

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Amendments to Chapter 3-122
Hawaii Administrative Rules

June 15, 2016

Historical Note: This amendment of section 3-122-14, and repeal of section 3-122-66, Hawaii Administrative Rules, replaces interim rules effective 10/31/2014 (file no. 3120 and 3122) which expired on 05/10/2016.

1. Section 3-122-14, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-14 Exempted items. Purchasing agencies are granted the authority to prepare specifications for goods, services, and construction procured under sections 103D-102 and 103D-304, HRS. However, all public employees are responsible for adhering to remaining ethical considerations in public procurement, as guided by section 103D-101, HRS, and section 3-131-1.02, HAR." [Eff 12/15/95; comp 11/17/97; comp 03/21/2008; am **AUG 21 2016**] (Auth: HRS §§103D-202, 103D-403) (Imp: HRS §§103D-102, 103D-304, 103D-403)

2. Section 3-122-66, Hawaii Administrative Rules, is repealed.

~~["§3-122-66 Waiver to requirement for procurement of professional services. (a) If the names of less than three qualified persons are submitted pursuant to section 103D-304(g), HRS, the head of the purchasing may determine that:~~

- ~~(1) Negotiations under section 103D-04(h), HRS, may be conducted provided that:~~
 - ~~(A) The prices submitted are fair and reasonable; and~~
 - ~~(B) Other perspective offerors had reasonable opportunity to respond; or there is not adequate time to resolicit~~

~~through public notice statements of qualifications and expressions of interest;~~

- ~~(2) The offers may be rejected pursuant to subchapter 11 and new statements of qualifications and expressions of interest may be solicited if the conditions in paragraph (1) (A) and (B) are not met;~~
- ~~(3) The proposed procurement may be cancelled; or~~
- ~~(4) An alternative procurement method may be conducted to include but not be limited to direct negotiations with other potential offerors if the head of the purchasing agency determines in writing that the need for the service continues, but that either the price of the offers received are not fair and reasonable or that the qualifications of the offerors are not adequate to meet the procurement needs, and there is no time for resolicitation, or resolicitation would likely be futile.~~

~~(b) If no names are submitted pursuant to section 103D-304(g), HRS, the head of the purchasing may determine that for a given request it is neither practicable nor advantageous for the State to procure a service by again soliciting statements of qualifications and expressions of interest.~~

- ~~(1) When making this determination, consideration shall be given to the competition in the marketplace cost of preparing, soliciting, and evaluating responses is expected to exceed the benefits normally associated with the solicitations;~~
- ~~(2) In the event of this determination, a more cost effective procurement method may be selected, to include but not to be limited to direct negotiations.~~

~~(c) Documentation of the alternative procurement method selected shall:~~

- ~~(1) State the reasons for selection and length of contract period;~~
- ~~(2) Receive written approval of the chief~~

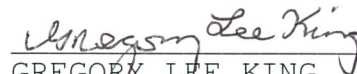
~~procurement officer or a designee; and~~
~~(3) Be made a part of the contract file upon~~
~~award by the procurement officer."] [Eff~~
~~12/15/95; am and comp 11/17/97; am and comp~~
~~6/19/99; am and comp 6/9/01; am and comp~~
~~11/15/01; am and comp 11/8/02; am and comp~~
~~8/24/09; am 5/17/12; R~~ **AUG 21 2016**]

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

4. Additions to update source notes to reflect these amendments are not underscored.

5. These amendments to chapter 3-122, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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 June 15, 2016, by the Procurement Policy Board, and filed with the office of the Lieutenant Governor.


GREGORY LEE KING
Chairperson
Procurement Policy Board


DOUGLAS G. MURDOCK
State Comptroller

APPROVED AS TO FORM:


Deputy Attorney General

