



JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

BONNIE KAHAKUI  
ADMINISTRATOR

**STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I  
PROCUREMENT POLICY BOARD**

P.O. Box 119  
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**PROCUREMENT POLICY  
BOARD**  
RICHARD HELTZEL  
LANCE INOUE  
LISA MARUYAMA  
KEITH REGAN

**Procurement Policy Board Meeting  
Friday, January 31, 2025, 9:30 a.m.  
Virtual and Physical Location**

**Virtual Meeting Using Interactive Conference Technology – Zoom**

State Procurement Office is inviting you to a scheduled Zoom meeting.

Time: Jan 31, 2025 09:30 AM Hawaii

Join Zoom Meeting

<https://zoom.us/j/99360196075?pwd=aRaQWYpOCjW3JhF9JpwMmU79oBkTTH.1>

Meeting ID: 993 6019 6075

Passcode: 5MwCvg

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One tap mobile

+17193594580,,99360196075#,,,,\*962741# US

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Dial by your location

- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US

Meeting ID: 993 6019 6075

Passcode: 962741

Find your local number: <https://zoom.us/j/99360196075?pwd=aRaQWYpOCjW3JhF9JpwMmU79oBkTTH.1>

### **Physical Location**

Kalanimoku Building, 1151 Punchbowl Street, Room 410, Honolulu, is available to the public and is guaranteed to be connected to the remote virtual meeting.

Pursuant to Hawai'i Revised Statutes section 92.3.7, the Procurement Policy Board will meet remotely using interactive conference technology. The public may either attend the meeting in person, at the physical location noted above, or participate remotely by using the Zoom meeting information noted on page 1 of this agenda. If participating remotely, please mute your phone/device, except while testifying. Remote testifiers will be given the option of being on-camera via the Zoom link in this agenda or similar option for remote testimony.

In the event that audiovisual communication cannot be maintained by all participating board members and quorum is lost, the meeting will automatically be recessed for 30 minutes, during which time an attempt to restore audiovisual communication will be made. If such attempt to restore is unsuccessful within said 30 minutes, all board members, members of the public, staff and other interested individuals shall log on again to the Zoom link on this Notice, whereby audio communication will be established for all participants and the meeting will continue. If reconvening the meeting is not possible because audio and visual communication cannot be re-established, the meeting will be terminated.

### **Contact for Meeting Information/Written Testimony**

To request email notification of meetings, email [procurement.policy.board@hawaii.gov](mailto:procurement.policy.board@hawaii.gov).

We request that testimony be submitted no later than 72 hours prior to the meeting to ensure time for review by Board members. Testimony received after that time will still be considered by the board but might not be distributed to board members until the start of the meeting. Written testimony may be submitted by one of the methods listed below:

- By email to: [procurement.policy.board@hawaii.gov](mailto:procurement.policy.board@hawaii.gov)
- By United States Postal Service to: 1151 Punchbowl Street, Room 416, Honolulu, HI 96813
- By facsimile to: (808) 587-4703

In accordance with Hawai'i Revised Statutes, Chapter 92, all testimony, whether written or oral, should be related to an item that is on the agenda. Written public testimony submitted to the Procurement Policy Board will be treated as public record and any information contained therein may be available for public inspection and copying.

Please include the word "Testimony" and the subject matter following the address line.

Copies of the Board Packet will be available on-line for review at <https://spo.hawaii.gov/procurement-policy-board/procurement-policy-board-meeting-agenda-minutes/>. An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

**If you need an auxiliary aid/service or other accommodation due to a disability, please contact Ruth Baker at (808) 587-4701 or at [ruth.a.baker@hawaii.gov](mailto:ruth.a.baker@hawaii.gov) as soon as possible, preferably by 4:30 p.m. HST, January 28, 2025. If a response is received after January 28, 2025, we will try to obtain the auxiliary aid/service or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request, this notice is available in alternate formats such as large print or electronic copy.**

**Procurement Policy Board Meeting**  
**Agenda**  
**Friday, January 31, 2025, 9:30 a.m.**

- I. **Call to Order, Public Notice**
- II. **Roll Call, Quorum**
- III. **Review and Approval of [June 27, 2024, Meeting Minutes](#)**
- IV. **Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- V. **Election of Officers**
  - A. **Chair, Pursuant to [Hawaii Revised Statutes §103D-201\(e\)](#)**
  - B. **Option to elect Vice Chair and Secretary**
- VI. **State Procurement Office Administrator’s Report**
  - A. **Report on the State Contractor Past Performance Database**
  - B. **Report on SPOCon, Statewide Training Event**

The Administrator will provide a brief report on the State Procurement Office’s procurement training conference, which is called “SPOCon.”
  - C. **Report on State Procurement Office 2025 Legislation**
    1. **[Senate Bill 1306](#) / [House Bill 987](#), RELATING TO PROCUREMENT.**

Description: Establishes a procurement automation system special fund and aligns section 103D-203(b), HRS, with section 302A-1702, HRS, which added the Executive Director of the School Facilities Authority as a chief procurement officer.
    2. **[Senate Bill 1307](#) / [House Bill 988](#), RELATING TO PROCUREMENT.**

Description: Prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror. Authorizes the disclosure of a competing offeror's proposal or evaluation score after a protest is resolved and the contract is executed.
- VII. **Report on Public Hearing on Interim Rules**
- VIII. **Discussion and Possible Approval of Proposed Amendments to Hawaii Administrative Rules, Chapter 3-122 – Source Selection and Contract Formation**

The proposed rules summarized below are included in this agenda packet. They may also be viewed in person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, and at <https://spo.hawaii.gov> as provided in section 91-2.6, Hawaii Revised Statutes.

**1. Subchapter 2 – General Provisions**

- §3-122-3 – Extension of time on contracts. Amend subsection (4)(b) by adding “and provided the prices are fair and reasonable.”
- §3-122-9 – The title is changed from “Use of facsimile machines, electronic mail, or electronic procurement systems” to “Use of electronic communication”. Amend entire section to replace legacy verbiage of “facsimile machine, electronic mail, or electronic procurement systems” with “electronic communication”. Amend subsections (a), (c), and (d)
  - a. Add “and contract documents” as documents transmitted by vendors via electronic communication in subsection (a).
  - b. Replace “invitation for bids or requests for proposals” with “solicitation” in subsection (c). Also, add “(H) Any other requirement in the solicitation” to subsection (c)(2).
  - c. Remove “complete original offer” in subsection (d) as electronically submitted offers with electronic signatures are accepted.
- §3-122-9.01 – Disclosure of information. Amend subsections (a) and (b).
  - a. Replace “The purchase order is issued or the purchasing card order is placed” with “After the time and date set for receipt for quotes” in subsection (a)(1).
  - b. Amend for clarity, consistence, and style and replace “posting of the award pursuant to section 3-122-57 (a)” with “contract execution” in subsection (b).

**2. Subchapter 3 – Specifications**

- §3-122-12 - Duties of the administrator. Amend subsection (b)(1)(A) by removing reference to Presidential Executive Order No. 12873 dated October 20, 1993, because this presidential executive order was revoked in 1998. Amend (b)(2) and (b)(3) for clarity, consistency, and style to allow the administrator of the state procurement more flexibility for specifications.
- §3-122-13 – Development of Specifications. Amend subsection (b)(3) to require procurement officer approval for use of restrictive specifications in small purchases procurement to be documented in the procurement file.

**3. Subchapter 4 – Methods of Source Selection and General Guidance**

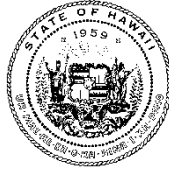
- §3-122-16 – Methods of source selection – Addition of missing source selection methods: “Subchapter 5 – Competitive Sealed Bidding” and “Subchapter 6.5 – Multi-Step Competitive Sealed Bidding”
- §3-122-16.03 – Public notice – Amend subsections (b), (c), and (d).
  - a. Addition of “if any” to subsection (b)(4) and additional of new subsection (b)(7) “A copy of the solicitation may be made available electronically and may be picked up at the respective issuing office.”
  - b. Addition of “include the requested professional class or category and shall” to subsection (c).
  - c. Remove “or provider” in subsection (d)(1).
- §3-122-16.05 – Pre-bid or pre-proposal conference– Amend subsections (a), (b), and (f)
  - a. Amended subsection (a) for clarity, consistency, and style to reflect that pre-offer conferences are optional.
  - b. Removing subsection (b) in its entirety as it has been invalidated by the Department of Commerce and Consumer Affairs (DCCA), Office

of Administrative Hearings (OAH), in *Greenleaf Distribution Services, Inc. v. City and County of Honolulu; PCH-2004-7, September 2, 2004.*

- c. Addition of “including questions and answers” to subsection (f) which will now be read as subsection (e).
    - §3-122-16.06 – Amendment and clarification to solicitation – Remove subsections (c) and (d) in their entirety so there is no confusion and ambiguity on the distribution requirements of an addendum. Also, add “or electronic means” to new subsection (c)(1), previously subsection (e)(1).
    - §3-122-16.07 – Pre-opening modification or withdrawal of offer - Amended for clarity, consistency, and style to reflect that an offeror’s modification may be submitted electronically
    - §3-122-16.08 – Late offer, late withdrawal, and late modification – Amend subsections (a) and (b) for clarity, consistency, and style to remove hard to read language that results in confusion.
- 4. Subchapter 4.5 – Source Selection for Federal Grants**
- §3-122-16.30 - Purpose and §3-122-16.31 – Exception; request for interest – Amended to replace “providers” with “contractors” for clarity, consistency, and style to reflect that providers selected for federal grants are contractors
  - §3-122-16.30 – Purpose – Remove “the appropriate source selection methods” to reference the whole section 3-122-16 for clarity in subsection (b).
  - §3-122-16.31 – Exception; request for interest – Addition of “when applying or after receipt of a grant” in subsection (a).

**IX. Announcements**

**X. Adjournment**



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**PROCUREMENT POLICY  
BOARD**  
RICHARD HELTZEL  
LANCE INOUE  
LISA MARUYAMA  
KEITH REGAN

## Procurement Policy Board

### Minutes of Meeting

Date/Time: Thursday, June 27, 2024, 1:00 p.m.

Locations: Comptroller's Conference Room  
Kalanimoku Building, Room 410  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

Virtual Meeting Using Interactive Conference Technology – Zoom

Members Present: Rick Heltzel  
Lance Inouye  
Lisa Maruyama  
Keith Regan

Department of the  
Attorney General: Stella Kam, Deputy Attorney General

State Procurement  
Office Staff: Bonnie Kahakui, Acting Administrator  
Christopher Amandi  
Ruth Baker (in public conference room)  
Jacob Chang  
Matthew Chow  
Grace Dobbin  
Stacey Kauleinamoku  
Jittima Laurita  
Carey Ann Sasaki  
Alan Yeh

Government Staff  
State: Aldric Ulep, Office of the Lieutenant Governor  
Nietzche Ozawa, Office of Hawaiian Affairs

Guests: Tim Lyons  
Ryan Sakuda

**I. Call to Order, Public Notice**

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 1:06 p.m., held on Zoom and in-person. The meeting was recorded.

**II. Roll Call, Quorum**

Roll call was taken of the Procurement Policy Board members; there was quorum.

The Deputy Attorney General assigned to DAGS and staff of the State Procurement Office (SPO) were introduced.

**III. Public Testimony**

Public testimony was on all items as those items occur during the meeting. There was no oral testimony.

**IV. Consideration and Approval of Minutes of December 4, 2023, Meeting**

The minutes of the December 4, 2023, were reviewed and revised for clarity. Member Regan made a motion to approve the revised minutes. Member Inouye seconded the motion. There was no discussion. The members voted to approve the minutes.

**V. Report on State Procurement Office Initiatives**

A. Update of legislation that affected Hawaii Revised Statutes, Chapter 103D:

- a. [House Bill 2070](#) requires that the protest bond filed by the initiating party be returned to the initiating party, minus administrative costs, if they prevail. However, if the initiating party does not prevail and the Office of Administrative Hearing finds the protests to be frivolous or made in bad faith, the party will forfeit the entire bond.
- b. [House Bill 2499](#) changes the Chief Procurement Officer for the University of Hawaii from the President to the Chief Financial Officer until June 30th, 2028.
- c. [Senate Bill 2536](#) is relating to procurement preferences for accounting services, allows for a 20% reference preference to Hawaii-based companies with a requirement that 80% of the labor be Hawaii residents. This the preference applies to IFBs and RFPs. The SPO/PPB would have to create administrative rules for this.

B. Launch of Contractor Performance Database, pursuant to [Act 188, Session Laws of Hawaii 2021](#)

SPO Administrator Bonnie Kahakui introduced SPO Purchasing Specialist Stacey Kauleinamoku, who provided a report on the Contractor Past Performance Database. Purchasing Specialist Kauleinamoku reported that the SPO implemented and launched the database on the Hawaii Awards & Notices Data System, as well as issued the PPB's approved Interim Past Performance Hawaii Administrative Rules (HARs) before the deadline of December 31, 2023, as mandated by Act 188 in 2021.

The SPO issued guidance on the Past Performance Database via Procurement Circular No. 2024-05, "Guidance on Contractor Past Performance Database," for procuring agencies and

contractors (December 2024) and online training in January 2024. The implemented a new user role called "CP Access" and provided guidance on this through Procurement Circular No. 2024-05, Amendment 2, dated March 2024. A User Guide for the Contractor Performance Database is on the HANDS Help site under User Manuals. To date, six Contractor Performance Forms were posted in their final form on HANDS.

Member Heltzel asked if the SPO received any feedback from those who submitted forms to the Contractor Performance Database and said it would be helpful for the PPB to get feedback from purchasing agencies on issues and how the database being used by purchasing personnel to award a contract. Administrator Kahakui said that while the SPO has not received any feedback at this early stage, it received questions on why it was necessary to complete a past performance and comments that the database did not offer enough data to make an actual evaluation on the vendor. The SPO can conduct a survey to get feedback on the database.

PPB members acknowledge the work that the SPO put into the Contractor Past Performance Database.

- C. Submittal of [Procurement Consolidation Working Group Final Report](#), as required by [Act 282, Session Laws of Hawaii 2022](#)

Administrator Kahakui reported that Act 282, Session Laws of Hawaii 2022, required the State procurement office to create the Procurement Consolidation Working Group made-up of all executive branch departments and the Department of Education. The purpose was to develop a five-year plan to consolidate state procurement under a single umbrella and submit reports to the Legislature in December 2022 and December 2023.

The Working Group was composed of representatives from each department of the Executive Branch and the Department of Education. The tasks included establishing a baseline of employees that conducted procurement and looking at various procurement models used around the nation.

The Procurement Consolidation Working Group decided that would be in the state's best interest to have an interim plan that procurement is best consolidated within each department before trying to consolidate procurement to a central office. Construction would remain in its present state and the Department of Education would not be included in the consolidation efforts.

The Final Procurement Consolidation Working Group Report and a summary of those findings covers critical areas: a strong State Procurement Office to be a better strategic partner, procurement staff as professionals, a strong training and certification program in which the state establishes a rigorous certification program to ensure the staff are knowledgeable and knows how to apply that knowledge, delegation of procurement authority program, and procurement automation that will enhance efficiency. The State Procurement Office currently is in contract with Periscope for a new eProcurement system, which includes an eMarketplace and contracts that are available to all participating jurisdictions.

Note that the hyperlink to the report is included in these minutes.

- D. Status of Small Business Initiative, pursuant to [Act 168, Session Laws of Hawaii 2022](#)

Purchasing Specialist Kauleinamoku reported that the Small Business Initiative established by Act 168 in 2022 is very similar to Act 42 from 2017 that created a three-year small business office, but unfortunately that initiative did not receive funding to continue. Solutions Pacific has a contracts to run this current small business initiative established by Act 168 (2022), the SPO



received a proposal from Solutions Pacific, which worked on the previous small business initiative, to again run the small business office. To date, Solutions Pacific created an awareness marketing plan, an oversight plan, and baseline surveys sent to small businesses, advocates, and the procurement workforce for communication engagement activities. Women-, veteran-, and Native Hawaiian-owned small businesses have registered in SPO's eProcurement system.

Solutions Pacific has assisted the SPO in the development of Small Business Administration rules that SPO will present to the PPB and is working on a draft of the annual report of recommendations and progress of the Small Business Initiative.

Member Heltzel asked about the goal for this effort. Administrator Kahakui responded that there is a statute for a 20% set-aside for small business, but there are no rules.

Chair Maruyama asked about the status of the eProcurement System. Administrator Kahakui stated that the system is in its first phase, in which the eMarketplace is being tested by a pilot team.

#### **VI. Review and Possible Approval of Proposed Amendments to Hawaii Administrative Rules § 3-122 – Source Selection and Contract Formation**

The proposed amendment is to add to Subchapter 1 – Definitions - §3-122-1 – the definition “Non-disclosure agreement (NDA)”: “Non-disclosure agreement (NDA)” means legally enforceable agreements between parties to ensure that certain information will remain confidential.

Written testimony: None  
Oral testimony: None

Administrator Kahakui commented that the HAR Section 3-122 has not been updated for a while and proposed to address that in small increments.

Purchasing Specialist Carey Ann Sasaki presented the proposed amendment and explained that adding the definition for “Non-disclosure agreement” (NDA) is recommended to be added for housekeeping purposes and to provide clarity. The definition of “Non-disclosure agreement” means “A legally enforceable agreement between parties to ensure that certain information will remain confidential.”

She explained that the evaluation, review, and selection committee members are required to sign an attestation that they will not disclose any information about the solicitation before it is released to the general public, or any vendors' proposals or bids. The transmission or revelation of information to unauthorized persons could subject the committee member to prosecution under the Hawaii State Ethics Code, HRS section 84-12, Confidential Information. At times, the committee's support staff, including additional subject matter experts, are given access to the solicitation, proposals, and evaluation criteria. The support staff should also be held to the same confidentiality standards because any unauthorized disclosure of source selection or proprietary information could damage the integrity of a procurement. In HRS 103D-101, one of the requirements of ethical public procurement is to “maintain confidentiality in a manner that ensures a fair procurement process.”

As a result, the SPO wishes to add the term “Non-disclosure agreement” (NDA) in sections pertaining to evaluation, review and selection committees, where the procurement officer may require participants to sign an NDA prior to reviewing any information.

Currently, the SPO has a Source Selection Non-Disclosure Agreement (Form SPO-046) for internal use. If this NDA definition is approved and added to HAR 3-122-1, the SPO may provide this NDA form as a sample document, or an NDA template form may be created for other agencies to use.

Member Inouye asked for the reason this language is being proposed. Deputy Attorney General Stella Kam that the NDA applies to situations such as RFPs, in which the proposals contain ideas and concepts that should be kept confidential by the evaluation committee and staff until a contract is signed. Administrator Kahakui said that this is a best practice to require NDA of committee members to prevent leaking information that would give a competitor an unfair advantage.

Chair Maruyama opened the floor to questions; there were none.

Member Heltzel made a motion and Member Inouye seconded the motion to approve the addition of the "Non-disclosure agreement" definition to Hawaii Administrative Rules 3-122 – Source Selection and Contract Formation. The members voted unanimously to approve the addition of the definition.

### **VIII. Announcements**

#### A. Board Vacancies, pursuant to [Hawaii Revised Statutes 103D-201 b\(3\)](#)

Administrator Kahakui reported that Chair Maruyama's term will end June 30th, 2024, but she can be a holdover. The term of Diane Nakagawa ended when she was appointed the Director of Finance and Chief Procurement Officer for the County of Hawaii. The statute does not allow Chief Procurement Officers to serve on the PPB. The SPO has been in contact with possible replacements for the county representative. The PPB can continue to meet with a quorum of three.

The Procurement Policy Board members thanked Member Maruyama in her role as Chair and Member Diane Nakagawa for their dedicated service to the Board. Member Maruyama will continue as a holdover. Board elections to select a new chair, vice chair, and secretary will be on the next agenda.

#### B. Next Meeting

The members will be polled for the next meeting of the Procurement Policy Board.

There were no additional announcements.

### **VIII. Adjournment**

Since there was no new business, Member Keith Regan moved to adjourn the meeting; Member Heltzel seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 2:17 p.m.

Respectfully submitted,

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Lisa Maruyama  
Chair, Procurement Policy Board

## PART II. PROCUREMENT ORGANIZATION

**§103D-201 Creation and membership of the procurement policy board.** (a) There is hereby created an autonomous state procurement policy board. The policy board shall be assigned, for administrative purposes only, to the department of accounting and general services.

(b) The policy board shall consist of five members. Notwithstanding the limitations of section 78-4, the members of the board shall include:

- (1) The comptroller;
- (2) Two members appointed by the governor; provided that one member shall have five years of high-level construction procurement experience and one member shall have five years of high-level county procurement experience;
- (3) One member appointed by the president of the senate; provided that the member shall have five years of general procurement experience; and
- (4) One member appointed by the speaker of the house of representatives; provided that the member shall have five years of general procurement experience.

Each appointed member shall have demonstrated sufficient business or professional experience to discharge the functions of the policy board. Except as provided in this section, the policy board members shall be subject to the requirements of section 26-34. No member of the policy board shall act concurrently as a chief procurement officer. The members of the policy board shall devote such time to their duties as may be necessary for the proper discharge thereof.

(c) The policy board shall be assisted by employees of the department of accounting and general services, which shall provide at least one full-time support staff and funding necessary to support the policy board.

(d) Members of the policy board shall be reimbursed for any expenses, including travel expenses, reasonably incurred in the performance of their duties.

(e) The chairperson of the policy board shall be elected annually by a majority of its members from among all of its members; provided that the state comptroller shall not be eligible to serve as the chairperson. [L Sp 1993, c 8, pt of §2; am L 1997, c 190, §4 and c 352, §4; am L 1999, c 149, §13; am L 2002, c 148, §7; am L 2022, c 173, §2]

**S.B. NO. 1306**

JAN 23 2025

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**A BILL FOR AN ACT**

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RELATING TO PROCUREMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that it is necessary for  
2 the State to investigate and employ new and innovative ways of  
3 maintaining and improving state services and infrastructure,  
4 while ensuring the prudent and cost-effective expenditure of  
5 public moneys.

6           In 2022, the legislature authorized a procurement  
7 automation system for the executive branch and state agencies.  
8 This procurement automation system increases efficiency, saves  
9 personnel time, maintains consistency, mitigates confusion for  
10 both the buyer and contractor, and produces accurate purchasing  
11 data to leverage economies of scale. The legislature also  
12 authorized the state procurement office to implement a  
13 transaction fee imposed upon vendors using the procurement  
14 automation system beginning in fiscal year 2021-2022. This fee  
15 is intended to pay for the management of the procurement  
16 automation system, including but not limited to implementation,  
17 legacy transition, maintenance, system training, and system  
18 configuration. This fee is estimated to save the state

**S.B. NO. 1306**

1 approximately \$1.2 million in general funds each year and will  
2 assist with funding the growth and enhancement of the  
3 procurement automation system.

4 While the legislature authorized the implementation of the  
5 procurement automation system and a transaction fee collected  
6 from vendors using the system, it stopped short of authorizing a  
7 state procurement automation system special fund to hold the  
8 transaction fee. Until a special fund is authorized and  
9 established, the fees are being held in trust by the vendor who  
10 developed the procurement automation system; the state  
11 procurement office does not have direct control of the fees.  
12 The establishment of a special fund would direct that all fees  
13 received by the state procurement office pursuant to section  
14 103D-206(7), Hawaii Revised Statutes, shall be deposited into  
15 the state procurement automation system special fund to be  
16 administered by the state procurement office for the  
17 implementation and configuration of the procurement automation  
18 system's Marketplace and eProcurement system, as well as its  
19 maintenance, enhancement, and expansion of additional modules to  
20 remain relevant and current with industry standards for the  
21 benefit of all stakeholders statewide.

S.B. NO. 1306

1           In 2020, the legislature established the school facilities  
2 agency through section 302A-1702, Hawaii Revised Statutes, under  
3 Act 72, Session Laws of Hawaii 2020, and mandated that the  
4 executive director of the school facilities authority serve as  
5 its chief procurement officer. The amendment to section 103D-  
6 203, Hawaii Revised Statutes, is a housekeeping measure that  
7 adds the school facilities authority executive director as a  
8 chief procurement officer.

9           The purposes of this Act are to enhance procurement  
10 accountability by:

- 11           (1) Establishing the state procurement automation system  
12           special fund to receive the transaction fees from the  
13           procurement automation system to pay for its  
14           administration, management, operation, maintenance,  
15           and upgrade of the procurement automation system; and  
16           (2) Aligning section 103D-203(a), Hawaii Revised Statutes,  
17           with section 302A-1702, Hawaii Revised Statutes, by  
18           adding the school facilities authority executive  
19           director as a chief procurement officer.

20           SECTION 2. Chapter 103D, Hawaii Revised Statutes, is  
21 amended by adding to part II a new section to be appropriately  
22 designated and to read as follows:

S.B. NO. 1306

1        "§103D- State procurement automation system special  
2 fund; transaction fee. (a) There is established in the state  
3 treasury the state procurement automation system special fund to  
4 be administered by the state procurement office and into which  
5 shall be deposited:

6        (1) Vendor-collected transaction fees, pursuant to section  
7        103D-206(7), for administration, management,  
8        operation, maintenance, and upgrade of the procurement  
9        automation system; and

10       (2) Appropriations made by the legislature to the special  
11       fund.

12       (b) The state procurement automation special fund shall be  
13 expended by the state procurement administrator for the purposes  
14 of the administration, management, operation, maintenance, and  
15 upgrade of the procurement automation system."

16       SECTION 3. Section 103D-203, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18       "(a) The chief procurement officer for each of the  
19 following state entities shall be:

20       (1) The judiciary--the administrative director of the  
21 courts;

22       (2) The senate--the president of the senate;

S.B. NO. 1306

- 1           (3)    The house of representatives--the speaker of the house  
2                   of representatives;
- 3           (4)    The office of Hawaiian affairs--the chairperson of the  
4                   board;
- 5           (5)    The University of Hawaii--the chief financial officer  
6                   of the University of Hawaii;
- 7           (6)    The department of education, excluding the Hawaii  
8                   public library system--the superintendent of  
9                   education;
- 10          (7)    The Hawaii health systems corporation--the chief  
11                   executive officer of the Hawaii health systems  
12                   corporation; [~~and~~]
- 13          (8)    The school facilities authority--the executive  
14                   director of the school facilities authority; and
- 15          [~~(8)~~] (9)   The remaining departments of the executive  
16                   branch of the State and all governmental bodies  
17                   administratively attached to them--the administrator  
18                   of the state procurement office of the department of  
19                   accounting and general services."

20           SECTION 4. Statutory material to be repealed is bracketed  
21   and stricken. New statutory material is underscored.




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1 SECTION 5. This Act shall take effect upon its approval;  
2 provided that the amendments made to section 103D-203(a), Hawaii  
3 Revised Statutes, by this Act shall not be repealed when section  
4 103D-203(a), Hawaii Revised Statutes, is reenacted on June 30,  
5 2028, pursuant to Section 16 of Act 8, Special Session Laws of  
6 Hawaii 2021, as amended by section 3 of Act 111, Session Laws of  
7 Hawaii 2024.

8

9

INTRODUCED BY:



10

BY REQUEST

S.B. NO. 1306

**Report Title:**

State Procurement Automation Special Fund; Chief Procurement Officers; School Facilities Authority

**Description:**

Establishes a procurement automation system special fund and aligns section 103D-203(b), HRS, with section 302A-1702, HRS, which added the Executive Director of the School Facilities Authority as a chief procurement officer.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To establish a State Procurement Automation System Special Fund and make a housekeeping amendment to section 103D-203, Hawaii Revised Statutes (HRS).

MEANS: Add a new section to part II of chapter 103D, HRS; and amend section 103D-203(a), HRS.

JUSTIFICATION: Fees and revenues collected from the procurement automation system will be placed under the control of the State of Hawaii rather than being held in trust by a vendor.

In 2022, the Legislature authorized the procurement automation system and authorized the State Procurement Office to implement a transaction fee on vendors beginning in fiscal year 2021-2022 to pay for the administration of a procurement automation system. However, the Legislature did not authorize a procurement automation special fund into which to deposit the transaction fees collected. Until a special fund is established, the vendor contracted to implement the procurement automation system collects the fees and holds the funds in trust for the State. The establishment of a special fund would ensure that these fees are deposited into a special fund that will be administered by the State Procurement Office.

Section 302A-1702, HRS, under Act 72, Session Laws of Hawaii 2020, created the School Facilities Authority and mandated that its Executive Director serve as its chief procurement officer. This housekeeping amendment adds the School Facilities Authority Executive Director to

the list of chief procurement officers in section 103D-203(a), HRS.

Impact on the public: The State Procurement Office will have oversight and control of the procurement automation system special fund and will be able to provide metrics and accounting. It is estimated that the fund translates into a cost-savings of more than \$1 million of taxpayer dollars.

The amendment to section 103D-203(a), HRS, is for housekeeping purposes and provides the public with clarity regarding chief procurement officers.

Impact on the department and other agencies: Proper management of the funds and the program to ensure its growth and accountability.

Provides clarity on the chief procurement officers in section 103D-203(a), HRS.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	
OTHER AFFECTED AGENCIES:	All State agencies.
EFFECTIVE DATE:	Upon approval.

S.B. NO. 1307

JAN 23 2025

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A BILL FOR AN ACT

RELATING TO PROCUREMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 103D-303, Hawaii Revised Statutes, is  
2 amended by amending subsection (h) to read as follows:

3 "(h) In cases of awards made under this section, non-  
4 selected offerors may submit a written request for debriefing to  
5 the procurement officer within three working days after the  
6 posting of the award of the contract. Thereafter, the  
7 procurement officer shall provide the non-selected offeror a  
8 prompt debriefing[-], but shall not disclose any competing  
9 offeror's proposal or evaluation scores, except the summary of  
10 scores, until after any protest is resolved and the contract is  
11 executed. Any protest by the non-selected offeror pursuant to  
12 section 103D-701 following debriefing shall be filed in writing  
13 with the procurement officer within five working days after the  
14 date upon which the debriefing is completed."

15 SECTION 2. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

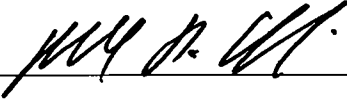
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1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: 

6

BY REQUEST

S.B. NO. 1307

**Report Title:**

Hawaii Public Procurement Code; Protest; Debriefing; Disclosure of Competing Proposals

**Description:**

Prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror. Authorizes the disclosure of a competing offeror's proposal or evaluation score after a protest is resolved and the contract is executed.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO PROCUREMENT.

PURPOSE: To provide clear guidance to purchasing agencies on what shall not be disclosed at a debriefing in order to maintain integrity and confidentiality in a manner that ensures a fair procurement process.

MEANS: Amend section 103D-303(h), Hawaii Revised Statutes (HRS).

JUSTIFICATION: While maintaining confidentiality in procurement is a requirement included in section 103D-101, HRS, the addition of wording to section 103D-303, Competitive sealed proposals, will provide clear guidance to both purchasing agencies and vendors on what shall not be disclosed at a debriefing.

Impact on the public: Maintaining integrity and confidentiality in the procurement process also maintains the public's trust in the procurement process and the method of determining how taxpayer dollars are spent.

Impact on the department and other agencies: Purchasing agencies will have clear guidance in section 103D-303, HRS.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION:

OTHER AFFECTED AGENCIES: All state and county agencies.

EFFECTIVE DATE: Upon approval.



DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
Amendments to Chapter 3-122

Interim  
Hawaii Administrative Rules

January 31, 2025

Historical Note: This amendment of Chapter 3-122, Hawaii Administrative Rules:

1. Replaces rules effective 03/21/2008 (file no. 2802) which compiled Chapter 122.
2. Replaces rules effective 08/21/2016 (file no. 3193) which amended section 3-122-14; and repealed section 3-122-66.

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

"§3-122-3 Extension of time on contracts. (a) If a contract has exhausted its provision for extension(s) of time of performance, or if the contract does not include a provision for extension(s) of time of performance, the contract may be extended upon approval of the chief procurement officer, provided:

- (1) The period of each extension is for one hundred eighty calendar days or less;
- (2) The procurement officer makes a written determination that it is not practical to award another contract at the time of the expiration of the contract for reasons to include but not be limited to the following:
  - (A) A new contract cannot be executed by the time the contract expires; or
  - (B) The need for the good or service is short term;
- (3) All parties agree to the extension of time of performance; and
- (4) The price(s) or conditions of the contract

remain the same as the original contract, or as amended per the contract; or if not the same or as amended, they are fair and reasonable.

(b) If paragraph (2) of subsection (a) is met, but paragraph (3) or (4) of subsection (a) or both are not met and the procurement officer determines in writing that the need for the good or service continues, provided subchapters 8, 9, and 10 do not apply, the chief procurement officer, may upon request in writing, approve an alternative procurement method, including but not limited to direct negotiations with a party other than the contractor, subject to the maximum one hundred eighty calendar day contract period, and provided the prices are fair and reasonable.

(c) This section shall not apply to adjustments in performance time under chapter 3-125." [Eff 12/15/95; am and comp 11/17/97; comp 03/21/2008; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-202)

2. §3-122-9, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-9 Use of [facsimile machines, electronic mail, or electronic procurement systems] electronic communication. (a) Copies of documents transmitted by vendors via [~~facsimile machine, electronic mail, or an electronic procurement system~~] electronic communication may include the notice of intent to offer; the offer with required documentation for evaluation purposes; and modifications or withdrawal of offers and contract documents, pursuant to subsections (b) and (c).

(b) Notices of intent to submit an offer and modifications or withdrawal of an offer may be submitted [~~by facsimile machine, electronic mail, or an electronic procurement system~~] electronically pursuant to sections 3-122-111 and 3-122-16.07, respectively.

(c) An offer transmitted [~~via facsimile machine, electronic mail, or through an electronic procurement system~~] electronically shall be acceptable only when specifically allowed in the [~~invitation for bids or request for proposals~~] solicitation, provided:

- (1) The [~~facsimile or the~~] electronically submitted offer is received at the designated office by the time and date set for receipt of offers; and
- (2) The [~~facsimile or the~~] electronically submitted offer contains:
  - (A) The identification number of the [~~invitation for bids or request for proposals~~] solicitation;
  - (B) The item;
  - (C) The quantity;
  - (D) The price for the offer;
  - (E) All pages of the offer, including pages requiring [an original] a signature;
  - (F) The bid bond, if required; and
  - (G) A signed statement that the offeror agrees to all the terms, conditions, and provisions of the [~~invitation for bids or request for proposals~~] solicitation; and
  - (H) Any other requirement in the solicitation.

(d) Unless otherwise specified in the solicitation, if the [~~facsimile or~~] electronically submitted offer is the lowest responsive bid, or is the proposal determined in writing to provide the best value to the State, the offeror must submit the [~~complete original offer, with the~~] original bid bond, if required, so that it is received within five working days from the notification of intent to award. If the offeror fails to comply with this requirement, the procurement officer has the option to reject the [~~facsimile or~~] electronically submitted offer." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp 03/21/08; am and comp ]

(Auth: HRS §§103D-202, 103D-302, 103D-303, 103D-310)  
 (Imp: HRS §§103D-302, 103D-303, 103D-310)

3. §3-122-9.01, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-9.01 Disclosure of information. (a) A purchasing agency is not required to disclose information identifying the number or the names of organizations or persons that obtained a solicitation, attended a pre-offeror's conference, or submitted a notice of intent to offer; or an offer until:

- (1) [~~The purchase order is issued or the purchasing card order is placed~~] After the time and date set for receipt for quotes, in the case of a small purchase request for quotations pursuant to subchapter 8;
- (2) After the time and date set for receipt of priced bids, in the case of invitation for bids pursuant to subchapters 5 and 6.5; and
- (3) The posting of the award in the case of a request for proposals pursuant to subchapter 6.

(b) A purchasing agency shall not disclose the [~~name~~]names of [~~members of an~~]the evaluation committee members established by section 3-122-45.01 prior to the [~~posting of the award pursuant to section 3-122-57(a)~~]contract execution for multi-step bids and competitive sealed proposals.

(c) In the case of procurement of professional services, a purchasing agency is not required to disclose the information specified in section 3-122-63(b) until after the contract is awarded." [Eff and comp 11/17/97; am and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-202)

4. §3-122-12, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-12 Duties of the administrator. (a) The administrator of the state procurement office shall serve as the central procurement officer to coordinate, guide, and distribute specifications used by purchasing agencies, including specifications on

recycled products and the guidelines for purchasing energy-efficient vehicles. This effort will allow for the use of standard specifications by purchasing agencies on purchases for common or general use items or standard commercial products or energy-efficient vehicles.

(b) The administrator of the state procurement office shall review and establish purchase specifications to guide state and county purchasing agencies in the procurement of recycled products.

- (1) The specifications shall:
  - (A) Be consistent with applicable current federal specification standards on recycled products [~~incorporated in Presidential Executive Orders No. 12873, dated October 20, 1993, and any subsequent amendments to that order~~];
  - (B) Include minimum standards of recovered material and post-consumer content; and
  - (C) Ensure, to the maximum extent economically feasible, the purchase of materials which may be recycled or reused when discarded and avoid the purchase of products deemed environmentally harmful.
- (2) The administrator [~~shall~~] may periodically review its specifications to determine whether discrimination against procured goods with recycled content exists and [~~shall~~] may revise these specifications to eliminate any discrimination.
- (3) Purchase specifications [~~shall~~] may include, but not be limited to, office paper, printed material, paper products, paper, glass-by-products, plastic products, mulch and soil amendments, tires, batteries, oil, paving materials and base, subbase, and pervious backfill materials. Paving materials to be considered [~~shall~~] may include, but are not limited to, asphalt, tires, crushed concrete for base, subbase, and paving materials. The standards and specifications shall

provide for the use of recycled materials and shall not reduce the quality standards for any product or construction.

(c) Pursuant to section 103D-412, HRS, the procurement policy for all agencies purchasing or leasing motor vehicles shall be to obtain energy-efficient vehicles in accordance with the guidelines established by the department of business, economic development and tourism." [Eff 12/15/95; comp 11/17/97; am and comp 03/21/08; am and comp ] Auth: HRS §§103D-202, 103D-401) (Imp: HRS §§103D-401, 103D-412)

5. §3-122-13, Hawaii Administrative Rules, is amended to read as follows:

- "§3-122-13 Development of specifications. (a) A specification should provide for the following:
- (1) Identify minimum requirements;
  - (2) Allow for competition;
  - (3) List reproducible test methods to be used in testing for compliance with specifications; and
  - (4) Provide for an equitable award at the best value.
- (b) Types of specifications include the following, and may be used in combination when developing the specification:
- (1) Design specification sets the requirements for the product, detailing the characteristics that the item must possess, how the item is to be manufactured;
  - (2) Performance specifications describes the capabilities that the product must meet, use of test or criteria are developed to measure the item's ability to perform as required;
  - (3) Brand name specification commonly referred to as restrictive specifications, may be used upon approval of the chief procurement officer after the purchasing agency makes a written determination that only the

identified brand name item will satisfy the State's needs, and it is not practicable to use a less restrictive specification, provided that procurements pursuant to section 103D-305, HRS, [~~do not require~~]require approval by the procurement officer and shall be placed in the procurement file;

- (4) Brand name or equal specification cites one or more brand names, model numbers, or other designations that identify the specific products as having the characteristics of the item desired; and
- (5) Qualified or pre-approved products list is a list of goods, services, or construction items, which, prior to the opening of the competitive solicitation, are examined, tested, and determined to meet the applicable specification requirements.

(c) To the extent practicable, the State may procure standard commercial products using accepted commercial specifications. Specifications shall emphasize functional or performance criteria. Design or other detailed physical descriptions may be used when necessary to meet the needs of the State. Specifications shall not discriminate against the use of recycled materials; and when purchasing or leasing motor vehicles; specifications shall be developed in compliance with section 103D-412, HRS, as follows:

- (1) Agencies are directed to the acquisition of motor vehicle guidelines established by the department of business, economic development and tourism. When acquiring new vehicles, agencies shall determine its motor vehicle fleet as defined by these guidelines; and
- (2) Motor vehicle fleets determined to be outside of the "covered fleet" definition, shall obtain energy-efficient vehicles in order to increase energy efficiency and use of renewable energy resources pursuant to section 103D-412(b), HRS, and further defined in the guidelines established by the

department of business, economic development and tourism.

(d) The using agency shall submit advice and assistance in the development of specifications or plans pursuant to a request from the purchasing officer.

(e) A contractor paid for services to develop or prepare specifications or work statements shall be precluded from submitting an offer or receiving a contract for that particular solicitation.

f) Specifications prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive. [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp \_\_\_\_\_] (Auth: HRS §§103D-202, 103D-401, 103D-402) (Imp: HRS §§103D-401, 103D-404, 103D-405, 103D-406, 103D-412)

6. §3-122-16, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-16 Methods of source selection. Unless authorized by law, all contracts shall be awarded by [~~competitive sealed bidding pursuant to subchapters 5 and 6.5, except as provided in~~] the following methods:

- (1) Subchapter 4.5 - Source selection for federal grants;
- (2) Subchapter 5 - Competitive Sealed Bidding;
- ~~[(2)]~~ (3) Subchapter 6 - Competitive sealed proposals;
- (4) Subchapter 6.5 - Multi-step Competitive Sealed Bidding;
- ~~[(3)]~~ (5) Subchapter 7 - Professional services procurement;
- ~~[(4)]~~ (6) Subchapter 8 - Small purchases;
- ~~[(5)]~~ (7) Subchapter 9 - Sole source procurements; and
- ~~[(6)]~~ (8) Subchapter 10 - Emergency procurements." [Eff 12/15/95; comp 11/17/97;



am and comp 03/21/08; am and comp  
] (Auth: HRS §103D-202) (Imp: HRS §103D-  
301)

7. §3-122-16.03, Hawaii Administrative Rules,  
is amended to read as follows:

"§3-122-16.03 Public notice. (a) Public notice  
of the solicitation pursuant to subchapter 4.5, 5, 6,  
6.5, or 7 shall be made for the purpose of securing  
competition.

(b) The public notice of the solicitation  
pursuant to subchapters 4.5, 5, 6, and 6.5 shall  
include the following information:

- (1) A brief description of the good, service, or  
construction desired; or for solicitations  
seeking providers for federal grant  
contracts, the title of the grant  
application or funding source and a brief  
description of the services being sought;
- (2) Where and when the solicitation will be  
available~~[and a phone number or e-mail  
address where interested parties may request  
a copy];~~
- (3) ~~[How long the solicitation will be  
available, i.e., the]~~The deadline for the  
responses to the solicitation;
- (4) Other appropriate information, e.g., ~~[a  
notice of intention to offer pursuant to  
section 3-122-111 or]~~ contact information,  
the time, date, and location of the pre-bid  
or pre-proposal conference, if any;
- (5) For request for interest pursuant to section  
3-122-16.31, a statement that the purpose of  
the request is to select a provider or  
providers for federal grants; and
- (6) For a multi-step invitation for bids  
pursuant to subchapter 6.5, a general  
statement that the bid is multi-step and the  
due date(s) of the unpriced technical offer  
and priced offer.

(7) A copy of the solicitation [~~shall~~] may be made available [for public inspection and pick up] electronically and may be picked up at the respective issuing office [of the procurement officer issuing the solicitation].

(c) Public notice for professional services pursuant to section 103D-304, HRS, and subchapter 7 shall include the requested professional class or category and shall invite persons to submit statements of qualifications that [may include but not be limited to]includes:

- (1) The name of the firm or person, the principal place of business, and location of all of its offices;
- (2) The age of the firm and its average number of employees over the past years;
- (3) The education, training, and qualifications of key members of the firm;
- (4) The names and phone numbers of up to five clients who may be contacted, including at least two for whom services were rendered during the preceding year; and
- (5) Any promotional or descriptive literature which the firm desires to submit.

Firms or persons may amend statements of qualifications at any time by filing a new statement and shall immediately inform the head of the purchasing agency of any change in their submission that would disqualify the firm or person from being considered for a contract award.

(d) The public notice under subsections (b) and (c) shall be publicized as follows:

- (1) At a minimum, statewide and countywide public notices shall be publicized on a purchasing agency [~~or provider~~] internet site;
- (2) Optionally, and in addition to paragraph (1), the following may be used:
  - (A) Newspaper publication:
    - (i) For statewide publication, a daily or weekly publication of statewide circulation; or separate daily or

- weekly publications whose combined circulation is statewide;
- (ii) For countywide publication, a daily or weekly publication in the pertinent county;
- (B) Notice by mail [~~, electronic mail, or facsimile transmission~~] or electronically to persons on any applicable bidders mailing list, if any; and
- (C) Any other method the procurement officer deems effective for publicizing the solicitation." [Eff and comp 03/21/08; am and comp ]  
(Auth: HRS §§103D-202, 103D-302, 103D-303, 103D-304) (Imp: HRS §§103D-302, 103D-303, 103D-304)

8. §3-122-16.05, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-16.05 Pre-bid or pre-proposal conference. (a) The purpose of a pre-bid or pre-proposal conference is to explain the procurement requirements and allow potential offerors to ask questions.

- (1) An agency may hold a pre-bid or pre-proposal conference [~~and require or not require attendance by all prospective bidders as a condition for submitting an offer for solicitations that have special or unusual requirements, e.g., requiring physical inspection~~].
- (2) For construction, including design-build projects, pursuant to section 103D-303.5, HRS, an agency [~~shall~~] may hold a pre-bid or pre-proposal conference and invite all interested parties to attend.

~~[(b) If conference attendance is mandatory for submission of an offer, the requirement:~~

- ~~(1) Shall be stated in the public notice issued~~

~~pursuant to section 3-122-16.03; and~~  
~~(2) Prominently in the solicitation or if the decision to hold a mandatory pre-bid or pre-proposal conference is made after the issuance of the solicitation, the mandatory requirement shall be announced in an addendum.]~~

~~[(e)]~~ (b) A pre-bid or pre-proposal conference shall be announced ~~[to all prospective offerors]~~ in the public notice issued pursuant to section 3-122-16.03 and in the solicitation, or if the decision to hold a pre-bid or pre-proposal conference is made after the issuance of the solicitation, the conference shall be announced in an addendum.

~~[(d)]~~ (c) The conference should be held long enough after the solicitation has been issued to allow offerors to become familiar with the solicitation, but sufficiently before the deadline for receipt of offers to allow consideration of the conference results in preparing their offers.

~~[(e)]~~ (d) Unless a change is made by written addendum as provided in section 3-122-16.06, nothing stated at the pre-bid or pre-proposal conference shall change the solicitation.

~~[(f)]~~ (e) A summary of the conference, including questions and answers, in addition to any changes to the solicitation, ~~[shall]~~ may be issued by addendum ~~[and shall be supplied sufficiently]~~ before the deadline for receipt of offers ~~[to allow consideration of the summary results and changes to all those prospective offerors known to have received a solicitation]."~~ [Eff and comp 03/21/08; am and comp ] (Auth: HRS §§103D-202, 103D-303.5) (Imp: HRS §§103D-302, 103D-303.5)

9. §3-122-16.06, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-16.06 Amendment and clarification to solicitation. (a) An addendum shall be issued for amendments and clarifications to a solicitation prior

to submission of offers, except as provided in subsection ~~[(f)]~~ (d).

- (1) Amendments include any material changes to the solicitation as in quantity, purchase descriptions, delivery schedules, scope of work, and opening dates. The addendum shall reference the portions of the solicitation it amends and detail the amendments;
  - (2) Clarifications include pre-bid or pre-proposal communications other than amendments.
- (b) Addenda shall be used to:
- (1) Correct minor defects or ambiguities;
  - (2) Furnish to other offerors information given to one offeror if the information will assist the other offerors in submitting offers or if the lack of the information would prejudice the other offerors; and
  - (3) Provide any other information or clarification to the solicitation that will result in fair competition.

~~[(e) Addenda may require that offerors acknowledge receipt of the addendum issued.~~

~~— (d) Addenda shall be issued to all prospective offerors known to have received a solicitation, or if issued after the deadline for submission of notice of intention to offer, to those persons who have submitted such notice.]~~

~~[(e)]~~ (c) Addenda for:

- (1) Amendments shall be ~~[distributed]~~ published within a reasonable time to allow prospective offerors to consider them in preparing their offers; however, if the time and date set for receipt of bids will not permit adequate time for preparation, the time shall be increased to the extent possible in the addendum or, if necessary, by facsimile or telephone or electronic means and confirmed in the addendum;
- (2) Clarifications may be issued any time up to the scheduled deadline for receipt of offers.

~~[(f)]~~ (d) After submission of proposals, amendments may be made by addenda for solicitations pursuant to subchapters 6 and 6.5, subject to sections 3-122-53(d) and (e) and 3-122-54(b).” [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

10. §3-122-16.07, Hawaii Administrative Rules, is amended to read as follows:

“§3-122-16.07 Pre-opening modification or withdrawal of offer. (a) ~~[Bids or proposals]~~ Offers submitted pursuant to subchapters 5, 6, and 6.5 may be modified or withdrawn prior to the established due date by submitting the following ~~[documents]~~:

- (1) ~~[Modification]~~ For modification of ~~[bids or proposals]~~ the offer:
  - (A) A written notice accompanying the ~~[actual]~~ offeror's modification received in the office designated in the solicitation, stating that a modification to the ~~[bid or proposal]~~ offer is submitted; or
  - (B) ~~[A facsimile or]~~ An electronic notice accompanying the ~~[actual]~~ offeror's modification submitted ~~[either by facsimile machine, electronic mail, or an electronic procurement system]~~ electronically pursuant to section 3-122-9 to the office designated in the solicitation; provided if other than through an electronic system, offeror submits the actual written notice and modification within two working days of receipt of the facsimile or the electronic transmittal.
- (2) Withdrawal of bids or proposals:
  - (A) A written notice received in the office designated in the solicitation; or
  - (B) A notice ~~[by facsimile machine or other electronic]~~ submitted ~~[electronic]~~

electronically ~~[method]~~ pursuant to section 3-122-9~~[, to the office designated in the solicitation]~~.

For the purposes of this section and section 3-122-16.08, the established due date for proposals pursuant to subchapter 6 or 6.5 is either the time and date announced for receipt of proposals or as amended ~~[receipt of modifications to proposals]~~, if any; or if discussions have begun, it is the time and date by which best and final offers must be submitted, provided that only priority listed offerors may submit best and final offers.

(b) The documents shall be made a part of the ~~[appropriate]~~ procurement file." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

11. §3-122-16.08, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-16.08 Late offer, late withdrawal, and late modification. (a) Any ~~[notice of withdrawal, notice of modification of a bid or proposal with the actual modification, or any bid or proposal is late when received at the place designated for receipt and opening of an offer after the established due date, additionally defined in section 3-122-16.06(a),]~~ offer, withdrawal and modification submitted by hand delivery, mail, or electronically after the established due date, shall not be accepted, except when received before contract award and would have been timely but for the action or inaction of personnel, and supported by a written determination by the head of the purchasing agency ~~[within the procurement activity]~~.

(b) A late bid or proposal or late modification will not be considered for award and shall be returned to the offeror unopened as soon as practicable, accompanied by a letter from the ~~[procurement activity]~~ purchasing agency stating the reason for its return.

(c) A late withdrawal request except as provided for in section 3-122-31, shall be responded to with a statement of the reason for non-acceptance of the withdrawal.

(d) Records of each late offer, late modification, or late withdrawal and any related correspondence shall be made a part of the appropriate procurement file, except for the late offer or late modification itself which shall be disposed of in accordance with subsection (b)." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

12. §3-122-16.30, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-16.30 Purpose. (a) The purpose of this subchapter is to provide rules for the selection of [~~providers~~]contractors for federal grants.

(b) The selection of [~~providers~~]contractors for federal grants shall be in accordance with [~~the appropriate source selection methods in~~] section 3-122-16." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-301)

13. §3-122-16.31, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-16.31 Exception; request for interest for federal grants. (a) "Request for interest" as used in this subchapter means all documents utilized for soliciting interest in providing goods, services, or construction under a federal grant, when applying or after receipt of a grant.

(b) Where time or economic situations preclude the use of other source selection methods in section 3-122-16, purchasing agencies may, with the approval of the head of purchasing agency, issue a request for interest to select a [~~provider or providers~~]contractor(s) for a federal grant.



(c) A public notice shall be publicized pursuant to section 3-122-16.03(d) and shall include but not be limited to the information in section 3-122-16.03(b).

(d) The request for interest may include but not be limited to the following:

- (1) Identification and purpose of the federal funding;
- (2) The target population [~~or clients~~] to be served;
- (3) A description of the good, service, or construction;
- (4) The evaluation criteria and their relative weights for selecting a [~~provider or providers~~] contractor(s);
- (5) The format, if any, and procedure for submitting responses to the request;
- (6) The deadline for submittal of written responses to the request which shall be a minimum of five working days from the date of public notice;
- (7) A statement that the purchasing agency reserves the right to incorporate or not incorporate in the State's application for federal grants any recommendations presented in response to the request; and
- (8) A statement that neither the purchasing agency nor the interested [~~provider~~] contractor has any obligation under the request.

(e) The selection of a [~~provider or providers~~] contractor(s) shall be based on the criteria established in the request for interest.

(f) A notice of the selected [~~provider or providers~~] contractor(s) shall be posted to a state governmental website [~~or~~] and all respondents shall be notified in writing.

(g) Nothing in this section shall be construed to disqualify a purchasing agency from receiving federal funds." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-202)

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

2. Additions to update source notes to reflect these amendments and compilation are not underscored.

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

I certify that the forgoing 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 January 31, 2025, by the Procurement Policy Board and filed with the Office of the Lieutenant Governor.

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LISA MARUYAMA  
Chairperson  
Procurement Policy Board

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KEITH REGAN  
State Comptroller

APPROVED AS TO FORM:

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Deputy Attorney General