



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

**STATE OF HAWAII'Ī | KA MOKU'ĀINA O HAWAII'Ī
PROCUREMENT POLICY BOARD**

P.O. Box 119
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<http://spo.hawaii.gov>

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

**Procurement Policy Board Meeting
Friday, February 14, 2025, 9:30 a.m. (HST)
Virtual and Physical Location**

Virtual Meeting Using Interactive Conference Technology – Zoom

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

Topic: Procurement Policy Board

Time: Feb 14, 2025 09:30 AM Hawaii

Join Zoom Meeting

<https://zoom.us/j/91445124376?pwd=w2VpAt8yIQrMffXpVzmUFqdlbxTPw7.1>

Meeting ID: 914 4512 4376

Passcode: yn3tth

One tap mobile

+13462487799,,91445124376#,,,,*326974# US (Houston)

+16694449171,,91445124376#,,,,*326974# US

Dial by your location

- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 6833 US (San Jose)
- +1 719 359 4580 US
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 929 436 2866 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +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

Meeting ID: 914 4512 4376

Passcode: 326974

Find your local number: <https://zoom.us/u/awtTJwp2x>

Physical Location

Bid Room of the State Procurement Office, Kalanimoku Building, 1151 Punchbowl Street, Room 416, 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 successful 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.

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
- 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 as soon as possible, preferably by 4:30 p.m. HST, February 12, 2025. If a response is received after February 12, 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, February 14, 2025, 9:30 a.m. (HST)

- I. **Call to Order, Public Notice**
- II. **Roll Call, Quorum**
- III. **Review and Approval of January 31, 2025, Meeting Minutes**
- IV. **Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- V. **Administrator’s Presentation on 2025 Legislation Related to Procurement (For Information Only)**

The State Procurement Office Administrator responds to the Procurement Policy Board’s request for a list of 2025 legislation related to procurement or affect Chapter 103D – Hawaii Procurement Code, or Chapter 103F – Purchases of Human Services, Hawaii Revised Statutes. Those bills are as follows:

Bill Number	Companion Bill Number	Bill Title	Bill Description
<u>House Bill No. 163</u>	<u>Senate Bill No. 341</u>	RELATING TO REIMBURSEMENT OF PUBLIC OFFICERS AND EMPLOYEES.	Requires the State or a county to reimburse an officer or employee within thirty calendar days of a request for reimbursement for travel costs that the officer or employee loaned to the State or a county. Requires the State or a county to pay a percentage of interest on the total amount owed to an officer or employee until the loan is fully reimbursed.
<u>House Bill No. 212</u>		RELATING TO HOMELESSNESS.	Requires the Statewide Office on Homelessness and Housing Solutions to establish a permanent Return-to-Home program to return homeless individuals in the State to families and relatives in their home states.
<u>House Bill No. 381</u>		RELATING TO PROCUREMENT.	Increases the procurement thresholds for small purchases.
<u>House Bill No. 412</u>		RELATING TO LOBBYING.	Establishes certain presumptions regarding testimony when provided by a lobbyist. Makes certain contracts voidable when entered into in violation of the state lobbying law. Expands the definition of "lobbying" in the state lobbying law to include certain communications with high-level government officials regarding procurement decisions

<u>House Bill No. 431</u>		RELATING TO HOUSING.	Appropriates funds for the Kauhale Initiative. Establishes and appropriates funds into and out of the Supportive Housing Special Fund. Effective 6/29/3000. ()
<u>House Bill No. 723</u>		RELATING TO PROCUREMENT.	Mandates state agencies to prioritize purchasing from local vendors whenever feasible. Allows state agencies to split contracts across multiple local vendors to enhance participation and competitiveness. Specifies when contracts may be awarded to multiple vendors.
<u>House Bill No. 787</u>	<u>Senate Bill No. 1016</u>	RELATING TO DECARBONIZATION.	Requires the Hawai'i Climate Change Mitigation and Adaption Commission to study the feasibility of implementing a "buy clean" decarbonization policy and program in Hawai'i. Requires administrative and substantive support from the Department of Land and Natural Resources. Appropriates moneys.
<u>House Bill No. 808</u>		RELATING TO THE PROCUREMENT CODE.	Requires public contractors to obtain insurance to cover at least half of a project's construction costs to the State to provide funds for curing construction defects discovered within ten years after the completion of the contract.
<u>House Bill No. 809</u>		RELATING TO PROCUREMENT.	Allows bidders to clarify or correct immaterial or technical information required as part of a bid submission for up to twenty-four hours after the bid submission deadline. Requires that bids for construction be opened no sooner than twenty-four hours after the deadline for the submission of bids. Defines "immaterial or technical information". Repeals 6/30/2027. Note: Will require amendment to/adoption of rules by Procurement Policy Board
<u>House Bill No. 812</u>		RELATING TO AGRICULTURE.	Requires a contract for the purchase of local produce having a value of more than \$250 to be for a term of at least 5 years.
<u>House Bill No. 894</u>		RELATING TO GOVERNMENT.	Requires the Procurement Policy Board to adopt rules to issue prequalification certificates to prospective contractors for public buildings or other public works.
<u>House Bill No. 987</u>	<u>Senate Bill No. 1306</u>	RELATING TO PROCUREMENT.	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.
<u>House Bill No. 988</u>	<u>Senate Bill No. 1307</u>	RELATING TO PROCUREMENT.	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.

<u>House Bill No. 1155</u>	<u>Senate Bill No.</u>	RELATING TO PROCUREMENT.	Exempts from the Hawai'i Public Procurement Code contracts by government bodies to procure certain construction projects.
<u>House Bill No. 1187</u>		RELATING TO PROCUREMENT.	Phases in a ban on state departments administratively attached and agencies from purchasing imported flowers and lei.
<u>House Bill No. 1218</u>		RELATING TO HOMELESSNESS.	Establishes and appropriates moneys for a return-to-home program within the Department of Human Services to provide travel expenses and relocation assistance for eligible persons who wish to return to their home states. Requires the Department to develop and implement a public information campaign related to the State's residency requirements and return-to-home program.
<u>House Bill No. 1292</u>	<u>Senate Bill No. 1234</u>	RELATING TO GOVERNMENTAL EFFICIENCY.	Authorizes Executive and Administrative Departments and Agencies to enter into intergovernmental and partnership agreements with private sector entities, nonprofit organizations, and other governmental bodies. Requires annual report to the Legislature.
<u>House Bill No. 1293</u>	<u>Senate Bill No. 1548</u>	RELATING TO DEPARTMENT OF EDUCATION PROCUREMENT.	Exempts Department of Education purchases of local edible produce and packaged food products less than a certain amount from the electronic procurement system requirement. Requires at least three written quotes for Department of Education purchases of local edible produce and packaged food products between certain amounts. Requires at least two written quotes for Department of Education purchases of local edible produce and packaged food products between certain amounts for certain schools in rural communities. Sunsets 6/30/2028.
<u>House Bill No. 1297</u>		RELATING TO PROCUREMENT.	Sets time limit for submitting bid protests. Makes 75 day limit for written decision on protest apply to any contract awarded by competitive sealed bid or competitive sealed proposal. Caps the protest bond amount. Deletes the requirement of an administrative hearing office finding that an appeal is frivolous or in bad faith before the protest bond is forfeited to the State by the non-prevailing party.
<u>House Bill No. 1414</u>		RELATING TO PROCUREMENT.	For procurements conducted by competitive sealed bidding, authorizes the head of a procurement agency to award a contract to a bidder who is not the lowest responsible and responsive bidder if the head of the procuring agency determines that the award is most beneficial to taxpayers or otherwise in the best interests of the State.

<u>House Bill No. 1421</u>	<u>Senate Bill No. 1512</u>	RELATING TO FINANCING.	Establishes and appropriates funds for a cesspool conversion on-bill financing program to be administered by the Hawai'i Green Infrastructure Authority to provide low-interest loans to eligible homeowners for the upgrade, conversion, or connection of cesspools.
<u>Senate Bill No. 131</u>		RELATING TO PROCUREMENT.	Requires the Procurement Policy Board to adopt rules requiring contracts to impose mandatory fines or provide for termination of a contract for default if a contractor fails to perform the contractor's duties or if there is a major delay in a deliverable.
<u>Senate Bill No. 254</u>		RELATING TO PROCUREMENT.	Increases the procurement thresholds for small purchases.
<u>Senate Bill No. 341</u>	<u>House Bill No. 163</u>	RELATING TO REIMBURSEMENT OF PUBLIC OFFICERS AND EMPLOYEES.	Requires the State or a county to reimburse an officer or employee within thirty calendar days of a request for reimbursement for travel costs that the officer or employee loaned to the State or a county. Requires the State or a county to pay a percentage of interest on the total amount owed to an officer or employee until the loan is fully reimbursed.
<u>Senate Bill No. 360</u>		RELATING TO HOMELESSNESS.	Requires the Statewide Office on Homelessness and Housing Solutions to establish a permanent Return-to-Home program to return homeless individuals in the State to families and relatives in their home states. Requires the Office to report to the Legislature. Appropriates funds.
<u>Senate Bill No. 382</u>		RELATING TO PROCUREMENT.	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 any protest is resolved and the contract is executed.
<u>Senate Bill No. 383</u>		RELATING TO SMALL PURCHASES.	Increases the minimum amount for purchases constituting small purchase procurements from \$25,000 to \$50,000. Requires a report to the Legislature.

<p><u>Senate Bill No. 418</u></p>		<p>RELATING TO REGULATORY SUNSET REVIEW IN HAWAII.</p>	<p>Establishes a regulatory review program overseen by the Department of the Attorney General to evaluate all Hawai'i Administrative Rules adopted by state agencies and identify any rules that should be retained, modified or repealed. Requires each state agency to review 20 per cent of their rules every year and submit a report to the Department of the Attorney General. Automatically repeals administrative rules at the end of each 5-year review cycle for any state agency that fails to comply, unless the review cycle is extended by the Legislature. Requires the Department of the Attorney General to notify the Governor and Legislature of any noncompliance by a state agency, adopt rules, submit annual reports to the Legislature and Governor. Appropriates funds.</p>
<p><u>Senate Bill No. 462</u></p>		<p>RELATING TO PROCUREMENT CONTRACTS.</p>	<p>Requires all performance incentive contracts to specify a pricing basis, performance goals, and a formula in calculating the contractor's profit, fees, or price decrease if the specified performance goals are exceeded or not met. Allows moneys remaining in the contract budget after project completion to be divided between the State and contractor if the contractor has met or exceeded all performance goals specified in the contract.</p>
<p><u>Senate Bill No. 586</u></p>		<p>RELATING TO CLIMATE CHANGE.</p>	<p>Requires the state and counties to upgrade to zero emission buses by 2045. Note: Original version of bill will require the Procurement Policy Board to adopt rules related to procurement of electric vehicles.</p>
<p><u>Senate Bill No. 615</u></p>		<p>RELATING TO PROCUREMENT.</p>	<p>Requires that any procurement change order that increases the contract cost by more than fifty per cent or substantially increases the scope of work be considered a new contract for procurement purposes.</p>
<p><u>Senate Bill No. 645</u></p>		<p>RELATING TO VACANT STATE POSITIONS.</p>	<p>Requires that state public service positions vacant for longer than 2 years be removed from the state budget.</p>
<p><u>Senate Bill No. 659</u></p>		<p>RELATING TO THE DEPARTMENT OF EDUCATION.</p>	<p>Exempts from the electronic procurement system the Department of Education's purchase of fresh local agricultural products and local value-added processed, agricultural, or food products not exceeding \$100,000, subject to certain requirements. Requires the Department of Education to establish guidelines for determining a geographic preference for locally sourced products.</p>

<p><u>Senate Bill No. 809</u></p>		<p>RELATING TO CAMPAIGN CONTRIBUTIONS.</p>	<p>Prohibits state or county grantees, officers and immediate family members of state or county contractors, and officers and immediate family members of state or county grantees, from contributing to candidate committees and noncandidate committees for the duration of the contract. Prohibits state or county grantees from knowingly soliciting any contributions. Requires candidates, candidate committees, and noncandidate committees to return any unlawful contribution to the contributor within 30 calendar days of receipt. Provides that an unlawful contribution shall escheat to the Hawai'i Election Campaign Fund if it is not returned to the contributor within 30 calendar days. Requires disclosures of the names of any owners, officers and immediate family members of a state or county contractor or grantee.</p>
<p><u>Senate Bill No. 858</u></p>		<p>RELATING TO PROCUREMENT.</p>	<p>Replaces the five per cent bid preference for bidders for a public works contract with an estimated value of \$250,000 or more, who is a party to an apprenticeship agreement registered with the Department of Labor and Industrial Relations with a five per cent earned credit that can be applied to certain future public works contract bids for a duration of three years after the chief procurement officer issues the earned credit certificate. Authorizes purchasing agencies to audit and have full access to the books and records of contractors or subcontractors relating to the contractor's compliance with requirements of the earned credit bid preference. Requires contractors and subcontractors to maintain relevant records for three years. Requires the contractor to submit reports as required by the Chief Procurement Officer.</p>
<p><u>Senate Bill No. 1016</u></p>	<p><u>House Bill No. 787</u></p>	<p>RELATING TO DECARBONIZATION.</p>	<p>Requires the Hawai'i Climate Change Mitigation and Adaption Commission to study the feasibility of implementing a "buy clean" decarbonization policy and program in Hawai'i. Requires administrative and substantive support from the Department of Land and Natural Resources. Appropriates moneys.</p>
<p><u>Senate Bill No. 1057</u></p>		<p>RELATING TO PROCUREMENT.</p>	<p>Clarifies that the bid incentive given to bidders for public works construction projects who are parties to an apprenticeship agreement is based on apprenticeable trades utilized, rather than employed, to construct the public works.</p>

<p><u>Senate Bill No. 1121</u></p>		<p>RELATING TO TRANSPORTATION.</p>	<p>Beginning 1/1/2027, establishes a preference in the Hawai'i Public Procurement Code that favors bids or offers from businesses that intend to use a higher proportion of all-electric construction vehicles in Department of Transportation construction projects.</p> <p>Note: Will require adoption of rules by the Procurement Policy Board.</p>
<p><u>Senate Bill No. 1175</u></p>		<p>RELATING TO PROCUREMENT.</p>	<p>Adds state contractor's performance assessment to information required to be included in the past performance database maintained by the State Procurement Office.</p> <p>Note: Will require amendment to/adoption of rules by Procurement Policy Board</p>
<p><u>Senate Bill No. 1234</u></p>	<p><u>House Bill No. 1292</u></p>	<p>RELATING TO GOVERNMENTAL EFFICIENCY.</p>	<p>Authorizes Executive and Administrative Departments and Agencies to enter into intergovernmental and partnership agreements with private sector entities, nonprofit organizations, and other governmental bodies. Requires annual report to the Legislature.</p>
<p><u>Senate Bill No. 1255</u></p>		<p>RELATING TO GOVERNMENT RECORDS.</p>	<p>Clarifies that government records subject to disclosure requirements under the Uniform Information Practices Act include information that is created, received, maintained, or used by private contractors in performance of a government function outsourcing contract. Establishes requirements for parties to government function outsourcing contracts. Establishes civil penalties. Requires reports to the Legislature. Allows the Office of Information Practices to conduct inquiries regarding compliance by a private contractor and investigate possible violations.</p>
<p><u>Senate Bill No. 1306</u></p>	<p><u>House Bill No. 987</u></p>	<p>RELATING TO PROCUREMENT.</p>	<p>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.</p>
<p><u>Senate Bill No. 1307</u></p>	<p><u>House Bill No. 988</u></p>	<p>RELATING TO PROCUREMENT.</p>	<p>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.</p>
<p><u>Senate Bill No. 1474</u></p>	<p><u>House Bill No. 1155</u></p>	<p>RELATING TO PROCUREMENT.</p>	<p>Exempts from the Hawai'i Public Procurement Code contracts by government bodies to procure certain construction projects.</p>

<p><u>Senate Bill No. 1507</u></p>		<p>RELATING TO GAMING.</p>	<p>Establishes the Hawai'i Lottery and Gaming Corporation for the purpose of conducting and regulating wagering and gaming in the State. Establishes the Lottery and Gaming Special Fund and allocates certain percentages of the fund to various community betterment purposes.</p>
<p><u>Senate Bill No. 1512</u></p>	<p><u>House Bill No. 1421</u></p>	<p>RELATING TO FINANCING.</p>	<p>Establishes and appropriates funds for a cesspool conversion on-bill financing program to be administered by the Hawai'i Green Infrastructure Authority to provide low-interest loans to eligible homeowners for the upgrade, conversion, or connection of cesspools.</p>
<p><u>Senate Bill No. 1543</u></p>		<p>RELATING TO GOVERNMENT ACCOUNTABILITY.</p>	<p>Requires each purchasing agency to provide justification for hiring external consultants.</p>
<p><u>Senate Bill No. 1548</u></p>	<p><u>House Bill No. 1293</u></p>	<p>RELATING TO DEPARTMENT OF EDUCATION PROCUREMENT.</p>	<p>Exempts Department of Education purchases of local edible produce and packaged food products less than a certain amount from the electronic procurement system requirement. Requires at least three written quotes for Department of Education purchases of local edible produce and packaged food products between certain amounts. Requires at least two written quotes for Department of Education purchases of local edible produce and packaged food products between certain amounts for certain schools in rural communities. Sunsets 6/30/2028.</p>
<p><u>Senate Bill No. 1567</u></p>		<p>RELATING TO THE CLASSIFICATION AND COMPENSATION SYSTEMS.</p>	<p>Requires the Department of Human Resources Development to complete a comprehensive review of the classification and compensation systems for all positions within the State's executive branch. Allows the Department to contract with a third-party, without regard to the Hawai'i Public Procurement Code, to assist the Department in its timely completion of the review. Requires the Department to report to the Legislature. Appropriates funds.</p>
<p><u>Senate Bill No. 1587</u></p>		<p>RELATING TO RETAINAGE.</p>	<p>Allows procurement officers to withhold a retainage fee of one per cent of the total budget from contractors to ensure satisfactory project completion. Requires the retainage fee to be paid to contractors within a certain number of days of project completion.</p>

VI. 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 board packet.

As provided in section 91-2.6, Hawaii Revised Statutes, the proposed rules may be viewed as follows:

- In person at the State Procurement Office, 1151 Punchbowl Street, Room 416, Honolulu, Hawaii, 96813
- Online at this direct link:
<https://spo.hawaii.gov/wp-content/uploads/2023/04/AM-FINAL-2-7-2025.pdf>
- Online through the SPO website at <https://spo.hawaii.gov>: click on [Procurement Policy Board](#) > [Proposed Amendments to Hawaii Administrative Rules Chapter 3-122, Parts of Subchapter 2, and Subchapters 4 and 4.5](#)

1. Subchapter 2 – General Provisions

- §3-122-9(c)(2)(E) – Add “including pages” and remove “an original” to clarify that all pages of the offer, including pages with signatures shall be submitted and that electronically submitted offers with electronic signatures are accepted. (Note that §3-122-9(c)(2)(E) was inadvertently left off the agenda of the Procurement Policy Board meeting on January 31, 2025.)
- §3-122-9(c)(2)(F) - Remove “and” for grammar. (Note that §3-122-9(c)(2)(F) was inadvertently left off the agenda of the Procurement Policy Board meeting on January 31, 2025.)
- §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. Change “name of members of an evaluation committee” to “names of evaluation committee members” to fix a grammatical error in subsection (b). Also replace “posting of the award pursuant to section 3-122-57 (a)” with “contract execution” regarding parameters of when to disclose the names of evaluation committee members. (Note that the Procurement Policy Board began a discussion on this at its meeting on January 31, 2025.)

2. 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.
- 3. 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).

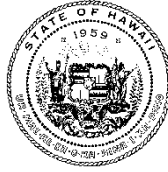
VII. Announcements

Future meeting dates for the Procurement Policy Board:

- Friday, February 28, 2025, at 9:30 a.m. (HST)
- Friday, March 28, 2025, at 9:30 a.m. (HST)
- Friday, April 11, 2025, at 9:30 a.m. (HST)

These meetings will be hybrid, on Zoom and in-person in a physical location, the Bid Room of the State Procurement Office at 1151 Punchbowl Street, Room 416.

VIII. Adjournment



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

BONNIE KAHAKUI
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PROCUREMENT POLICY BOARD

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Tel: (808) 587-4701

Email: procurement.policy.board@hawaii.gov
<http://spo.hawaii.gov>

Procurement Policy Board

Minutes of Meeting

Date/Time: Friday, January 31, 2025

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

Member Excused: Keith Regan

State Procurement Office Staff: Bonnie Kahakui, Administrator
Christopher Amandi
Ruth Baker (in public conference room)
Jacob Chang
Stacey Kauleinamoku
Kelli Nekomoto
Carey Ann Sasaki
Donn Tsuruda-Kashiwabara
Alan Yeh

Department of Accounting and General Services
Division of Public Works Staff: Jolie Yee

Guests: Jeff Masatsugu

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:33 a.m. held on Zoom and in-person at the physical location. The meeting was recorded.

II. Roll Call, Quorum

Roll call was taken of the Procurement Policy Board members; there was quorum. Staff of the State Procurement Office (SPO) were introduced.

III. Consideration and Approval of Minutes of June 27, 2024, Meeting

The minutes of the June 27, 2024, were reviewed and revised for clarity. Member Heltzel made a motion to approve the revised minutes and Member Inouye seconded the motion. The members voted to approve the minutes.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting.

V. Election of Officers

Written testimony: None
Oral testimony: None

A. Chair, Pursuant to [Hawaii Revised Statutes §103D-201\(e\)](#)

B. Option to elect Vice Chair and Secretary

SPO staff clarified Chair Maruyama's status as a holdover and the Chair acknowledged the Comptroller Regan's ineligibility to serve as Chair. The members agreed that the Vice Chair may assume the role of Chair when necessary. Since the statute does not mandate that the Board have a secretary, the Board can defer voting on that position at its next meeting after checking with the Department of Attorney General. Member Inouye made a motion to nominate Chair Maruyama to continue serving as Chair and Member Heltzel as Vice Chair. Member Heltzel seconded the motion, and the members voted unanimously in favor.

VI. State Procurement Office Administrator's Report

Written testimony: None
Oral testimony: None

A. Report on the State Contractor Past Performance Database

State Procurement Office Administrator Bonnie Kahakui reported that the State Contractor Past Performance Database was launched January 2024. As of January 30, 2025, 56 past performance forms were submitted. The 56 submittals consisted of 14 Sole Source, 33 Information for Bids, and 9 Requests for Proposals. The State Procurement Office plans to send a circular reminding all Departments about the statutory requirements to submit contractor past performance.

Chair Maruyama's asked for Administrator Kahakui's feedback on the data submitted to the past performance database, and if the Procurement Policy Board can assist in populating the

database. Administrator Kahakui responded that the number of submittals is low, and that purchasing agencies need to be reminded to submit information to the contractor past performance database. She added that there are legislative bills that will require additional categories in the contractor past performance database, and that the State Procurement Office will just have to follow up with and remind agencies to submit that information.

B. Report on "SPOCon," Statewide Training Event

Administrator Kahakui provided a brief report on "SPOCon," the State Procurement Office's procurement training conference held on October 30, 2024. Approximately 150 purchasing staff representing almost all jurisdictions, plus about 50 vendors, participated in the event, which received positive reviews. The training agenda covered topics such as Cooperative Purchasing, Chief Procurement Officer Requests, Artificial Intelligence, and Change Management.

C. Report on State Procurement Office 2025 Legislation

Administrator Kahakui reported that the following bills relating to procurement were introduced via the Governor's Package (also referred to as "Admin Bills"):

1. [Senate Bill 1306](#) / [House Bill 987](#), **RELATING TO PROCUREMENT.**

Description: Establishes a procurement automation system special fund, into which fees from the State's eProcurement system (Aloha eBUYS) will be deposited. The fund will be used for future enhancements to Aloha eBUYS. The bill also aligns section 103D-203(b), Hawaii Revised Statutes, 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: Amends section 103D-303 of the Hawaii Revised Statutes to provide guidance that competing offerors' proposal or evaluation scores shall not be provided to anyone being debrief until after a protest is resolved and the contract is executed.

Members asked questions about Senate Bill 1307 / House Bill 988. Member Heltzel asked Administrator Kahakui to elaborate on what information can be provided to an unsuccessful bidder prior to a protest being filed. She explained that the purpose of the debriefing is to let the bidder know how they scored against the criteria and can be given a summary of the scores and where the bidder ranked. There have been instances during the debriefing process in which bidders want to see the other vendors' proposals. While the statute allows the procuring agency to deny that request, the statute provides clarity that the information cannot be provided.

Member Inouye asked Administrator Kahakui if there were problems in the process to initiate the legislation, and commented that Senate Bill 382 reads the same as Senate Bill 1307 / House Bill 988. She prefaced that those bills were presented to the Procurement Policy Board because they are bills that the State Procurement Office had introduced through the Governor's Package. She said that purchasing agencies have expressed confusion about what they can and cannot disclose in debriefing and would ask the State Procurement Office for guidance. The bill provides clarity for purchasing agencies and vendors. She acknowledged that Senate Bill 382 is very similar to Senate Bill 1307 / House Bill 988.

Chair Maruyama asked if the State Procurement Office can share a list of all procurement-related Legislation, in addition to those in the Admin Package. This will provide the Procurement Policy Board a broader picture in the discussion of issues. Administrator Kahakui mentioned that there are a variety of bills to increase the small purchase threshold, change the small purchase threshold for electronic procurement, increase threshold for vendor compliance from \$2,500 to \$10,000, check compliance for purchase, require names of officers and immediate family members of contractors to be provided to the Campaign

Spending Commission, require re-procurement of contracts that have change orders that increase the contract by more than 50%, void certain contract when entered in violation of the state lobbying law, limit the amount each agency can spend on external consultants, and give local vendors a 15% preference on all procurement. The State Procurement Office is tracking approximately 200 bills. Jolie Yee of the Public Works Division of the Department of Accounting and General Services mentioned in the Zoom chat that there are also construction procurement bills.

Chair Maruyama requested a list of those bills and where the State Procurement Office stands on those bills to provide the Procurement Policy Board an understanding of the procurement landscape. Vice Chair Heltzel recommended that the State Procurement Office provide a filterable list of bills that it is tracking at the start of each Legislative session.

VII. Report on Public Hearing on Interim Rules

This was deferred and removed from the agenda.

VIII. Review and Possible Approval of Proposed Amendments to Hawaii Administrative Rules Chapter 3-122 – Source Selection and Contract Formation

Written testimony: None

Oral testimony: None

State Procurement Office Purchasing Specialist Carey Ann Sasaki introduced the proposed amendments to Hawaii Administrative Rules (HAR), Chapter 3-122, subchapters 2 to 4.5, that relate to the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS). The proposed rules were included in the board packet and may also be viewed in person at the State Procurement Office at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, and online at the SPO website at spo.hawaii.gov by clicking on "Procurement Policy Board" then on "Rules."

She provided an explanation of the proposed amendments to the rules.

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).

Member Inouye asked why the aforementioned amendments are proposed for the Hawaii Administrative Rules, and if there were any problems that initiated the rule changes. Administrator Kahakui responded that the changes are to correct grammar, provide clarification,

and update references to technology. She added that there have been problems regarding Request for Proposals, in which purchasing agencies disclose information when that is not permitted.

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.

The State Procurement Office Staff answered members' questions and provided clarification on the proposed amendments to the Hawaii Administrative Rules. Chair Maruyama asked that when presenting the changes, that staff provide the intent of and justification for the proposed amendments.

Administrator Kahakui pointed out that Subchapter 4 is lengthy and suggested that this be deferred to the next Procurement Policy Board meeting.

No written or verbal testimony was received.

Member Inouye made a motion to approve the proposed amendments to Hawaii Administrative Rules, Sections 3-122-3, part of 3-122-9, 3-122-12, and 3-122-13, with the exception of Section 3-122-9.01. Member Heltzel seconded the motion. The members voted to approve the proposed amendments.

IX. Announcements

Chair Maruyama recommended that the Procurement Policy Board increase its cadence and the frequency of its meetings to get through the State Procurement Office's proposed amendments to the Hawaii Administrative Rules. State Procurement Office staff will poll the members and come up with a proposed meeting schedule.

There were no additional announcements.

VIII. Adjournment

Since there was no new business, Member Heltzel moved to adjourn the meeting and Member Inouye seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 11:32 a.m.

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board

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

Interim
Hawaii Administrative Rules

February 14, 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. §3-122-9, 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)

2. §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)

3. §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)

4. §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)

5. §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)

6. §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.

~~[(c) 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)

7. §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)

8. §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)

9. §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)

10. §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)

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

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

13. 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 February 14, 2025, by the Procurement Policy Board and filed with the Office of the Lieutenant Governor.

LISA MARUYAMA
Chairperson
Procurement Policy Board

KEITH REGAN
State Comptroller

APPROVED AS TO FORM:

Deputy Attorney General