

PROCUREMENT POLICY BOARD MEETING

February 7, 1995

2:00 p.m.

Comptroller's Conference Room  
1151 Punchbowl Street, Room 410  
Honolulu, Hawaii 96813

Members Present

Haruo Shigezawa, Chairman  
Timothy Johnson, Vice Chairman  
Eugene Imai, Member  
Bill Gray, Member  
Robert Oyama, Member

Others

Lloyd Unebasami, Interim Administrator  
Robert Governs, State Procurement Office  
Doris Lee, State Procurement Office  
Justin Fo, State Procurement Office  
Grant Turner, State Procurement Office  
Kay Fujimoto, State Procurement Office  
Steve Miwa, State Public Works Division  
Warren Sato, State Public Works Division  
Eric Tom, DOE Procurement Office  
Gwen Won, University of Hawaii  
Jack Rosenzweig, Attorney General's Office  
H. Murray Hohns, Consultant

**Call to Order**

The meeting was called to order at 2:00 p.m. by Chairman Haruo Shigezawa.

**Minutes**

Motion

A motion was made by Mr. Tim Johnson, seconded by Mr. Bill Gray, to approve the minutes of the meeting held on January 10, 1995.

AYES:           Mr. Haruo Shigezawa  
                  Mr. Timothy Johnson  
                  Mr. Eugene Imai  
                  Mr. Bill Gray  
                  Mr. Robert Oyama

NAYES: None

The minutes were approved as distributed.

### **New Business**

Election of Board Secretary. Chairman Shigezawa recommended that Mr. Eugene Imai serve as the Secretary. Mr. Bill Gray moved that Mr. Imai be elected as Secretary; the motion was seconded by Mr. Tim Johnson.

AYES: Mr. Haruo Shigezawa  
Mr. Timothy Johnson  
Mr. Eugene Imai  
Mr. Bill Gray  
Mr. Robert Oyama

NAYES: None

Mr. Eugene Imai was unanimously elected as Secretary.

### Review and Approval of Amendments to Interim Rules.

Chapter 3-125, Modifications and Terminations of Contracts. Chairman Shigezawa introduced Messrs. Jack Rosenzweig, Supervising Deputy Attorney General, and H. Murray Hohns, consultant. Both gentlemen have been meeting regularly with the staff of the Public Works Division to review and revise the interim rules relating to the general conditions for construction contracts. Mr. Rosenzweig explained that the working group's main focus was to clear up inconsistencies and ambiguities in the existing interim rules relating to the general conditions in contracts to protect the State's interests, as well as being fair to the contractors. He stated that the comments and suggestions made in the proposed revised rules could also be used for goods and services.

Mr. Tim Johnson inquired about existing construction contracts and how they compared with the group's recommendations. Mr. Hohns replied that the Department of Transportation, as an example, tends to update its general conditions more often than many of the other state departments because of its interface with the federal highways administration.

Chairman Shigezawa stated that the Board will take the working group's recommendations under advisement. The comments and recommendations, as outlined in a memorandum dated February 6, 1995, will be reviewed by staff and placed on the agenda at a future date.

Mr. Hohns offered additional assistance to the Board and asked whether there are any other areas that the Board would like for him and Mr. Rosenzweig to review and comment on; e.g., professional services. Mr. Lloyd Unebasami reported that he is already

working with the staff of the Attorney General's Office regarding the procurement of professional services and will be making a report shortly.

There being no further questions, the Chairman thanked Messrs. Rosenzweig and Hohns and the working group for their comments and recommendations.

Mr. Robert Governs was asked to lead the discussion on the remaining proposed revisions to the rules. Mr. Governs explained that the rules have been reformatted to comply with statutory requirements in preparation for the public hearings and are presented in the revised format.

Chapter 3-120, General Provisions. Definitions were added for "Administrator" and "Chief Procurement Officer."

Chapter 3-121, Procurement Organization. Forms were removed from the rules and will be issued by procurement directives. Also included provisions for the Administrator to issue forms.

Chapter 3-122, Source Selection and Contract Formation. Section 3-122-1. Definitions were added from Chapter 3-120 to comply with Chapter 91 requirements. The list of professional services has been removed from the rules; it will be issued by a procurement directive.

Section 3-122-3. Subsection (b) is added to allow the procurement officer the flexibility to negotiate a contract while preparing a bid; provisions are included to ensure other methods of source selection are also considered.

Section 3-122-13. Subparagraphs (3) through (5) were clarified.

Section 3-122-22. Subsection (m)(2) was revised to be in agreement with the IFB and RFP public disclosure rule.

Section 3-122-26. Mandatory pre-bid conference attendance was deleted from this section.

Section 3-122-27. A technical change was made in subsection (d), the word "issued" replaced the word "sent."

Section 3-122-30. Added corporation counsel to paragraphs (1) and (2).

Section 3-122-33. Paragraph (h) was revised to allow the procurement officer to negotiate a reduced scope and also added a reference if only one bid is received.

Section 3-122-35. Revised to clarify the process and added consideration of other methods of source selection.

Section 3-122-47. Revised to be in agreement with the IFB legal ad requirements.

Section 3-122-53. Clarified the application of numerical rating systems.

Section 3-122-60. Revised to clarify the process.

Section 3-122-62. Revised to issue professional list by a procurement directive.

Section 3-122-66. Word changed in subparagraph (b)(1)--"or" changed to "and."

Section 3-122-68. Subsection (e) was added to open lists and award after contract is signed.

Section 3-122-69. Revised to conform with IFB and RFP process.

Section 3-122-73. Revised wording.

Section 3-122-81. Changed word "regulation" to "rule."

Section 3-122-83. Deleted word "calendar" in subparagraph (5).

Section 3-122-88. Clarified the application for procurement made under emergency conditions. For consistency, Mr. Bill Gray recommended that the second sentence in section 3-122-77 be also amended to read: "When three quotations are required but are not obtained i.e., insufficient sources, emergency and sole sources, the reason shall be recorded and placed in the procurement file."

Section 3-122-102. Clarified fund certification if there is no direct expenditure.

Section 3-122-108. Subsection (b) questionnaire to be provided by the Policy Board.

Section 3-122-126. Subsection (a) certificate to be issued by the Policy Board.

Sections 3-122-128 and 3-122-129. Provided examples of specific elements of cost in section 3-122-128 and reversed sections to agree with the subchapter title.

Section 3-122-211. Changed "contracts" to "purchases" since purchase orders are also used.

Section 3-122-223. Changed to provide for federal funding and allows the procurement officer to establish time allowed for bid security increases.

(3:28 p.m. Mr. Eugene Imai was excused from meeting.)

(3:33 p.m. Mr. Lloyd Unebasami was excused from meeting.)

Surety Performance Bond form has been revised. Staff recommended that the approval of this form be deferred until the Board members can be briefed by the Deputy Attorney General on the amended language contained in the form.

Chapter 3-124, Preferences.

Section 3-124-1. Clarified paragraph.

Section 3-124-3. Removed the application from the rules; allows the Administrator to issue forms. Also allows the Administrator to request an audit, if necessary.

Section 3-124-4. Rewritten for clarification.

Section 3-124-5. Technical change made.

Sections 3-124-6 and 3-124-7. Removed forms from rules.

Section 3-124-17. Provides for the Administrator to send the preference laws of all states to all CPO's.

Section 3-124-21. Clarified application of recycled preference when stated in solicitation.

Sections 3-124-23 and 3-124-33. Removed forms.

Section 3-124-42. Changed the definition of "Public works project" to exclude the counties.

Chapter 3-128, Governmental Relations and Cooperative Purchasing.

Section 3-128-1. Clarified definitions to include nonprofit; deleted "private procurement unit" and "state private procurement unit."

Section 3-128-2. Corrected reference from Part V to Part VIII.

Section 3-128-9. Corrected references.

In response to Mr. Robert Oyama's inquiry regarding the schedule for the public hearings, Mr. Governs replied that the hearings will probably be held in July, 1995.

Motion

Mr. Robert Oyama moved that the Board approve the revisions to Chapters 3-120, 3-121, 3-122, 3-124, and 3-128 as discussed today, with the deferment of the bond form. The motion was seconded by Mr. Tim Johnson.

AYES:           Mr. Haruo Shigezawa  
                  Mr. Timothy Johnson  
                  Mr. Bill Gray  
                  Mr. Robert Oyama

NAYES:         None

The motion was unanimously carried.

### **Administrator's Report**

Chairman Shigezawa stated that Mr. Unebasami left the meeting to attend a legislative hearing. In his absence, the Chairman announced that Mr. Unebasami was formally appointed by Governor Cayetano as the Administrator of the State Procurement Office, subject to confirmation by the Senate.

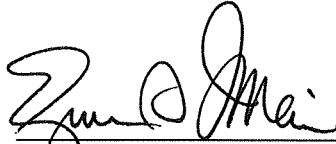
### **Next Meeting**

Chairman Shigezawa announced that the next Procurement Policy Board meeting will be held on Tuesday, March 7, 1995 at 2:00 p.m.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:55 p.m.

Respectfully submitted,



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EUGENE S. IMAI, Secretary  
Procurement Policy Board

MAR - 1 1995

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Date