007 deadline will be forwarded to the board after the December 20, 2007 meeting. Individuals submitting written testimony at the meeting and would like the written testimony distributed to the board at this meeting, are requested to provide 12 copies.

Individuals requiring special assistance or services may call (808) 587-4700 by 1:00 p.m., December 17, 2007 to discuss accommodation arrangements.