



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

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

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

Procurement Policy Board Meeting
Tuesday, October 7, 2025, 2:00 p.m. (HST)
Virtual and Physical Location

To view the meeting and provide oral testimony during the meeting:

Join via Teleconference

Click on [Join the meeting now](#)

Or copy and paste the following Uniform Resource Locator (URL) into your browser:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OGU3MDk2NjAtNjIjNS00ZDdiLTk3MGUtMzE2YTl0ZWQyYzBh%40thread.v2/0?context=%7b%22Tid%22%3a%223847dec6-63b2-43f9-a6d0-58a40aaa1a10%22%2c%22Oid%22%3a%2295bf7d4a-2361-4626-b046-e40a7128cc58%22%7d

If prompted, enter:

- Meeting ID: 215 420 859 827 5
- Passcode: Bd9ph6La

For instructions to turn on live captions in Microsoft Teams, please click [here](#).

Dial in by Phone

- [+1 808-829-4853](tel:+18088294853), [406828214#](tel:+1406828214), United States, Honolulu (Toll charges apply)
- Phone Conference ID: 406 828 214#

For instructions to join a meeting by phone, please click [here](#).

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 Microsoft Teams meeting information noted on 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 Microsoft Teams 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 Microsoft Teams 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 ruth.a.baker@hawaii.gov as soon as possible, preferably by 11:00 a.m. HST, October 3, 2025. If a response is received after October 3, 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
Tuesday, October 7, 2025, 2:00 p.m. (HST)**

- I. Call to Order, Public Notice**
- II. Roll Call, Quorum**
- III. Approved Minutes**

The following minutes were previously approved and are included in the agenda packet for archival and reference purposes.

 - a. [February 14, 2025](#)
 - b. [February 28, 2025](#)
 - c. [March 28, 2025](#)
 - d. [April 11, 2025](#)
- IV. Review and Approval of [July 10, 2025, Meeting Minutes](#)**
- V. Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- VI. Discussion and Possible Approval of Proposed Amendments to Hawaii Administrative Rules, Chapter 3-122 – Source Selection and Contract Formation**

Attached for reference is a [chart](#) with proposed amendments to Hawaii Administrative Rules Chapter 3-122, Subchapters 6, 6.5, 7, 8, and 9.

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

- In person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813
- Online at this direct link: https://spo.hawaii.gov/wp-content/uploads/2023/04/RAM-HAR-3-122-Subchapters-6-to-9_am_FINAL_100125-1.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](#) > [3-122 \(Proposed 10/07/25\)](#)

1. Subchapter 6 – Competitive Sealed Proposals

- §3-122-41 – Purpose.

Amend by removing “when it is determined that competitive sealed bidding is neither practicable nor advantageous to the State” to align with the revisions to section 103D-301, Hawaii Revised Statutes, and Hawaii Administrative Rules section 3-122-16 - Methods of Source Selection. It is not required to determine that competitive

sealed bidding is neither practicable nor advantageous to the State in order to use the competitive sealed proposal method of procurement.

- §3-122-43 – When competitive sealed bidding is not practical or advantageous.
With amendment to §103D-301 - Methods of source selection, Hawaii Revised Statutes, amend section by changing title to “Procurement planning” and removing all subsections and replacing it with “A strategic procurement plan for competitive sealed proposals may include, but is not limited to the following determinations: (1) Requirements definition; (2) market research to substantiate requirements definition; (3) period of performance; (4) type of contract; (5) analysis of the relative importance of price and other evaluation criteria; (6) Oral or written discussions, as applicable, with offerors concerning technical and price aspects of their proposals.

This clarifies that a determination that competitive sealed bidding is not practicable or advantageous is not required and ensures that procurements are strategically aligned with agency needs and market conditions.

- §3-122-45 – Determinations.
This section is repealed because it is no longer relevant due to amended section 103D-301, Hawaii Revised Statutes, which included the competitive sealed bids method of procurement as an optional method of procurement rather than a required method of procurement.

Hawaii Administrative Rules §3-122-45 allowed for a pre-approved list of goods, services, or construction that may be procured by competitive sealed proposals without determination by the head of the purchasing agency that competitive sealed bidding is not practicable or advantageous.

- §3-122-45.01 – Evaluation committee.
This section is amended for clarity, consistency, and style by reformatting some of the subsections. Add guidance that evaluation committee members are encouraged to participate in the development of the solicitation, that all evaluation committee members shall sign an affidavit, and that the procurement officer may require participants to sign a non-disclosure agreement prior to reviewing any information to enhance transparency and integrity.
- §3-122-46 – Preparing a request for proposals.
This section is amended for clarity, consistency, and style. These revisions also incorporate past performance as part of the evaluation and add that the proposal shall be signed by an authorized agent of the vendor and may be submitted with a digital or original signature. This clarifies that electronic signatures are accepted.
- §3-122-51 – Receipt and registration of proposals.
Amend (a) and (a)(1) to clarify circumstances when procurement is conducted electronically. Subsection (a) adds “date and” and “unless submitted via an electronic procurement system” and (a)(1) adds “If conducted electronically, proposals and modifications shall not be opened publicly and not required to be opened in the presence of two or more state officials.” This ensures secure, auditable handling of proposals.

- §3-122-52 – Evaluation of proposals.
Amend (d) to remove “When applicable, cost” and replace it with “Price”. Add “(e) Past performance shall be an evaluation factor.” The amendments align with Act 188, Session Laws of Hawaii 2021.
- *NEW* §3-122-52.5 – Clarifications with offerors after Receipt of Proposals
Add a new subsection to allow limited clarifications before priority listing, improving accuracy without compromising fairness or altering proposals.
- §3-122-53 – Discussions with offerors.
 - Amend (a)(1) to clarify that proposals shall be classified initially as unacceptable “based on the criteria outlined in the solicitation;”.
 - Amend (b)(2) to reflect that the procurement officer shall also keep a record of the discussions, as well as the date, time, place, purpose of meetings, and attendees.
 - Remove (d)(1) “Any substantial oral clarification of a proposal shall be reduced to writing by the priority listed offeror;”. This subsection is removed because any mandated writing can only be accepted as a Best and Final Offer.
 - Add (d)(2) Limits on discussions. This subsection provides more details on what should not take place during discussions.
- §3-122-60 – Debriefing.
Revise (b) for style by deleting “of the contract”.

2. Subchapter 6.5 – Multi-Step Competitive Sealed Bidding

- §3-122-61.05 – Purpose.
Amend Purpose for clarity and style to state that this subchapter provides rules for the use of multi-step competitive sealed bidding where technical evaluation precedes pricing.
- §3-122-61.06 – Preparing a multi-step invitation for bids.
Amend (a), (b)(2), (b)(3), and (b)(5) for clarity and style to allow for flexibility in complex procurements.
- §3-122-61.07 – Phase one.
Amend (2) for clarity to add language that the procurement officer shall notify the bidder when the bid has been determined to be not acceptable. Clarify the first phase in the process, allowing for more flexible and effective procurement of complex goods or services.
- §3-122-61.08 – Phase two.
 - Amend (a)(1) by removing “If priced bids were required to be submitted in phase one.”
 - Amend (a)(2) and (a)(3) by adjusting numeric sequence.
 - Amend what is now (a)(3) by removing “return the sealed priced bids to the bidders,” adding language “that is clearly identified as amended, and changing “them” to “bidders” for clarity and style.

3. Subchapter 7 – Procurement of Professional Services

- §3-122-63 – General provisions.
Amend (a) for clarity by adding the word “Procurement,” and adding “The use of this method is limited to professions as defined in section 103D-104, Hawaii Revised Statutes. Amend (b) by replacing “screening” with “selection” for clarity and style.
- §3-122-67 – Small purchases of professional services.
 - Amend for clarity by adding language that clarifies small purchases of professional services “that are within the small purchase dollar threshold.”
 - The deletion of “small purchase of” specifies that design professional services under chapter 464, Hawaii Revised Statutes, are excluded from this section.
 - The reference to section 103D-304, Hawaii Revised Statutes, has been updated from “(j)” to “(k)” to reflect the correct subsection.

This section now explicitly states that purchases professional services within the small purchase dollar threshold may be conducted pursuant to 103D-304(k), Hawaii Revised Statutes, or subchapter 8, Small purchases.

- §3-122-69 – Review and selection committees.
 - Amend (a) by deleting “who are not employees of a governmental body.”
 - Amend (a)(3) for clarity by replacing the word “affidavit” with “attestation.”
 - Amend (B) and (C) for grammar by moving the word “and”
 - Add (D), which says “The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior to reviewing any information.
 - Amend (b) by adding “directors” to the list of appointed positions that shall not serve on review or selection committees.
- §3-122-70 – Debriefing.
Amend (2)(b) for clarity by deleting “submitted” and replacing “filed” with “submitted in writing.” This clarifies the protest requirement for documentation and due process.

4. Subchapter 8 – Small Purchases

- §3-122-74 – General provisions.
Add (f) “Single Offeror” language: “(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file.” The addition of (f) is to enhance the integrity and transparency of the procurement process by ensuring that even when there is only one offeror, the terms of the purchase are scrutinized and justified.
- §3-122-75 – Goods, services, and construction.
 - Amend (a)(1) and (a)(2) by amending the small purchase threshold from \$25,000 to \$50,000, as revised by Act 262, Session Laws of Hawaii 2025.
 - Delete (a)(3) because it is no longer applicable.
 - Amend (c) by deleting “lowest responsive” and adding “with the lowest price and responsive, technically acceptable offer.”
 - Amend (d) by adding clarifying language: “Best value is a cost benefit trade off as defined in section 3-122-1, HAR.”
 - Add (e) to provide clear guidance: “Award shall be posted within seven days of notice of award.”

- The remaining points “(e),” “(f),” and “(g)” are re-lettered to accommodate the addition of a new point “(e).”
- §3-122-77 – Procurement file and disclosure of information.
Amend for clarity and style, including adding the word “publicly” and “or when contract award is made, whichever comes sooner.” The amendments ensure that quotation information remains confidential until a definitive action is taken, providing clarity on when the information can be disclosed.
- §3-122-78 – Electronic procurement
 - Amend (a) by removing phrase “Effective July 1, 2007, small” to eliminate the specific effective date, amending the small purchase threshold from \$25,000 to \$50,000, and adding clarifying phrase “the small purchase threshold.”
 - Amend (e) by replacing “\$25,000 with “\$50,000” and adding “the small purchase threshold” to increase the small purchase threshold when the use of an electronic procurement system is required.

The revisions align with Act 262, Session Laws of Hawaii 2025.

5. Subchapter 9 – Sole Source Procurement

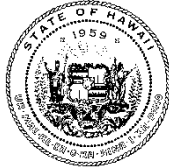
- §3-122-81 – General provisions.
 - Amend (b) for clarity and style by deleting “for a purchase.”
 - Amend (g) to provide clear guidance by replacing “should” with “shall” and adding language: “are found fair and reasonable in the market. Negotiations shall be documented in the procurement file.” These revisions aim to strengthen the procurement process by making it mandatory for the procurement officer to conduct thorough negotiations and document the outcomes.
 - Amend (i) for clarity and style The phrase “A purchase order shall be issued or a certification that funds are” has been replaced with “Funds must be available for the amount of the purchase.” This change simplifies the language and makes it clear that the availability of funds is a prerequisite for the purchase to say that funds must be available. The phrase “shall be obtained for a sole source purchase” is removed and maintains the reference to section 103D-309, Hawaii Revised Statutes, and Subchapter 12, ensuring that the requirement is aligned to the relevant statutes.

VII. Announcements

Next Meeting: Members will be polled on their availability for a meeting in November/December.

These meetings will be hybrid, on Microsoft Teams and in-person in a physical location at 1151 Punchbowl Street, Room 416.

VIII. Adjournment



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Procurement Policy Board

Minutes of Meeting

Date/Time: Friday, February 14, 2025, 9:30 a.m.

Locations: State Procurement Office Bid Room
Kalanimoku Building, Room 416
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: Bonnie Kahakui, Administrator
Christopher Amandi
Ruth Baker (in public location)
Jacob Chang
Matthew Chow
Mary Grace Dobbins
Fai Goya
Stacey Kauleinamoku
Jittima Laurita

Chan Lee
Kelli Nekomoto
Carey Ann Sasaki
Cynthia Sato
Keari Shibuya
Donn Tsuruda-Kashiwabara
Alan Yeh

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

City & County of Honolulu: Paula Youngling

Guests: Brian Lee – Hawaii LECET
Tim Lyons
Jeff Masatsugu
Pane Meatoga III
Frank Rogozienski
Ryan Sakuda

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:32 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 January 31, 2025, Meeting

The minutes of the January 31, 2025, were reviewed and revised for clarity. Member Rick Heltzel made a motion to approve the revised minutes and Member Lance Inouye seconded the motion. The members voted to approve the minutes.

Comptroller Keith Regan requested clarification on whether or not a member who was not present at a meeting can make a motion to approve the minutes of that meeting.

Member Inouye asked to confirm if the minutes of the June 27, 2024, meeting were corrected. SPO staff responded that the minutes as revised and approved will be posted on the Procurement Policy Board webpage.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting, and that remote testifiers will be given the option of being on-camera via the Zoom link in this agenda or similar option for remote testimony.

V. Administrator's Presentation on 2025 Legislation Related to Procurement (For Information Only)

At the January 31, 2025, meeting, the Procurement Policy Board requested a full list of legislation that the State Procurement Office is tracking on which it is presenting testimony. That list was included in the Board Packet for the February 14, 2025, in accordance with the Sunshine Law. Administrator Bonnie Kahakui provided an overview and update on bills (as of January 31, 2025) on the bills specifically relevant to procurement.

- House Bill 381 - Small purchase threshold. Status: No hearing scheduled as of this date.
- House Bill 723 - Prioritizes purchasing from local vendors. Status: No hearing scheduled as of this date.
- House Bill 808 - Requires contractors to obtain insurance for latent defects. Status: Deferred.
- House Bill 809 - Gives bidders an additional 24 hours to clarify or correct technical information in their proposals, and requires the Procurement Policy Board to adopt rules. Status: Deferred.
- House Bill 894 – Requires the Procurement Policy Board to adopt rules to issue prequalification certificates to prospective contractors for public buildings or public works. Status: Deferred.
- House Bill 987 HD1 / Senate Bill 1306 SD1 (Gov/Admin, companion bills) – Establishes a special fund for the State Procurement Office eProcurement system. Status: Moving forward.
- House Bill 988 / Senate Bill 1307 (Gov/Admin, companion bills) – Clarifies what and when information can be disclosed during a debriefing. Status: No hearing scheduled.
- House Bill 1155 / Senate Bill 1474 (companion bills) - Exempts construction contracts from the Procurement Code with approval from the Chief Procurement Officer. House Bill 1155 Status: No hearing scheduled. Senate Bill 1474: Moving forward.
- House Bill 1187 HD1 – Restricts state departments and attached agencies from purchasing imported flowers and lei. Status: Moving forward.

- House Bill 1297 – Removes language about frivolous protests. Status: No hearing scheduled.
- House Bill 1414 – Allows agencies to award a contract to a bidder if it is the most beneficial to the state. Status: No hearing scheduled.
- Senate Bill 131 – Requires the Procurement Policy Board to adopt rules to impose mandatory fines or provide for termination of a contract for default. Status: Deferred.
- Senate Bill 254 SD1 – Increases the small purchase threshold. Status: Moving forward/
- Senate Bill 382 – Clarifies disclosure of information. Status: No hearing scheduled.
- Senate Bill 383 – Increases the small purchase threshold. Status: Moving forward
- Senate Bill 462 SD1 – 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. Status: Moving forward.
- Senate Bill 615 – Requires agencies to consider a new contract for any change orders that increase a contract by more than 50 percent. Status: Deferred.
- Senate Bill 858 – Bid preferences. Status: No hearing.
- Senate Bill 1057 SD1 – Clarifies bid incentive for apprenticeship. Status: Moving forward.
- Senate Bill 1121 – Establishes a preference for bidders who offer higher proportion of all-electric construction vehicles for construction projects. Status: Deferred.
- Senate Bill 1175 SD1 - Adds criteria to contractor's performance assessment to be included in the past performance database and will require the Procurement Policy Board to adopt rules. Status: Moving forward.
- Senate Bill 1543 – Government accountability, requires justification of the use of external consultants. Status: Moving forward.
- Senate Bill 1587 – Allows procurement officers to hold retainage fee of 1% of total budget until completion. Status: Moving forward.

Member Heltzel asked if the Procurement Policy Board is allowed to submit testimony on any of the bills. Deputy Attorney General Stella Kam relayed guidance from the Office of Information Practices, which said that Boards wishing to submit testimony need to vote to designate a representative who will submit and present oral testimony on behalf of the Board. Additionally, the Board must vote on its position on a bill as an agenda item on a Board meeting, which will be before the bill's committee hearing. The Office of Information Practices recognizes that bills may be amended throughout the legislative session. As such, the Board's designated representative should fully understand the Board's position and be authorized to draft testimony for review/approval by the Board prior to submission.

Member Heltzel asked if the Procurement Policy Board would like to consider adding to a future agenda a discussion on submitting testimony on Senate Bill 1175, which relates to the Contractor Past Performance Database. He noted that in 2023, the Board dedicated significant time and effort, including soliciting testimony and collecting public feedback, on this issue.

Chair Maruyama asked for additional information about Senate Bill 1175. Administrator Kahakui provided the legislative timeline on Senate Bill 1175; the State Procurement Office submitted testimony in support of the bill's language to address the government's ability to identify the lowest "responsible bidder" on all projects by considering a contractor's past performance, beyond just basic information, in the procurement process. Administrator Kahakui said that the bill adds information to be included in the Past Performance Database: quality of work; schedule and timeliness of performance; cost and financial management; management, personnel, and labor; safety and security; and general comments. The State Procurement Office testified in support of the additional criteria in the Database.

Chair Maruyama asked the Board members how they felt about this issue. Member Inouye expressed his concern about the additional requirements in Senate Bill 1175, and recalled how the Procurement Policy Board examined and deliberated on the information to be included in the Past Performance assessment form. He added that he and Member Heltzel are members of the General Contractors Association, which may submit testimony on this bill.

Chair Maruyama said that in the January 31, 2025, Procurement Policy Board meeting, the members discussed the Past Performance Database and noted that as January 30, 2025, 56 past performance forms were submitted. The Chair asked the State Procurement Office if there was a deficit of information, based on the forms that were submitted, that prevented the ability to ensure appropriate procurement, such that you would want to have additional information on the form. Administrator Kahakui said that the Legislature passed a bill that required agencies to consider past performance when making awards. Legislature then passed another bill to establish the past performance database to include the name of the contractor, the date, size, brief description, responsible persons, budget, and budget difference, and it allows for comments from the contractor. For agencies, this information does not say how a contractor performed and is not enough for an agency to make a determination of responsibility. Administrator Kahakui recalled how Representative Matayoshi explained that the intent of the bill was to allow the State Procurement Office to come up with performance criteria for the database. Senate Bill 1175 specifies the past performance criteria for agencies in considering contractors. While the contracting agency can contact other agencies on a contractor's performance, this information requires extra work, is difficult to obtain, and is not documented.

Chair Maruyama agreed that the Procurement Policy Board thoroughly explored this issue and asked what role the Board should play on this legislation. Deputy Attorney General Kam explained that the Legislature determines the scope of the Procurement Policy Board's administrative rulemaking, and reminds the Board that the Legislature creates the parameters for the Board to promulgate the administrative rules. She added that the Legislature can require the Board to add to the past performance criteria in the administrative rules, even though it is contrary to previous Board discussion. She also stated that the Board can submit testimony to the Legislature to explain the difficulties encountered during its deliberations on what the performance assessment form should include.

Chair Maruyama asked Comptroller Regan for his thoughts on this measure. He said that the State Department of Transportation's testimony on this measure provides insight into how departments feel about the past performance database in its current state. According to their testimony, the database is not as useful as a tool for determining past performance and questioned the benefit of the past performance database. Recognizing the different perspective on this issue, Comptroller Regan emphasized the need for discussion and debate among all stakeholders, and further suggested that the most efficient and expeditious approach would be for Board members to submit testimony through their respective organizations, independent of the Procurement Policy Board.

The Chair said that the remarks by Comptroller Regan and the testimony of the Department of Transportation on Senate Bill 1175 provided insight whether the lack of information on the past performance database was hindering decisions for government. Based on the Comptroller's remarks and the Department of Transportation's testimony, and due to logistical time constraints, Chair Maruyama said she is not comfortable with submitting testimony on behalf of the Procurement Policy Board. Members can express their opinions individually.

Member Heltzel appreciated knowing what the rules of engagement were on this issue. He asked if information and past performance testimony is public record, and can that information be used in testimony by members of the public. He noted that the draft past performance assessment forms contained comments from stakeholders and members of the public that would be useful information for the Legislature. The Chair reiterated that Board deliberations and minutes are public information.

Administrator Kahakui noted that currently, the database is not available for viewing by the general public; the database information on the contractor is accessible only to government agencies and that contractor. This information is subject to the Uniform Information Practices Act.

The staff provided clarification on the Legislative calendar and the measures that are similar in language. To help the Board understand the environment and perspectives, the Chair requested

that the State Procurement Office's position is noted for each bill on the list of procurement bills provided to the Board. Comptroller Regan agreed, and added that it is important to also consider the positions of other departments – whether in support or opposition – on each measure. Departments provide valuable insights into challenges and other key considerations, and serve as a barometer to proposed changes to the procurement code. Additionally public testimony also reflects broader sentiments on the issue, contributing to a more comprehensive understanding of the potential impact of legislative proposals.

The Chair commented on the usefulness of the list of bills being tracked by the State Procurement Office, and recommended that the Board consider meeting more frequently prior to the start of and during the Legislative session if the Board wishes to weigh in on legislation.

Administrator Kahakui said that the State Procurement Office will provide an update list of bills with its position on each bill. Since the information presented is as of the date of the agenda's posting, she will provide a verbal comments/updates at the next meeting.

There were no additional questions or comments. There were no written or oral testimonies submitted.

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

State Procurement Office Purchasing Specialist Carey Ann Sasaki introduced the proposed amendments to Hawaii Administrative Rules (HAR), Chapter 3-122, parts of subchapter 2, and subchapters 4 and 4.5, that relate to the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS). She added that the proposed rule amendments are to implement the Hawaii Public Procurement Code, HRS Chapter 103D, which will be referred to as 'the Code.' The purpose of the Code is to promote economy, efficiency, effectiveness, and consistency in all procurements by the State and counties. She stated that 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 in Room 416, and online at the SPO website.

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

1. Subchapter 2 – General Provisions

- §3-122-9 (c)(2)(E) is amended to clarify that electronically submitted offers do not have to have an original signature because electronic signatures are acceptable. Therefore, "an original" regarding "original signature" is removed. The State Procurement Office also clarified that all pages of the offer, including pages with a signature, should be submitted.
- §3-122-9 (c)(2)(F) is revised by removing the extra "and" to correct the grammar and sentence structure.
- §3-122-9.01 Disclosure of information, subsection (a)(1), is amended to allow agencies to disclose information sooner rather than later. This revised subsection will state that for small purchases, a purchasing agency is not required to disclose any information until after the time and date set for receipt of quotes instead of after a purchase order is issued or a purchasing card order is placed. Pricing or information submitted electronically may be available immediately after the deadline for receipt of quotes, so there is no valid reason why quotes or information about them can only be made available after a purchase order or purchasing card order is completed.
- §3-122-9.01 (b) is amended to fix a grammatical error and changes "name of members of an evaluation committee" to "names of evaluation committee members". Also, to preserve the integrity of the procurement, the purchasing agency should not disclose the names of the evaluation committee members prior to the execution of the contract if there may be a

protest and a possible ruling that offers shall be re-evaluated. There should be no undue influence on the committee members during any evaluation process. Therefore, this subsection is amended by replacing “posting of the award pursuant to section 3-122-57 (a)” with “contract execution”.

Discussion: The Procurement Policy Board members, Deputy Attorney General Kam, Paula Youngling of the City & County of Honolulu, and staff of the State Procurement Office entered into a discussion on the proposed amendments Hawaii Administrative Rules §3-122.9.01 and unintended consequences.

The Chair asked that the discussion on the proposed amendments Hawaii Administrative Rules §3-122.9.01 continue and is added to the agenda for the next meeting, and asked that the State Procurement Office, Deputy Attorney General, City & County Purchasing Division, and the City Corporation Counsel meet and collaborate on this issue prior to the next Procurement Policy Board meeting.

2. Subchapter 4 – Methods of Source Selection and General Guidance

State Procurement Office Purchasing Specialist Stacey Kauleinamoku presented the proposed amendments to Chapter 3-122 Subchapter 4, Methods of Source Selection and General Guidance, that corrected grammar and were non-substantive in nature.

- §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.”

Recommendation: The Board recommended that (b)(7) be revised to read “A copy of the solicitation shall be made available electronically and/or may be picked up at the respective issuing office.”

In the interest of time, discussion will on the proposed amendments to the Hawaii Administrative Rules will continue at the next Procurement Policy Board meeting.

There were no written or oral testimony submitted.

VII. Announcements

Chair Maruyama announced the dates of future meetings of the Procurement Policy Board:

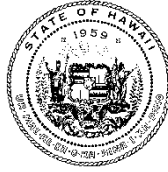
- Friday, February 28, 2025, at 9:30 a.m.
- Friday, March 28, 2025, at 9:30 a.m.
- Friday, April 11, 2025, at 9:30 a.m.

VIII. Adjournment

Since there was no new business, Comptroller Regan moved to adjourn the meeting and Member Heltzel seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 12:03 p.m.

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

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

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

P.O. Box 119
Honolulu, Hawaii 96810-0119
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Email: procurement.policy.board@hawaii.gov
<http://spo.hawaii.gov>

Procurement Policy Board

Minutes of Meeting

Date/Time: Friday, February 28, 2025, 9:30 a.m.

Locations: State Procurement Office Bid Room
Kalanimoku Building, Room 416
1151 Punchbowl Street
Honolulu, Hawaii 96813

Virtual Meeting Using Interactive Conference Technology – Zoom

Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama

Members Excused: Keith Regan

Deputy Attorney General
Excused: Stella Kam

State Procurement Office: Bonnie Kahakui, Administrator
Christopher Amandi
Ruth Baker (in public location)
Jacob Chang
Matthew Chow
Fai Goya
Stacey Kauleinamoku-Murakami
Jittima Laurita

Chan Lee
Kelli Nekomoto
Carey Ann Sasaki
Keari Shibuya
Donn Tsuruda-Kashiwabara
Alan Yeh

University of Hawaii: Sarah Allen

City & County of Honolulu: Paula Youngling

Guests: Tim Lyons
Pane Meatoga III

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:32 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) introduced themselves.

III. Consideration and Approval of Minutes of February 14 Meeting

The minutes of the February 14, 2025, were reviewed and corrected for clarity. Member Inouye requested a correction to the minutes under Agenda Item VI. Review and Possible Approval of Proposed Amendments to Hawaii Administrative Rules Chapter 3-122 – Source Selection and Contract Formation > 2. Subchapter 4 – Methods of Source Selection and General Guidance, §3-122-16.03 – Public notice – Amend subsections (b), (c), and (d). The correction is in the recommended language for “(b)(7)” for clarity (underlined for emphasis) on page 8 of the minutes:

Recommendation: The Board recommended that (b)(7) be revised to read “A copy of the solicitation shall be made available electronically and/or may be picked up at the respective issuing office.”

Member Rick Heltzel made a motion to approve the corrected minutes and Member Lance Inouye seconded the motion. The members voted to approve the minutes as corrected.

Chair Maruyama requested that any corrections made to meeting minutes be documented in the subsequent minutes for the record.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting, and that remote testifiers will be given the option of being on-camera via the Zoom link in this agenda or similar option for remote testimony.

V. Administrator’s Presentation on 2025 Legislation Related to Procurement (For Information Only)

In accordance with the Sunshine Law, the Board Packet includes a list of procurement legislation, the State Procurement Office’s position, the position of other entities, and the status of the legislation.

Written testimony: None

Oral testimony: None

Administrator Bonnie Kahakui provided an update on the status of various bills:

- House Bill 381 – Increases small purchase threshold – Amended
- Senate Bill 382 – Clarifies disclosure of competing offerors’ proposals – Amended

- House Bill 1155 – Exempts from the Hawai'i Public Procurement Code contracts by government bodies to procure certain construction projects – Amended
- House Bill 1297 – Places a cap on protests and removes language – Amended
- House Bill 1414 – Allows agencies to select 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 - Amended
- Senate Bill 383 – Increases the small purchase threshold – Amended
- Senate Bill 1057 - Clarifies bid incentive given to bidders for public works construction projects who utilize apprenticeable trades – Amended
- Senate Bill 1255 – Amends the Uniform Information Practices Act to require agencies to disclose information – Deferred
- Senate Bill 1543 – Requires each purchasing agency to provide justification for hiring external consultants – Amended

Administrator Kahakui presented an update on Senate Bill 1175, which added information to the Past Performance Database. She reported that unless this bill comes out of the Senate Ways and Means Committee the First Decking deadline of February 28, 2025, the bill dies; there is no companion bill.

There were no questions from the public.

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

Chair Maruyama introduced the discussion on the proposed amendments to Hawaii Administrative Rules (HAR) Chapter 3-122 – Source Selection and Contract Formation. The proposed rules are included in the board packet and may also be viewed online and in person at the State Procurement Office, located at 1151 Punchbowl Street, Room 416.

Written testimony: None

Oral testimony: None

Chair Maruyama turned the floor over to the SPO Staff.

Carey Ann Sasaki, Purchasing Specialist of the Policy and Compliance Section of the State Procurement Office, explained that the proposed amendments to HAR Chapter 3-122, parts of subchapter 2 and subchapters 4 and 4.5 are related to and will implement the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS). The purpose of the Code is to promote economy, efficiency, effectiveness, and consistency in all procurements by the State and several counties. She reiterated that the proposed rule amendments are available and may be viewed in person and online.

The SPO presented the following proposed amendments.

1. Subchapter 2 – General Provisions

§3-122-9 – Use of electronic communication.

Purchasing Specialist Sasaki noted that on February 14, 2025, the Procurement Policy Board discussed and concurred with the proposed amendments to HAR §3-122-9 (c)(2)(E) and §3-122-9 (c)(2)(F).

§3-122-9.01 – Disclosure of information.

She requested that the Board defer discussion on HAR §3-122-9.01 regarding disclosure of information until after the end of the legislation session, as the 2025 Legislature is

considering Senate Bill 382 and House Bill 988, which would authorize the disclosure of proposals and selection committee names public only after contract execution; it would be prudent to wait for the outcome of these measures. She reported that Deputy Attorney General Stella Kam conferred with a Deputy Corporation Counsel with the City & County of Honolulu, and learned that it is the City's practice to make the proposals available upon award, and that the City was unaware that the State makes the proposals and selection committee names public only after contract execution.

Member Lance Inouye asked that the Deputy Attorney General provide clarification regarding disclosure in Hawaii Administrative Rules subsections §3-122-58, §3-122-60, and §3-122-63(b). Purchasing and Contracts Administrator Paula Youngling, of the City & County of Honolulu's Department of Budget and Fiscal Services Division of Purchasing, said she also conferred with the Deputy Corporation Counsel about the City's interpretation of those rules, and that the City also concurs deferring discussion on §3-122-9.01.

2. Subchapter 4 – Methods of Source Selection and General Guidance

Purchasing Specialist Stacey Kauleinamoku-Murakami explained the proposed amendments to Subchapter 4 – Methods of Source Selection and General Guidance.

§3-122-16.03 – Public notice.

She noted that the proposed amendment to §3-122-16.03(b)(7), as corrected in the meeting minutes for February 14, 2025, must also be corrected for the February 28, 2025, Agenda Item VI.2.a. (page 11 of the agenda), and read as follows:

- §3-122-16.03 – Public notice. – Amend subsections (b), (c), and (d).
 - a. Addition of "if any" to subsection (b)(4) and addition of new subsection (b)(7) to read:
"(7) A copy of the solicitation may be made available electronically and may be picked up at the respective issuing office."

She stated that on February 14, 2025, the Board concurred with this language.

Purchasing Specialist Kauleinamoku-Murakami continued to explain the following proposed amendments.

- §3-122-16.03 – Public Notice
 - a. Proposed addition of "include the requested professional class or category and shall" to subsection (c) .

(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:

Justification: This amendment mandates that offerors are required to include the relevant professional class or category in their submissions for professional services. This clarification benefits both the agencies and contractors by ensuring clear identification of services provided by engineers, architects, surveyors, and landscape artists.

Member Inouye asked if "professional class or category" is defined in statute. Purchasing Specialist Kauleinamoku-Murakami referenced that Procurement Circular 2014-16, Amendment 1, lists the types of professional services that must use the professional services method of procurement. Administrator Kahakui added

that “professional services” is defined in §103D-104 - Definitions, HRS, which references the United States Office of Personnel Management’s Qualifications Standards Handbook. She explained that the amendment seeks to align the definition with the HRS and Handbook, and noted that the SPO generally does not point the rules to procurement circulars, which are subject to change, but can reference §103D-104, HRS.

For Action: Although the members concur with the amendment after discussion, the Chair requested that the SPO verify the addition of the definition of “professional class or category” with the Deputy Attorney General and present proposed language at the next Board meeting.

Purchasing Specialist Kauleinamoku-Murakami continued to explain the following proposed amendments.

b. Remove “or provider” in subsection (d)(1).

(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;

Justification: This amendment enhances clarity, consistency, and style by specifying that public notices shall, at a minimum, be published on a purchasing agency’s website. It also clarifies that notices may be sent by mail or electronically to individuals on relevant mailing lists, ensuring that the purchasing agency remains responsible for public notifications. Additionally, it notes that “Provider,” as defined in §103F-102, HRS, refers to an organization or individual contracted by a state agency to provide health or human services to the public on its behalf; the definition does not mention goods and services or construction.

c. Revise (d)(2)(B) for clarity and consistency that a notice may be sent by mail or electronically to persons on any applicable mailing list by the state agency.

(B) Notice by mail~~[, electronic mail, or facsimile transmission]~~ or electronically to persons on any applicable bidders mailing list, if any; and

The Board concurs with the proposed amendments to subsections 3-122-16.03(d)(1) and (d)(2)(B).

o §3-122-16.05 – Pre-bid or pre-proposal conference – Amend subsections (a), (b), and (f).

a. The proposal is to delete the entire subsection (b):

~~[(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.]~~

Explanation: Subsection (b) 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. In this case, the DCCA hearing officer reasoned that regardless of a bidder's non-attendance at a site visit, submitting a bid after being given the opportunity to visit the job site signifies the bidders' commitment to performing the work at a stated price. The bidder assumes the risk of an unforeseen cost increases due to observable site conditions. The ruling determined that failure to attend a pre-bid conference does not constitute a valid basis for non-responsiveness.

- b. As a result of deleting subsection (b), subsection (a)(1) is amended for clarity, consistency, and style to reflect that attendance at pre-offer conferences are optional. This subsection will read:

(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.

Explanation: Purchasing Specialist Kauleinamoku-Murakami referenced §103D-303.5 - Pre-bid conference, Hawaii Revised Statutes, which states that the Procurement Policy Board shall adopt rules to effectuate this section. She also noted that the DCCA OAH ruling referenced *Starcom Builders, Inc. V. Board of Water Supply*; PCH-2003-18 (October 18, 2003).

The members discussed the disadvantage faced by companies that do not attend a mandatory meeting and thus did not have the privilege to learn about the risks involved in a project, and that the purchasing agency should be given the flexibility to decide whether a pre-bid conference is mandatory.

Purchasing and Contracts Administrator Youngling offered the perspective of the City & County of Honolulu, citing case law *Starcom Builders, Inc. V. Board of Water Supply*, and noted that purchasing agencies, especially those handling design and construction, prefer to make pre-bid conferences mandatory to avoid potential bid protests if a bid is not awarded to the low bidder based on non-attendance.

Member Heltzel suggested that the SPO survey the agencies on making pre bid meetings mandatory and explore the feasibility of introducing legislation.

- c. Add "including questions and answers" to subsection (f), which will now be read as subsection (e).

Explanation: This amendment provides clarity and consistency and ensures fair competition by requiring that a conference summary – including questions and answers, any changes to the solicitation, and other information, shall be issued as an addendum to be provided sufficiently in advance of the receipt of offers.

Administrator Kahakui noted that the Legislature is considering House Bill 1297, which states that a protest based on the content of the solicitation must be submitted in writing at least 24 hours prior to the date and time set for the receipt of offers. She advocated for the deletion of “known to have received a solicitation,” as it is difficult to determine whether prospective offers have received that information.

After discussion, the members concurred that subsection (e) be revised as follows:

~~[(f)]~~ (e) A summary of the conference, including questions and answers, in addition to any changes to the solicitation, shall 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]~~.

The Board concurred with the amendments to §3-122-16.05: Deletion of subsection (b); and amendments to (a) and (e) [note that (e) is previously (f)].

- §3-122-16.06 – Amendment and clarification to solicitation – Delete subsections (c) and (d) in their entirety so there is no confusion and ambiguity on the distribution requirements of an addendum. This clarifies that it is the offeror's responsibility to read the addendum. Also, revise subsection (a) so it references the correct subsection and add “or electronic means” to new subsection (c)(1), previously subsection (e)(1).

After discussion, the Board concurred to keep subsection (c) as is and revise (d), which will read as follows:

(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]~~.

With the aforementioned amendment, the next subsection will remain as (e)(1). Purchasing Specialist Kauleinamoku-Murakami explained that the proposed amendment will align with the changes made to HAR Section 3-122-9 - Use of electronic communication, on February 14, 2025.

After discussion, the Board concurred on the following language for (e)(1):

(e) 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]~~ electronically and confirmed in the addendum;

- §3-122-16.07 – Pre-opening modification or withdrawal of offer - Amend for clarity, consistency, and style to reflect that an offeror's modification may be submitted electronically.

§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.

After provided the explanation, the Board concurred with the amendments to §3-122-16.07.

- §3-122-16.08 – Late offer, late withdrawal, and late modification – Amend for clarity.

Explanation: The amendment requires written documentation for the reason late offer, withdrawal or modification is accepted by the head of the purchasing agency. The amendment to (b), is for clarity, consistency, and style, as well to replace "procurement activity" with "purchasing agency" as defined in 103D-104, HRS.

The Board concurred that 3-122-16.08(a) and (b) be amended as discussed and 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 the purchasing agency's 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.

3. Subchapter 4.5 – Source Selection for Federal Grants

- §3-122-16.30 - Purpose and §3-122-16.31 – Exception; request for interest – Replace “providers” with “contractors” for clarity, consistency, and style to reflect that providers selected for federal grants are contractors

Explanation: “Contractor” is a more accurate term because it pertains to the procurement of goods, services, or construction and defined in §103D-104, HRS, while “provider” pertains to the purchases of health and human services and is defined in §103F-104.

- §3-122-16.30 – Purpose – Remove from subsection (b) the phrase “the appropriate source selection methods in” and simply reference section 3-122-16, which lists all the methods of source selection.

Explanation: As discussed at the February 14, 2025, Board meeting, the proposed amendment to §3-122-16 adds source selection methods “Subchapter 5 – Competitive Sealed Bidding” and “Subchapter 6.5 – Multi-Step Competitive Sealed Bidding, pursuant to 103D-301, HRS, as amended by Act 239, Session Laws of Hawaii 2013.

For Action: As requested by the Board, the SPO will confer with the Deputy Attorney General if the proposed amendment in §3-122-16.30(b) is appropriate or will it limit the methods of source selection to be used, as she recommended that amendment.

The Board concurred that §3-122-16.30 be amended as discussed and 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.

- §3-122-16.31 – Exception; request for interest for federal grants. – Add the phrase “when applying or after receipt of a grant” to (a).

Explanation: The amendment aims to ensure the purchasing agency exercises due diligence and retains the contractor named in the in the federal grant, rather than switching to a different one. While some grant applications require that a specific contractor be named, other applications allow for changes. Before naming a contractors on a federal grant application, the purchasing agency must follow a procurement method outlined in §3-122-16, HAR. The “request for interest for federal grants” is one procurement option that may be used either during the application process or after the grant is awarded if the purchasing agency does not have time to do a full procurement.

The Board concurred with the following amendments to §3-122-16.31 (a), (b), (d)(2), (d)(4), (d)(8), (e), and (f):

§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 for a grant 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.

(d) (2) The target population ~~[or clients]~~ to be served;

(d) (4) The evaluation criteria and their relative weights for selecting a ~~[provider or providers]~~ contractor(s);

(d) (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.

VII. Announcements

1. Introduction of Small Business Procurement Coordinator

Administrator Kahakui introduced Keri Shibuya as the State Procurement Office's Small Business Procurement Coordinator, who will be drafting rules on the Small Business Initiative for consideration by the Board.

2. Next meetings

Chair Maruyama announced planned meetings of the Procurement Policy Board:

- Friday, March 28, 2025, 9:30 a.m.
- Friday, April 11, 2025, 9:30 a.m.
- Friday, April 25, 2025, 9:30 a.m.
- Friday, May 16, 2025, 9:30 a.m.

The schedule will be assessed and is subject to change. The meetings will be on Zoom and in-person at the physical location of Room 416, the Bid Room, in the State Procurement Office at 1151 Punchbowl Street.

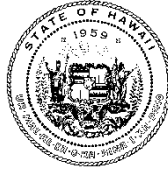
VIII. Adjournment

The Chair asked the public if they have any questions, and there were none.

Since there was no additional 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 11:59 a.m.

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

PROCUREMENT POLICY
BOARD
RICHARD HELTZEL
LANCE INOUE
LISA MARUYAMA
KEITH REGAN

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

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<http://spo.hawaii.gov>

Procurement Policy Board

Minutes of Meeting

Date/Time: Friday, March 28, 2025, 9:30 a.m.

Locations: State Procurement Office Bid Room
Kalanimoku Building, Room 416
1151 Punchbowl Street
Honolulu, Hawaii 96813

Virtual Meeting Using Interactive Conference Technology – Zoom

Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama
Keith Regan

Deputy Attorney General: Stella Kam

State Procurement Office: Bonnie Kahakui, Administrator
Christopher Amandi
Ruth Baker
Grace Dobbin
Fai Goya
Chan Lee (in public location)

Kelli Nekomoto
Carey Ann Sasaki
Keari Shibuya
Donn Tsuruda-Kashiwabara
Alan Yeh

Department of Accounting and General Services: Jolie Yee

University of Hawaii: Sarah Allen

City & County of Honolulu: Paula Youngling

Guests: David Ha
J. Masatsugu

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:32 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) introduced themselves.

III. Consideration and Approval of Minutes of February 28, 2025, Meeting

The minutes of the February 28, 2025, were not available; review and possible approval will be deferred to the next meeting.

Deputy Attorney General Stella Kam advised that draft meeting minutes need to be posted within 40 days of the meeting.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting, and that remote testifiers will be given the option of being on-camera via the Zoom link in this agenda or similar option for remote testimony.

V. Administrator's Presentation on 2025 Legislation Related to Procurement (For Information Only)

In accordance with the Sunshine Law, the Board Packet includes a list of procurement legislation, the State Procurement Office's position, the position of other entities, and the status of the legislation.

Written testimony: None
Oral testimony: None

Administrator Bonnie Kahakui of the State Procurement Office (SPO) provided an update on the bills that the SPO is tracking.

- House Bill 381 – Increases small purchase the threshold - SPO opposes this bill because we need transparency and fairness, and there is a concern about parceling. Other departments support this bill because of the perception that it would be faster to get quotes over the phone.
- Senate Bill 383 – Increases the minimum amount for purchases constituting small purchase procurements not subject to an electronic system from \$25,000 to \$50,000. While other departments support this bill, SPO is in opposition because of the issue of transparency and wants to make sure there is a level playing field for all vendors. Purchasing agencies should not be going backwards and not resort to paper/manual processes by getting quotes over the phone.
- House Bill 371 – This bill would require agencies to disclose the names of any officers and immediate adult family members of a state or county contractor for contracts over a certain amount to the Campaign Spending Commission. The SPO provided comments that the disclosure of such information would require an extensive administrative process on gathering that information, and noted that rules would have to be drafted should this bill pass.
- House Bill 988 – Prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation scores, except the summary of scores, during a debriefing requested by a non-selected offeror prohibits disclosure during debriefing. SPO supports this bill.
- House Bill 1155 – Exempts from the Hawai'i Public Procurement Code contracts by government bodies to procure certain construction projects. This bill has been amended. The SPO supports this bill. The SPO is also aware of opposition from those in the construction industry, and will

again review the language to help departments with specific construction needs. This bill will affect the Department of Transportation.

- House Bill 1297 – This bid protest bill that sets a time limit for submitting bid protests. Makes the 75-day limit for issuing a written decision on protests apply to any contract awarded by competitive sealed bid or competitive sealed proposal. Places a \$1.5 million cap on protests and removes language – Amended. SPO supports this bill.
- House Bill 1414 – Allows agencies to select 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. Amended. The SPO opposes this bill and states that an agency can utilize the Request for Proposal method of procurement, which is based on evaluation, not the price.
- Senate Bill 382 – 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. The SPO supports this bill
- Senate Bill 1057 – Clarifies that bid incentives given to bidders who work, who work on constructions and are given, who are parties to apprenticeship program is based on apprenticeable trades utilized, rather than employed, to construct the public works. The SPO supports that language.
- Senate Bill 1543 – Requires each purchasing agency to provide justification for hiring external consultants – Amended. The SPO provided comments on this bill.

There were no questions from the public.

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

Chair Maruyama introduced the discussion on the proposed amendments to Hawaii Administrative Rules (HAR), Chapter 3-122 – Source Selection and Contract Formation.

Written testimony: None

Oral testimony: None

Chair Maruyama turned the floor over to the State Procurement Office Staff.

For the record, Deputy Attorney General Stella Kam explained that HAR Chapter 3-122 was last amended in 2008, and reminded the Board that their responsibility is to promulgate rules to expand on the statute and help stakeholders understand what is legally covered under the statute. She responded to the Chair's question on aligning the rules with new statute(s) will require another round of review of the rules. Administrator Kahakui added that at the conclusion of the legislative session, the SPO will issue guidance through procurement circulars to summarize the new statute(s) and to facilitate their implementation. The circulars will serve as guidance until the Procurement Policy Board can promulgate rules reflecting those statutory changes.

Carey Ann Sasaki, Purchasing Specialist of the Policy and Compliance Section of the State Procurement Office, explained that the agenda will be on the proposed amendments to Hawaii Administrative Rules (HAR), Chapter 3-122, parts of subchapters 4, 4.5, and subchapter 5 that relate to the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS). The proposed rule amendments are included in the board packet and may also be viewed in person at the State Procurement Office, located at 1151 Punchbowl Street, Room 416, and online. Purchasing Specialist Sasaki summarized the HAR sections that the members reviewed, discussed, and concurred with.

She also noted that Board deferred action on HAR 3-122-9 until the final outcome of Senate Bill 382 and House Bill 988 during the 2025 Legislative session.

1. Subchapter 4 – Methods of Source Selection and General Guidance

- §3-122-16.03 Public notice.

Purchasing Specialist Sasaki explained that for the record, on February 28, 2025, the Procurement Policy Board reviewed, discussed, revised, and concurred with the proposed amendments to Hawaii Administrative Rules (HAR) subsections 3-122-16.03(b)(2), (b)(3), (b)(4), part of HAR subsection 3-122-16.03(c), and HAR subsections 3-122-16.03(d)(1) and (d)(2)(B).

She informed the members that subsection 3-122-16.03(c) will not be amended. As requested by the Board, the SPO staff conferred with Deputy Attorney General Stella Kam on the proposal to amend subsection (c). Since Deputy Attorney General Kam opined that "class" and "category" are not defined in the Hawaii Revised Statutes, subsection (c) will not be amended. It will read as follows:

(c) Public notice for professional services pursuant to section 103D-304, HRS, and subchapter 7 shall invite persons to submit statements of qualifications that include:

After discussion, the members concurred.

2. Subchapter 4.5 – Source Selection for Federal Grants

- §3-122-16.30 Purpose.

Purchasing Specialist Sasaki explained that for the record, on February 28, 2025, the Procurement Policy Board reviewed, discussed, revised, and concurred with the proposed amendments to HAR 3-122-16.30(a) and part of (b), but requested that the SPO confer with the Deputy Attorney General if the removing the source selection methods from subsection 3-122-16.30(b) will limit the methods of source selection to be used. Since then, the Deputy Attorney General opined that doing so does not affect, reduce, or limit the methods of source selection used. Thus, subsection 3-122-16.30(b) will be amended to remove "the appropriate source selection methods in" and reference 3-122-16 for clarity, and will read:

(b) The selection of [~~providers~~]contractors for federal grants shall be in accordance with [~~the appropriate source selection methods in~~] section 3-122-16."

After discussion, the members concurred with the amendment.

WHERE IS 16.31????

3. Subchapter 5 – Competitive Sealed Bidding

- §3-122-21 - Preparing a competitive sealed bid.
 - Amend subsections (1), (2), and (5).
 - Remove "and" from subsection (1)(C) and add it in subsection (1)(D), a non-substantive revision for grammar.

After discussion, (1)(A), (1)(D), and (1)(E) were revised for language for consistency and style to reference "date," then "time."

The revised language will match HAR 3-122-30(b) and 103D-302, HRS, which states that bids shall be open publicly in the presence of one or more witnesses at the time, date and place designated in the invitation for bids. The phrase "receipt of bids" is deleted because this is already in (1)(A), and thus (1)(E) is revised to read:

- (E) ~~[The bid opening shall be held at the time, date]~~The date, time, and location of the
~~[receipt of bids]~~ opening of bids;
- Amend subsection (2) by deleting "or" and "as are not included in the purchase description" and adding "and" for clarity. Deputy Attorney General Kam explained that minimum qualifications are part of the criteria. After much discussion, the revised language is as follows:

(2) The purchase description, ~~[or]~~ specifications, evaluation factors, delivery and/or performance schedule, and inspection and acceptance requirements~~[as are not included in the purchase description]~~;
 - Amend subsection (5) to clarify that electronic signatures are accepted. This will now read:

(5) ~~[With the exception of bid offers submitted through an electronic procurement system, a requirement that the bidder shall sign the bid form in ink and submit the bid form with the original signature included in the offer. Unless otherwise specified in the solicitation, if facsimile or other electronically transmitted bid offer is allowed, then the bidder shall submit the signed original offer in accordance with section 3-122-9(d)]~~ The bid form shall be signed by an authorized agent of the vendor and may be submitted with a digital or original signature as specified in the solicitation;

The members concurred with the aforementioned amendments to §3-122-21.

4. Subchapter 5 – Competitive Sealed Bidding

- §3-122-34 – Low tie bids

Amend subsection (b)(2) to correct misspelled word "contacts" to "contracts."

The members concurred with the amendment.

5. Subchapter 5 – Competitive Sealed Proposals

- §3-122-35 – Waiver to competitive sealed bid process

Amend subsection (c) for clarity, consistency and style and to add that the procurement officer shall be responsible to ensure proper documentation of the selected alternative procurement method is in the contract file and it also contains a determination that the price is fair and reasonable. This will now read:

(c) The procurement officer shall be responsible to ensure proper [D]documentation of the alternative procurement method selected is in the contract file, and shall include:

- (1) [State the r]Reasons for selection and length of contract period;
- (2) A determination that the price is fair and reasonable; and
- ([2]3) [Receive p]Prior approval of the chief procurement officer or a designee. [; and
~~-(3) Be made a part of the contract file upon award by the procurement officer.]~~

After discussion, the members concurred with these amendments.

There were no questions/comments from the public regarding any of the aforementioned proposed amendments.

VII. Announcements

Chair Maruyama announced planned meetings of the Procurement Policy Board:

- Friday, April 11, 2025, 9:30 a.m.
- Friday, April 25, 2025, 9:30 a.m.
- Friday, May 16, 2025, 9:30 a.m.

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

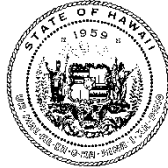
VIII. Adjournment

The Chair asked the public if they have any questions, and there were none.

Since there was no additional new business, Member Regan moved to adjourn the meeting and Member Inouye seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 11:24 a.m.

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

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

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

P.O. Box 119
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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, April 11, 2025, 9:30 a.m.

Locations: State Procurement Office Bid Room
Kalanimoku Building, Room 416
1151 Punchbowl Street
Honolulu, Hawaii 96813

Virtual Meeting Using Interactive Conference Technology – Zoom

Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama
Keith Regan

Deputy Attorney General: Stella Kam

State Procurement Office: Bonnie Kahakui, Administrator
Christopher Amandi
Ruth Baker
Jacob Chang
Matthew Chow
Fai Goya

Chan Lee (in public location)
Kelli Nekomoto
Carey Ann Sasaki
Keari Shibuya
Donn Tsuruda-Kashiwabara

Guests: Tim Lyons
Ryan Sakuda

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:38 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) introduced themselves.

III. Consideration and Approval of Minutes

a. Meeting Date: February 28, 2025

b. Meeting Date: March 28, 2025

The minutes of the February 28, 2025, and March 28, 2025, meetings have been deferred. Procurement Policy Board Members asked SPO staff for a summary sheet to aid them in tracking all of the changes being made to the HARs over the last several meetings. They decided to hold off on approval of the February 28 and March 28 meetings until such a document could be provided.

Deputy Attorney General Stella Kam advised that draft meeting minutes need to be posted within 40 days of the meeting.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting, and that remote testifiers will be given the option of being on-camera via the Zoom link in this agenda or similar option for remote testimony.

V. Administrator's Presentation on 2025 Legislation Related to Procurement (For Information Only)

In accordance with the Sunshine Law, the Board Packet includes a list of procurement legislation, the State Procurement Office's position, the position of other entities, and the status of the legislation.

Written testimony: None

Oral testimony: None

Administrator Bonnie Kahakui of the State Procurement Office (SPO) provided an update on the bills that the SPO is tracking.

- Senate Bill 383 – Increases the minimum amount for purchases constituting small purchase procurements not subject to an electronic system from \$25,000 to \$50,000. The SPO still opposes the increase.
- House Bill 371 – Relating to Campaign Contributions, would require agencies to disclose the names of any officers and immediate adult family members of a state or county contractor for contracts over a certain amount to the Campaign Spending Commission.

- House Bill 412 – Requires that the Department of the Attorney General consults with the head of the purchasing agency impacted before any action is taken.
- House Bill 987 – This is the State Procurement Office's bill, which asks for the establishment of an eProcurement system special fund.
- House Bill 988 – Prohibits a procuring agency from disclosing a competing offeror's proposal during a debriefing. Disclosure is allowed after the contract has been executed. SPO supports this bill.
- Senate Bill 382 – This bill is similar to House Bill 988. The SPO supports this bill.
- House Bill 1155 – Exempts from the Hawai'i Public Procurement Code contracts by government bodies to procure certain construction projects. This is an innovative procurement process that will address specifically Department of Transportation's needs for federal funding. The SPO provided comments on this bill for a pilot program. Member Heltzel expressed his concern about this bill.
- House Bill 1297 – This bid protest bill that sets a 75-day limit for issuing a written decision on protests apply to any contract awarded by competitive sealed bid or competitive sealed proposal. Places a \$1.5 million cap on protests. The supports this bill.
- Senate Bill 1651 – This affects public meetings and adds requirements for public disclosure. The SPO is tracking this bill.

There were no questions from the public.

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

Agenda Item VI was deferred. Procurement Policy Board Members asked SPO staff for a summary sheet to aid them in tracking all of the changes being made to the HARs over the last several meetings.

VII. Announcements

Chair Maruyama announced planned meetings of the Procurement Policy Board:

- Friday, May 16, 2025, 9:30 a.m.
- Friday, June 6, 2025, 9:30 a.m.

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

VIII. Adjournment

Since there was no additional new business, Member Regan moved to adjourn the meeting and Member Heltzel seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 10:31 a.m.

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

PROCUREMENT POLICY
BOARD
RICHARD HELTZEL
LANCE INOUE
LISA MARUYAMA
KEITH REGAN

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

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Honolulu, Hawaii 96810-0119
Tel: (808) 587-4701
Email: state.procurement.office@hawaii.gov
<http://spo.hawaii.gov>

Procurement Policy Board

Minutes of Meeting

Date/Time: Thursday, July 10, 2025, 9:30 a.m.

Locations: State Procurement Office Bid Room
Kalanimoku Building, Room 416
1151 Punchbowl Street
Honolulu, Hawaii 96813

Virtual Meeting Using Interactive Conference Technology – Microsoft Teams

Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama
Keith Regan

Deputy Attorney General: Stella Kam (joined at 11:05 am, following the conclusion of a prior meeting)

State Procurement Office: Bonnie Kahakui, Administrator
Ruth Baker (in public location)
Jacob Chang
Matthew Chow
Stacey Kauleinamoku-Murakami
Chan Lee
Kelli Nekomoto

Carey Ann Sasaki
Cynthia Sato
Keari Shibuya
Donn Tsuruda-Kashiwabara
Rommanee Woutila
Alan Yeh

Guests: Steven Melendrez, Department of Budget & Finance, Employees' Retirement System

Tim Lyons
Jeff Masatsugu
Ryan Sakuda
Nietzsche Tolan

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:37 a.m. held on Microsoft Teams and in-person at the physical location. The meeting was recorded.

II. Roll Call, Quorum

Roll call was taken of the PPB members; there was quorum. Staff of the State Procurement Office (SPO) introduced themselves.

III. Consideration and Approval of Minutes

a. February 28, 2025

Motion to approve by Member Rick Heltzel, seconded by Member Lance Inouye. After discussion, revisions were made to the minutes to show that proposed amendment to Hawaii Administrative Rules §3-122-16.31 (d)(2) were reviewed and discussed. The motion was amended to approve the revised minutes. The motion carried.

Note that the PPB had made revisions to the February 14, 2025, meeting minutes at the February 28, 2025, meeting. The revised minutes for the meeting on February 14, 2025, should have been included in the Board packet for July 10, 2025.

b. March 28, 2025

Motion to approve by Comptroller Keith Regan, seconded by Member Heltzel. Senate Bill 328 was corrected to read Senate Bill 382. The motion carried to approve the minutes as amended.

c. April 11, 2025

Motion to approve by Comptroller Keith Regan, seconded by Member Heltzel. Motion to approve with additional clarification on the reason why the minutes were deferred and that the PPB requested a chart to track changes made to the Hawaii Administrative Rules. The motion carried to approve the minutes as amended.

As previously noted, the chair requested that any revised minutes be included in the subsequent Board packet.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting, and that remote testifiers will be given the option of being on-camera via the Microsoft Teams link in this agenda or similar option for remote testimony.

V. Administrator's Presentation on 2025 Legislation Related to Procurement (For Information Only)

In accordance with the Sunshine Law, the Board Packet includes a list of procurement legislation, the State Procurement Office's position, the position of other entities, and the status of the legislation.

Written testimony: None
Oral testimony: None

Administrator Bonnie Kahakui of the State Procurement Office (SPO) provided an update on the bills that the SPO is tracking.

- House Bill 987 / Act 206, Relating to Procurement, establishes a special fund for the State Procurement Office. As a housekeeping amendment to update Hawaii Revised Statutes Chapter 103D, by adding the Executive Director of the School Facilities as a Chief Procurement Officer.
- Senate Bill 383 / Act 262, Relating to Small Purchases, increases the minimum amount for purchases constituting small purchase procurements not subject to an electronic system from \$25,000 to \$50,000 and requires the State Procurement Office to submit a report to the Legislature.
- House Bill 412 / Act 63, Relating to Lobbying, is a campaign spending bill which states that a lobbying violation could void a contract after the Department of the Attorney General consults with the head of the purchasing agency impacted.
- Senate Bill 1651 / Act 169, Relating to Public Hearings, clarifies that Board Packets must be posted three full business days before a public meeting.
- House Bill 300 / Act 250, Relating to the State Budget, includes an appropriation for our Small Business Coordinator position for Fiscal Year '26 and Fiscal Year '27. The State Procurement Office's Small business Coordinator, Keri Shibuya, is working on drafting small business rules, which will be reviewed by the PPB.

Chair Maruyama asked about the implications of Senate Bill 383 / Act 262. Administrator Kahakui said that the report to be submitted will require the SPO to request procurement information (such as the number of transactions under \$50,000) from the Chief Procurement Officers. The Chair asked that the PPB be kept informed on the implementation of this law and how it affects the State Procurement Office.

Since Senate Bill 382 and House Bill 988 did not pass, Chair Maruyama asked how this will impact the PPB's decision on the proposed amendments to Hawaii Administrative Rules 3-122-9.01 about disclosure. Administrator Kahakui explained that the PPB can add clarifying language to the rules to support the existing statute.

There were no questions from the public.

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

The PPB reviewed the proposed amendments to Hawaii Administrative Rules, Chapter 3-122, Source Selection and Contract Formation, as summarized in agenda and chart enclosed in the Board packet. The amendments addressed Subchapters 2, 4, 4.5, and 5, and included revisions for clarity, consistency, and style; the addition or correction of source selection methods; and updates to reflect current procurement practices.

The proposed rules were presented for review because certain items had been deferred from prior meetings, the discussion had not been concluded, or the amendments had been inadvertently omitted from previous agendas. The PPB noted that the proposed rules were available for public review in person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, and online at the State Procurement Office's website in accordance with section 91-2.6, Hawaii Revised Statutes.

Administrator Kahakui introduced Purchasing Specialist Carey Ann Sasaki, who presented the proposed amendments.

1. **Subchapter 2 – General Provisions**

§3-122-9.01 – Disclosure of information. After much discussion, the members concurred with the amendment to subsection (b), which shall read as follows:

(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) for multi-step bids and competitive sealed proposals.

The Board had discussed the merits of the amendment, the difference of opinion between the State and City on disclosure, and the ambiguity of when the disclosure of information is allowed. Administrator Kahakui explained that disclosure of information would be contrary to Hawaii Revised Statutes §92F-13, Frustration of Government Operations. Deputy Attorney General Stella Kam, who joined the meeting during this discussion, recommended deferring the proposed amendments to subsections (a) and (b) until the outcome of Senate Bill 382 and House Bill 988 is known. These disclosure-related bills are expected to carry over to the 2026 Legislative Session.

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

- §3-122-16 – Methods of source selection. – The members concurred with the addition of missing source selection methods: “Subchapter 5 – Competitive Sealed Bidding” and “Subchapter 6.5 – Multi-Step Competitive Sealed Bidding.” This amendment is to align with Hawaii Revised Statutes §103-302, as amended by Act 239, Session Laws of Hawaii 2013, added competitive sealed bidding as a method of source selection.
- §3-122-16.05 – Pre-bid or pre-proposal conference – The members concurred with the amendment to subsection (c) to delete “to all prospective offerors” for clarity, consistency, and style.

3. **Subchapter 4.5 – Source Selection for Federal Grants**

- §3-122-16.31 – Exception; request for interest for federal grants. – The members concurred with the amendment to (d)(2) by deleting “or clients” for clarity.

VII. Formal Approval of Proposed Amendments to Hawaii Administrative Rules, Chapter 3-122, Source Selection and Contract Formation

The Board packet included a [chart](#) with proposed amendments to Hawaii Administrative Rules Chapter 3-122, Subchapters 2, 3, 4, 4.5, and 5. The Board reviewed and discussed the amendments during previous meetings, with meeting dates noted in the chart.

As provided in section 91-2.6, Hawaii Revised Statutes, the proposed rules in Ramseyer format were available for viewing as follows:

- In person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813
- Online at:
https://spo.hawaii.gov/wp-content/uploads/2025/07/RAM-HAR-3-122-Subchapters-2-to-5_am_PPB-071025.pdf

Online through the SPO website at <https://spo.hawaii.gov>; by clicking on [Procurement Policy Board](#), on [Proposed Amendments to Hawaii Administrative Rules Chapter 3-122](#), then on [3-122 \(Proposed 07/10/25\)](#)

Purchasing Specialist Sasaki went over the following proposed amendments to Hawaii Administrative Rules for formal approval by the PPB.

1. Subchapter 2 – General Provisions

- §3-122-9 – Use of electronic communication. – Amend the following:
 - a. §3-122-9 (c)(2)(E) – Add “including pages” and remove “an original” as electronically submitted offers with electronic signatures are accepted. The PPB reviewed and concurred with this amendment on 2/14/25.
 - b. §3-122-9 (c)(2)(F) – Revise by removing the extra “and” to correct grammar and the sentence structure. The PPB reviewed and concurred with this amendment on 2/14/25.

2. Subchapter 4 – Methods of Source Selection and General Guidance

- §3-122-16.03 – Public notice. – Amend the following:
 - a. §3-122-16.03 (b)(2) - Remove “and a phone number or e-mail address where interested parties may request a copy.” The PPB reviewed and concurred with this amendment on 2/28/2025.
 - b. §3-122-16.03 (b)(3) - Remove “How long the solicitation will be available” and replace with “The deadline for the responses to the solicitation” so there is a clear due date when offers are due. The PPB reviewed and concurred with this amendment on 2/28/2025.
 - c. §3-122-16.03 (b)(4) – Add “contact information,” which is inclusive of all types of contact information (such as email address, phone number, etc.). Also, add “if any.” The PPB reviewed and concurred with this amendment on 2/28/2025.
 - d. §3-122-16.03 (b)(7) – Add new subsection (b)(7). On 2/14/2025 (correct date), after review of the amendment, the PPB concurred that the language will read as follows:

(7) A copy of the solicitation shall be made available [for public inspection and pick-up] electronically and/or may be picked up at the respective issuing office [of the procurement officer issuing the solicitation] .
 - f. §3-122-16.03 (d)(1) - Remove “or provider.” This amendment enhances clarity, consistency, and style by specifying that public notices shall, at a minimum, be published on a purchasing agency’s website. It also clarifies that notices may be sent by mail or electronically to individuals on relevant mailing lists, ensuring that the purchasing agency remains responsible for public notifications. Additionally, it notes that “Provider,” as defined in §103F-102, HRS, refers to an organization or individual contracted by a state agency to provide health or human services to the public on its behalf. The PPB reviewed and concurred with this amendment on 2/28/2025.
 - g. 3-122-16.03 (d)(2)(B) - Replace “electronic mail, or facsimile transmission” with “or electronically.” The PPB reviewed and concurred with this amendment on 2/28/2025.
- §3-122-16.05 – Pre-bid or pre-proposal conference. – Amend subsections (a), (b), and (f).
 - a. §3-122-16.05 (a) - Amend for clarity, consistency, and style to reflect that pre-bid or pre-offer conferences are optional. The PPB reviewed and concurred with this amendment on 2/28/2025.
 - b. §3-122-16.05 (b) – Remove 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*. The PPB reviewed and concurred with this amendment on 2/28/2025.
 - c. §3-122-16.05 (f) – Add “including questions and answers” to subsection (f), which will now be read as subsection (e). This amendment provides clarity and consistency and ensures fair competition by requiring that a conference summary – including questions and answers, any changes to the solicitation, and other information, shall be issued as an addendum to be provided sufficiently in advance of the receipt of offers. Delete “those” for

grammar. Also delete “known to have received a solicitation,” as it is difficult to determine whether prospective offers have received that information. The PPB reviewed and concurred with this amendment on 2/28/2025.

- §3-122-16.06 – Amendment and clarification to solicitation. Changed (a) back to original verbiage and amend (d) and (e).
 - a. (a) An addendum shall be issued for amendments and clarifications to a solicitation prior to submission of offers, except as provided in subsection (f).
 - b. §3-122-16.06 (d) – Revise to read “Addenda shall be issued to all prospective offerors.” The PPB reviewed and concurred with this amendment on 2/28/2025.
 - c. §3-122-16.06 (e)(1) – Replaced “distributed” with “published” and add “or electronic means” to allow electronic communications. PPB reviewed and concurred with this amendment on 2/28/2025.
- §3-122-16.07 – Pre-opening modification or withdrawal of offer. - Amend for clarity, consistency, and style to reflect that an offeror’s modification may be submitted electronically. PPB reviewed and concurred with this amendment on 2/28/2025.

On 7/10/25, PPB noted and concurred with additional amendment to (1)(B) that was inadvertently left out. The section will now read:

(1) (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.

- §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.
 - a. The amendment to (a) requires written documentation for the reason late offer, withdrawal or modification is accepted by the head of the purchasing agency. PPB reviewed and concurred with this amendment on 2/28/2025. On 7/10/2025, PPB also amended (a) to add, “, and supported by a written determination by the head of the purchasing agency” and deleted “within the procurement activity.”
 - b. The amendment to (b), is for clarity, consistency, and style, as well to replace “procurement activity” with “purchasing agency” as defined in 103D-104, Hawaii Revised Statutes. PPB reviewed and concurred with this amendment on 2/28/2025.

4. Subchapter 4.5 – Source Selection for Federal Grants

- §3-122-16.30 – Purpose. Amend (a) and (b):
 - a. §3-122-16.30 (a) and (b) - Replace “providers” with “contractors” for clarity, consistency, and style to reflect that respondents selected for federal grants are contractors. “Contractor” is a more accurate term because it pertains to the procurement of goods, services, or construction and defined in §103D-104, HRS, while “provider” pertains to the purchases of health and human services and is defined §103F104. PPB reviewed and concurred with this amendment on 3/28/25.

- b. §3-122-16.30 (b) – Remove “the appropriate source selection methods” to reference the whole section 3-122-16 for clarity in subsection (b), thus will read:

(b) The selection of [~~providers~~] contractors for federal grants shall be in accordance with [~~the appropriate source selection methods in~~] section 3-122-16.

Section 3-122-16 lists all the methods of source selection. As discussed at the 2/14/25 meeting, the proposed amendment to §3-122-16 adds source selection methods “Subchapter 5 – Competitive Sealed Bidding” and “Subchapter 6.5 – Multi-Step Competitive Sealed Bidding, pursuant to 103D-301, HRS, as amended by [Act 239, Session Laws of Hawaii 2013](#). Deputy Attorney General opined that removing the phrase “the appropriate source selection methods” does not affect, reduce, or limit the methods of source selection used. PPB reviewed and concurred with this amendment on 3/28/25.

- o §3-122-16.31 – Exception; request for interest for federal grants. – Amend (b), (d), (e), and (f):
 - a. §3-122-16.31 (a) – Add “when applying for a grant or after receipt of a grant”. This amendment is to ensure the purchasing agency fulfills its due diligence and remains with the contractor specified in the federal grant and does not switch to a different contractor. PPB reviewed and concurred with this amendment on 2/28/25.
 - b. §3-122-16.31 (b), (d)(4), (d)(8), (e), and (f) - Replace “providers” with “contractors” for clarity, consistency, and style to reflect that providers selected for federal grants are contractors. PPB reviewed and concurred with this amendment on 3/28/25.

5. Subchapter 5 – Competitive Sealed Bidding

- o §3-122-21 - Preparing a competitive sealed bid. - Amend subsections (1), (2), and (5):
 - a. §3-122-21 (1)(A) and (1)(D), – Reference “date” then “time” for style and consistency. PPB reviewed and concurred with this amendment on 3/28/25.
 - b. §3-122-21 (1)(C) and (1)(D) - Remove “and” from subsection (1)(C) and add it to subsection (1)(D) for grammar. PPB reviewed and concurred with this amendment on 3/28/25.
 - c. §3-122-21 (1)(E) - Add subsection (1)(E) with revised language for clarity, consistency, and style. Language is changed from “The bid opening shall be held at the time, date, and location of the receipt of bids” to “The date, time, and location of the opening of bids;”. PPB reviewed and concurred with this amendment on 3/28/25.
 - d. §3-122-21 (2) - Amend by deleting “or” and “as are not included in the purchase description” and adding “and” for clarity as “the purchase description, specifications, evaluation factors, delivery and/or performance schedule, and inspection and acceptance requirements” should all be included in the invitation for bids. PPB reviewed and concurred with this amendment on 3/28/25.
 - e. §3-122-21 (5) - Amend by revising the language to “The bid form shall be signed by an authorized agent of the vendor and may be submitted with a digital or original signature;” to clarify that electronic signatures are accepted. PPB reviewed and concurred with this amendment on 3/28/25.
- o §3-122-34 – Low tie bids. – Amend subsection (b)(2) to replace “contacts” with “contracts”. PPB reviewed and concurred with this amendment on 3/28/25.
- o §3-122-35 – Waiver to competitive sealed bid process. – Amend subsection (c) for clarity, consistency, and style and to add that the procurement officer shall be responsible to ensure proper documentation of the selected alternative procurement method is in the contract file

and it also contains a determination that the price is fair and reasonable. PPB reviewed and concurred with this amendment on 3/28/25.

Administrator Kahakui responded to Member Inouye's question about §3-122-35 (b) and (c). She explained that this has been used in the past. She explained that it is the Chief Procurement Officer's responsibility to review the request and justification to conduct an alternative procurement as described in this subsection.

There were no written/oral testimony or questions on the proposed amendments from the public.

Motion made by Member Inouye and seconded by Member Heltzel to approve the proposed amendments to Hawaii Administrative Rules, Chapter 3-122, Source Selection and Contract Formation. The motion carried.

VII. Announcements

Chair Maruyama said that a poll will be taken on the date for the next meeting of the Procurement Policy Board. The meetings will be hybrid on Microsoft Teams and in-person at the physical location of Room 416, the Bid Room, in the State Procurement Office at 1151 Punchbowl Street.

VIII. Adjournment

Since there was no additional new business, motion to adjourn the meeting by Member Inouye and seconded by Member Regan. Motion carried. The meeting adjourned at 12:25 pm

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board

Proposed Amendments to HAR 3-122 - 10/07/25

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
6 - Competitive Sealed Proposals	3-122-41 - Purpose	Amend by removing "when it is determined that competitive sealed bidding is neither practicable nor advantageous to the State" to align with the revisions to section 103D-301, Hawaii Revised Statutes, and Hawaii Administrative Rules section 3-122-16 - Methods of Source Selection. It is not required to determine that competitive sealed bidding is neither practicable nor advantageous to the State in order to use the competitive sealed proposal method of procurement.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-42 - Repealed	N/A	N/A			
6 - Competitive Sealed Proposals	3-122-43 - Procurement planning for competitive sealed proposals	With amendment to §103D-301 - Methods of source selection, Hawaii Revised Statutes, amend section by changing title to "Procurement planning" and removing all subsections and replacing it with "A strategic procurement plan for competitive sealed proposals may include, but is not limited to the following determinations: (1) Requirements definition; (2) market research to substantiate requirements definition; (3) period of performance; (4) type of contract; (5) analysis of the relative importance of price and other evaluation criteria; (6) Oral or written discussions, as applicable, with offerors concerning technical and price aspects of their proposals. This clarifies that a determination that competitive sealed bidding is not practicable or advantageous is not required and ensures that procurements are strategically aligned with agency needs and market conditions.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-45 - Determination	This section is repealed because it is no longer relevant due to amended section 103D-301, Hawaii Revised Statutes, which included the competitive sealed bids method of procurement as an optional method of procurement rather than a required method of procurement. Hawaii Administrative Rules §3-122-45 allowed for a pre-approved list of goods, services, or construction that may be procured by competitive sealed proposals without determination by the head of the purchasing agency that competitive sealed bidding is not practicable or advantageous.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-45.01- Evaluation committee	This section is amended for clarity, consistency, and style by reformatting some of the subsections. Add guidance that evaluation committee members are encouraged to participate in the development of the solicitation, that all evaluation committee members shall sign an affidavit, and that the procurement officer may require participants to sign a non-disclosure agreement prior to reviewing any information to enhance transparency and integrity.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-46 - Preparing a request for proposals	This section is amended for clarity, consistency, and style. These revisions also incorporate past performance as part of the evaluation and add that the proposal shall be signed by an authorized agent of the vendor and may be submitted with a digital or original signature. This clarifies that electronic signatures are accepted.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-51- Receipt and registration of proposals	Amend (a) and (a)(1) to clarify circumstances when procurement is conducted electronically. Subsection (a) adds "date and" and "unless submitted via an electronic procurement system" and (a)(1) adds "If conducted electronically, proposals and modifications shall not be opened publicly and not required to be opened in the presence of two or more state officials." This ensures secure, auditable handling of proposals.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-52 - Evaluation of proposals	Amend subsection (d) to remove "When applicable, cost" and replace it with "Price". Add subsection "(e) Past performance shall be an evaluation factor." The amendments align with Act 188, Session Laws of Hawaii 2021.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	NEW 3-122-52.5 - Clarifications with offerors after receipt of proposals	Add a new subsection to allow limited clarifications with offerors before priority listing, improving accuracy without compromising fairness or altering proposals.	4/11/25, 10/07/25			

Proposed Amendments to HAR 3-122 - 10/07/25

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
6 - Competitive Sealed Proposals	3-122-53 -Discussions with offerors	<input type="checkbox"/> Amend (a)(1) to clarify that proposals shall be classified initially as unacceptable "based on the criteria outlined in the solicitation;". <input type="checkbox"/> Amend (b)(2) to reflect that the procurement officer shall also keep a record of the discussions, as well as the date, time, place, purpose of meetings, and attendees. <input type="checkbox"/> Remove (d)(1) "Any substantial oral clarification of a proposal shall be reduced to writing by the priority listed offeror;". This subsection is removed because any mandated writing can only be accepted as a Best and Final Offer. <input type="checkbox"/> Add (d)(2) Limits on discussions. This subsection provides more details on what should not take place during discussions.	4/11/25, 10/07/25			
6 - Competitive Sealed Proposals	3-122-60 - Debriefing	Revise (b) for style by deleting "of the contract".	10/07/25			
6.5 - Multi-Step Competitive Sealed Bidding	3-122-61.05 - Purpose	Amend <u>Purpose</u> for clarity and style to state that this subchapter provides rules for the use of multi-step competitive sealed bidding where technical evaluation precedes pricing.	10/07/25			
6.5 - Multi-Step Competitive Sealed Bidding	3-122-61.06 - Preparing a multi-step invitation for bids	Amend (a), (b)(2), (b)(3), and (b)(5) for clarity and style to allow for flexibility in complex procurements.	10/07/25			
6.5 - Multi-Step Competitive Sealed Bidding	3-122-61.07 - Phase one.	Amend (2) for clarity to add language that the procurement officer shall notify the bidder when the bid has been determined to be not acceptable. Clarify the first phase in the process, allowing for more flexible and effective procurement of complex goods or services.	10/07/25			
6.5 - Multi-Step Competitive Sealed Bidding	3-122-61.08 - Phase two.	<input type="checkbox"/> Amend (a)(1) by removing "If priced bids were required to be submitted in phase one." <input type="checkbox"/> Amend (a)(2) and (a)(3) by adjusting numeric sequence. <input type="checkbox"/> Amend what is now (a)(3) by removing "return the sealed priced bids to the bidders," adding language "that is clearly identified as amended, and changing "them" to "bidders" for clarity and style.	10/07/25			
7 - Procurement of Professional Services	3-122-63 - General provisions	Amend (a) for clarity by adding the word "Procurement," and adding "The use of this method is limited to professions as defined in section 103D-104, Hawaii Revised Statutes. Amend (b) by replacing "screening" with "selection" for clarity and style.	10/07/25			
7 - Procurement of Professional Services	3-122-67- Small purchases of professional services	<input type="checkbox"/> Amend for clarity by adding language that clarifies small purchases of professional services "that are within the small purchase dollar threshold." <input type="checkbox"/> The deletion of "small purchase of" specifies that design professional services under chapter 464, Hawaii Revised Statutes, are excluded from this section. <input type="checkbox"/> The reference to section 103D-304, Hawaii Revised Statutes, has been updated from "(j)" to "(k)" to reflect the correct subsection. This section now explicitly states that purchases professional services within the small purchase dollar threshold may be conducted pursuant to 103D-304(k) ,Hawaii Revised Statutes, or subchapter 8, Small purchases.	10/07/25			
7 - Procurement of Professional Services	3-122-66	REPEALED IN 2016	N/A			

Proposed Amendments to HAR 3-122 - 10/07/25

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
7 - Procurement of Professional Services	3-122-69 - Review and selection committees.	<input type="checkbox"/> Amend (a) by deleting "who are not employees of a governmental body." <input type="checkbox"/> Amend (a)(3) for clarity by replacing the word "affidavit" with "attestation." <input type="checkbox"/> Amend (B) and (C) for grammar by moving the word "and" <input type="checkbox"/> Add (D), which says "The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior to reviewing any information." <input type="checkbox"/> Amend (b) by adding "directors" to the list of appointed positions that shall not serve on review or selection committees.	10/07/25			
7 - Procurement of Professional Services	3-122-70 - Debriefing.	Amend (2)(b) for clarity by deleting "submitted" and replacing "filed" with "submitted in writing." This clarifies the protest requirement for documentation and due process.	10/07/25			
8 - Small Purchases	3-122-74 - General provisions.	Add (f) "Single Offeror" language: "(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file." The addition of (f) is to enhance the integrity and transparency of the procurement process by ensuring that even when there is only one offeror, the terms of the purchase are scrutinized and justified.	10/07/25			
8 - Small Purchases	3-122-70 - Debriefing.	Amend (2)(b) to clarify that protests are to be submitted in writing, ensuring transparency and due process.	10/07/25			
8 - Small Purchases	3-122-75 - Goods, services and construction	<input type="checkbox"/> Amend (a)(1) and (a)(2) by amending the small purchase threshold from \$25,000 to \$50,000, as revised by Act 262, Session Laws of Hawaii 2025. <input type="checkbox"/> Delete (a)(3) because it is no longer applicable. <input type="checkbox"/> Amend (c) by deleting "lowest responsive" and adding "with the lowest price and responsive, technically acceptable offer." <input type="checkbox"/> Amend (d) by adding clarifying language: "Best value is a cost benefit trade off as defined in section 3-122-1, HAR." <input type="checkbox"/> Add (e) to provide clear guidance: "Award shall be posted within seven days of notice of award." <input type="checkbox"/> The remaining points "(e)," "(f)", and "(g)" are re-lettered to accommodate the addition of a new point "(e)."	10/07/25			
8 - Small Purchases	3-122-77 - Procurement file and disclosure of information	Amend for clarity and style, including adding the word "publicly" and "or when contract award is made, whichever comes sooner." The amendments ensure that quotation information remains confidential until a definitive action is taken, providing clarity on when the information can be disclosed.	10/07/25			
8 - Small Purchases	3-122-78 - Electronic procurement	<input type="checkbox"/> Amend (a) by removing phrase "Effective July 1, 2007, small" to eliminate the specific effective date, amending the small purchase threshold from \$25,000 to \$50,000, and adding clarifying phrase "the small purchase threshold." <input type="checkbox"/> Amend (e) by replacing "\$25,000" with "\$50,000" and adding "the small purchase threshold" to increase the small purchase threshold when the use of an electronic procurement system is required. The revisions align with Act 262, Session Laws of Hawaii 2025.	10/07/25			

[Proposed Amendments to HAR 3-122 - 10/07/25](#)

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
9 - Sole Source Procurement	3-122-81 - General provisions	<input type="checkbox"/> Amend (b) for clarity and style by deleting "for a purchase." <input type="checkbox"/> Amend (g) to provide clear guidance by replacing "should" with "shall" and adding language: "are found fair and reasonable in the market. Negotiations shall be documented in the procurement file." These revisions aim to strengthen the procurement process by making it mandatory for the procurement officer to conduct thorough negotiations and document the outcomes. <input type="checkbox"/> Amend (i) for clarity and style The phrase "A purchase order shall be issued or a certification that funds are" has been replaced with "Funds must be available for the amount of the purchase." This change simplifies the language and makes it clear that the availability of funds is a prerequisite for the purchase to say that funds must be available. The phrase "shall be obtained for a sole source purchase" is removed and maintains the reference to section 103D-309, Hawaii Revised Statutes, and Subchapter 12, ensuring that the requirement is aligned to the relevant statutes.	10/07/25			

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

Interim
Hawaii Administrative Rules

October 7, 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. §3-122-41, Hawaii Administrative Rules, is amended to read as follows:

§3-122-41 Purpose. The purpose of this subchapter is to provide rules for the use of the competitive sealed proposal method of source selection [~~when it is determined that competitive sealed bidding is neither practicable nor advantageous to the State~~]. 12/15/95; comp 11/17/97; comp 3/21/2008; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-303)

2. §3-122-43, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-43 [~~When competitive sealed bidding is not practicable or advantageous.~~ (a) Unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the invitation for bids, competitive sealed bidding is not practicable or advantageous.

~~(b) A determination may be made to use competitive sealed proposals if it is determined that competitive sealed bidding is not practicable, even though advantageous. Factors to be considered in determining whether competitive sealed bidding is not practicable include:~~

- ~~(1) Whether the primary consideration in determining award may not be price;~~
- ~~(2) Whether the contract needs to be other than a fixed price type;~~
- ~~(3) Whether the specifications for the goods, services, or construction, or delivery requirements cannot be sufficiently described in the invitation for bids;~~
- ~~(4) Whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;~~
- ~~(5) Whether offerors may need to be afforded the opportunity to revise their proposals, including price; and~~
- ~~(6) Whether award may need to be based upon a comparative evaluation as stated in the request for proposals of differing price, quality, and contractual factors in order to determine the most advantageous offering to the State. Quality factors include technical and performance capability and the content of the technical proposal.~~

~~(c) A determination may be made to use competitive sealed proposals if it is determined that competitive sealed bidding is not advantageous, even though practicable. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:~~

- ~~(1) If prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the State; and~~
- ~~(2) Whether the factors listed in subsection (b) (4) through (b) (6) are desirable in conducting a procurement rather than necessary; if they are, then the factors may~~

~~be used to support a determination that competitive sealed bidding is not advantageous.~~

~~(d) The determinations required by this section shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.~~ Procurement Planning. A strategic procurement plan for competitive sealed proposals may include, but is not limited to the following:

- (1) Requirements definition;
- (2) Market research to substantiate requirements definition;
- (3) Period of performance;
- (4) Type of contract;
- (5) Analysis of the relative importance of price and other evaluation criteria; and
- (6) Oral or written discussions with offerors concerning technical and price aspects of their proposals, as applicable." [Eff 12/15/95; comp 11/17/97; am and comp 03/21/08; am and comp 3/21/2008] Auth: HRS §§103D-202, 103D-318) (Imp: HRS §§103D-303, 103D-318)

3. §3-122-45, Hawaii Administrative Rules, is repealed:

~~["§3-122-45 Determinations. (a) Pursuant to section 103D-303(a), HRS, the procurement policy board may approve a list of goods, services, or construction that may be procured by competitive sealed proposals without a determination by the head of the purchasing agency.~~

~~— (b) The list, entitled "Procurements Approved for Competitive Sealed Proposals," shall be reviewed biennially by the procurement policy board and issued by procurement directive. Although the good, service, or construction is listed, purchasing agencies may use the competitive sealed bidding process under section 103D-302, HRS.~~

~~— (c) If the procurement is not listed pursuant to~~

~~subsection (a), the head of a purchasing agency shall then determine in writing that competitive sealed proposals is a more appropriate method of contracting in that competitive sealed bidding is neither practicable nor advantageous. The determinations may be made for categories of goods, services, or construction rather than by individual procurement.~~

~~(d) When it is determined that it is more practicable or advantageous to the State to procure construction by competitive sealed proposals:~~

~~(1) A procurement officer may issue a request for proposals requesting the submission of proposals to provide construction in accordance with a design provided by the offeror; and~~

~~(2) The request for proposals shall require that each proposal submitted contain a single price that includes both design and build.~~

~~(e) The head of the purchasing agency who made the determination pursuant to subsection (c) or (d) may modify or revoke it at any time and the determination shall be reviewed for current applicability on the next procurement for the goods, services, or construction. The head of the purchasing agency may also request that the procurement of the goods, services, or construction by competitive sealed proposals be added to or deleted from the list in subsection (b).~~

~~(f) The determinations required by this section shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law."~~

~~Eff 12/15/95; am and comp 11/17/97; am 07/06/99; am and comp 03/21/08; R]~~

~~(Auth: HRS §§103D-202, 103D-303, 103D-318) (Imp: HRS §§103D-303, 103D-318)~~

4. §3-122-45.01, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-45.01 (a) Evaluation committee. Prior to the preparation of the request for proposals, a

determination shall be made by the procurement officer that the procurement officer or an evaluation committee selected in writing by the procurement officer shall evaluate the proposals. ~~[A copy of the document identifying any committee members and any subsequent changes thereto shall be placed in the contract file]~~ The document identifying all committee members, approved by the procurement officer, shall be placed in the contract file. Subsequent changes, approved by the procurement officer, shall also be filed.

(b) Evaluation committee members are encouraged to participate in the development of the solicitation.

(1) The evaluation committee shall consist of at least three governmental employees with sufficient qualifications in the area of the goods, services, or construction to be procured;

(2) Private consultants may also serve on the committee and shall:

(A) Have sufficient knowledge to serve on the committee; and

(B) Serve without compensation, unless justified and determined in writing by the head of the purchasing agency that compensation is justified; ~~[and~~

~~(C) Sign an affidavit:]~~

(3) All evaluation committee members shall sign an affidavit:

(i) Attesting to having no personal, business, or any other relationship that will influence their decision in the evaluation process;

(ii) Agreeing not to disclose any information on the evaluation process to other than an employee of a governmental body; and

(iii) Agreeing that their names will become public information upon award of the contract;

(iv) The procurement officer may require participants to sign a non-disclosure agreement prior to reviewing any information;

~~[(3)]~~ (4) The contract administrator shall serve as a member of the committee;

~~[(4)]~~ (5) The contract administrator or a designee shall serve as chairperson, and the procurement officer or a designee shall serve as advisor." [Eff and comp 03/21/08; am and comp]
(Auth: HRS §§103D-202, 103D-303) (Imp: HRS §103D-303)

5. §3-122-46, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-46 Preparing a request for proposals.
The request for proposals ~~[is used to initiate a competitive sealed proposal procurement and]~~ shall include:

- (1) The specifications for the goods, services, or construction items to be procured, including a description of the performance or benefit required;
- (2) All contractual terms and conditions applicable to the procurement;
- (3) ~~[A statement as to when and in what manner prices are to be submitted;]~~

~~[(4)]~~ A statement ~~[concerning]~~ whether the proposal shall be accompanied by a proposal security pursuant to subchapter 24 or other evidence of financial responsibility;

~~[(5)]~~ (4) The term of the contract and conditions of renewal or extension, if any;

~~[(6)]~~ (5) Instructions and information to offerors, including pre-proposal conferences, the location ~~[where proposals are to be received]~~, ~~[and the]~~ date, and time ~~[, and place]~~ where proposals and pricing are to be received ~~[and reviewed]~~;

- ~~[(7)]~~ (6) ~~[The relative importance of price and other evaluation criteria; and]~~ The specific evaluation criteria to be used, including relative importance of price, in evaluation of proposals which may include but is not limited to:
- (A) Technical capability and approach for meeting performance requirements;
 - (B) ~~[Competitiveness]~~ Price competitiveness and reasonableness [of price];
 - (C) Managerial capabilities; ~~[and]~~
 - (D) Best value factors; and
 - (E) Past performance;
 - (i) Past performance information is one indicator of an offeror's ability to perform the contract successfully. The currency and relevance of the information, source of the information, context of the data, and general trends in contractor's performance shall be considered.
 - (ii) The solicitation shall describe the approach of evaluating past performance, including evaluating offerors with no relevant performance history, and shall provide offerors an opportunity to identify past or current contracts (including Federal, State, and local government and private) for efforts similar to the Government requirement. The agency shall consider this information, as well as information obtained from any other sources, when evaluating the offeror's past performance. The evaluation committee shall determine the relevance of similar past performance information.

(iii) In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.

~~[(8)]~~ (7) A statement that discussions may be conducted with "priority-listed offerors" pursuant to section 3-122-53, but that proposals may be accepted without discussions; ~~and~~

~~[(9)]~~ (8) A statement that offerors shall designate in writing those portions of the unpriced proposal that contain trade secrets or other proprietary data that are to remain confidential, subject to section 3-122-58; that the material designated as confidential shall be readily separable from the proposal [in order] to facilitate inspection of the nonconfidential portion of the proposal~~[-]~~; and

(9) The proposal shall be signed by an authorized agent of the vendor and may be submitted with a digital or original signature."

[Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp]

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

6. §3-122-51, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-51 Receipt and registration of proposals. (a) Proposals and modifications shall be date- and time-stamped upon receipt and held in a secure place by the procurement officer, unless submitted via an electronic procurement system, until the established due date. Purchasing agencies may use other methods of receipt when approved by the chief procurement officer.

- (1) Proposals and modifications shall not be opened publicly, but shall be opened in the presence of two or more state officials. If conducted electronically, proposals and modifications shall not be opened publicly and shall not be required to be opened in the presence of two or more state officials;
- (2) Proposals and modifications shall be shown only to members of the evaluation committee and state personnel or their designees having legitimate interest in them.
- (b) After the date established for receipt of proposals, a register of proposals shall be prepared which shall include for all proposals:
 - (1) The name of each offeror;
 - (2) The number of modifications received, if any; and
 - (3) A description sufficient to identify the good, service, or construction item offer
- (c) The register of proposal shall be open to public inspection as provided in section 3-122-58.
- (d) Proposals shall be open to public inspection as provided in section 3-122-58." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-303) (Imp: HRS §103D-303)

7. §3-122-52, Hawaii Administrative Rules, is amended to read as follows:

- "§3-122-52 Evaluation of proposals. (a) Evaluation factors shall be set out in the request for proposals and the evaluation shall be based only on the evaluation factors. Evaluation factors not specified in the request for proposals may not be considered.
- (b) A numerical rating system shall be used. The relative priority to be applied to each evaluation factor shall also be set out in the request for proposals.

(c) The points to be applied to each evaluation factor shall be set out in the request for proposals.

- (1) The procurement officer, or each member of the evaluation committee, as applicable, shall explain his or her ranking determination in writing which shall be placed in the procurement file;
- (2) The written ranking evaluations or explanations shall be available for public inspection after the award of the contract is posted.

(d) ~~[When applicable, cost]~~ Price shall be an evaluation factor.

- (1) The proposal with the lowest cost factor must receive the highest available rating allocated to cost. Each proposal that has a higher cost factor than the lowest must have a lower rating for cost;
- (2) The points allocated to higher-priced proposals must be equal to the lowest proposal price multiplied by the maximum points available for price, divided by the higher proposal price.

(e) Past performance shall be an evaluation factor.

~~[(e)]~~ (f) An evaluation factor must be included which takes into consideration whether an offeror qualifies for any procurement preferences pursuant to chapter 3-124.

~~[(f)]~~ (g) Evaluations may not be based on discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, handicap, or political affiliation of the offeror." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-303)

8. NEW §3-122-52.5, Hawaii Administrative Rules, is added to read as follows:

"§3-122-52.5 Clarifications with offerors after receipt of proposals. (a) Clarifications are limited exchanges, between the agency and offerors prior to priority listing. Clarifications may occur with or without further discussions as defined in 3-122-53.

(b) Agencies may give offerors the opportunity to clarify certain aspects of proposals (e.g., the relevance of an offeror's past (e.g., the relevance of an offeror's past performance information and adverse past performance information) or to resolve minor or clerical errors which shall not affect price, quantity, quality, delivery, or contractual conditions. Such clarifications may be considered in rating proposals for the purpose of establishing the priority list. All clarifications shall be documented by the procurement officer or evaluation committee at the evaluation stage.

(c) Clarifications shall not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal." [Eff and comp] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

9. §3-122-53, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-53 Discussions with offerors. (a) Before conducting discussions, a "priority list" shall be generated by the procurement officer or evaluation committee.

- (1) In order to generate a priority list, proposals shall be classified initially as acceptable, potentially acceptable, or unacceptable based on the provisions outlined in the solicitation;
- (2) All responsible offerors who submit acceptable or potentially acceptable

- proposals are eligible for the priority list;
- (3) If numerous acceptable and potentially acceptable proposals have been submitted, the procurement officer or the evaluation committee may rank the proposals and limit the priority list to at least three responsible offerors who submitted the highest-ranked proposals;
 - (4) Those responsible offerors who are selected for the priority list are referred to as the "priority-listed offerors".
- (b) Discussions will be limited to only "priority-listed offerors" and are held to:
- (1) Promote understanding of a state agency's requirements and priority-listed offerors' proposals; and
 - (2) Facilitate arriving at a contract that will provide the best value to the State, taking into consideration the evaluation factors set forth in the request for proposals. The procurement officer shall establish procedures and schedules for conducting discussions and keep a record of the discussions, date, time, place, purpose of meetings, and [those attending] attendees.
- (c) Proposals may be accepted on evaluation without discussion.
- (d) Priority-listed offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals.
- ~~[(1) Any substantial oral clarification of a proposal shall be reduced to writing by the priority-listed offeror;]~~
- ~~[(2)]~~ (1) If during discussions there is a need for any substantial clarification or change in the request for proposals, the request for proposals shall be amended by an addendum to incorporate the clarification or change.
- (2) Limits on discussions. Government personnel involved in the procurement shall not engage

in conduct that:

- (i) Favors one offeror over another;
 - (ii) Reveals an offeror's technical solution, include unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror; or
 - (iii) Reveals the names of individuals providing reference information about an offeror's past performance.
- (e) Addenda to the request for proposals shall be distributed only to priority-listed offerors.
- (1) The priority-listed offerors shall be permitted to submit new proposals or to amend those submitted;
 - (2) If in the opinion of the procurement officer or the evaluation committee, a contemplated amendment will significantly change the nature of the procurement, the request for proposals shall be canceled and a new request for proposals issued.
- (f) The contents of any proposal shall not be disclosed so as to be available to competing offerors during the discussion process."
- [Eff 12/15/95; comp 11/17/97; am and comp 03/21/08; am and comp]
- (Auth: HRS §103D-202) (Imp: HRS §103D-303)

10. §3-122-60, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-60 Debriefing. (a) The purpose of a debriefing is to inform the nonselected offerors of the basis for the source selection decision and contract award.

(b) A written request for a debriefing shall be made within three working days after the posting of

the award [~~of the contract~~].

(c) Debriefing shall be held by the procurement officer or designee, to the maximum extent practicable, within seven working days; provided the procurement officer or designee may determine whether or not to conduct individual or combined debriefings.

(d) A protest by the requestor submitted pursuant to section 103D-701, HRS, following a debriefing shall be filed within five working days, as specified in section 103D-303(h), HRS." [Eff and comp 03/21/08; am and comp]
(Auth: HRS §§103D-202, 103D-303) (Imp: HRS §103D-303)

11. §3-122-61.05, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-61.05 Purpose. The purpose of this subchapter is to provide rules for the use of the multi-step competitive sealed bidding method of source selection [~~when it is determined that award to the lowest responsive, responsible bidder is desired, but it is not practical to initially prepare a definitive purchase description which will be suitable to permit an award based on price, and is desirable, prior to soliciting priced bids, to:~~]. This method is a two-step process which:

- (1) [~~Invite and evaluate~~] Evaluates technical proposals to determine their acceptability to fulfill the purpose of the procurement; and
- (2) [~~Conduct~~] Allows for discussions pursuant to section 3-122-53. " [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-302)

12. §3-122-61.06, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-61.06 Preparing a multi-step invitation for bids. (a) The multi-step sealed bidding process ~~[uses an invitation for bids consisting]~~ consists of two phases~~[, and combines the receipt of technical proposals of the competitive sealed proposals process and the low priced bid award of the competitive sealed bidding process]~~.

- (1) Phase one is composed of one or more steps in which bidders submit unpriced technical proposals to be evaluated based on criteria set forth in the invitation for bids; and
 - (2) Phase two is to consider the priced bids from bidders whose unpriced technical proposals are determined to be acceptable in phase one, and award is made to the lowest responsive, responsible bidder.
- (b) The two-phase invitation for bids shall conform to the requirements of section 3-122-21, including the following:
- (1) That unpriced technical proposals are requested;
 - (2) Whether priced bids are to be submitted at the same time as unpriced technical proposals, and if they are, that the priced bids shall be submitted ~~[in a]~~ separately ~~[sealed envelope]~~;
 - (3) That the priced bids will be requested and considered only in phase two and only from those bidders whose unpriced technical proposals are found acceptable in phase one;
 - (4) That the State, to the extent the procurement officer finds necessary, may conduct discussions pursuant to section 3-122-53; and
 - (5) That the good, service, or construction being procured shall be furnished ~~[generally]~~ in accordance with the bidder's unpriced technical proposal ~~[as found to be finally acceptable]~~ and shall meet the

requirements of the invitation for bids."
[Eff and comp 03/21/2008; am and comp
] (Auth: HRS §§103D-202, 103D-302) (Imp: HRS
§103D-302)

**13. §3-122-61.07, Hawaii Administrative Rules,
is amended to read as follows:**

"§3-122-61.07 Phase one. Phase one shall be conducted in accordance with subchapter 6, with the exception of the rules relating to the priced offer and the following:

- (1) The procurement officer may initiate phase two of the procedure if there is only one acceptable unpriced technical proposal. If no proposals are submitted, the procurement officer may make a determination pursuant to section 3-122-59(b);
- (2) The procurement officer shall notify the bidder in writing when oral or written discussions are not conducted and the bid has been determined to be not acceptable, and upon written request from the bidder, the bidder shall be given the opportunity to review the evaluation of its offer and meet with the evaluator(s) to discuss the evaluation at least five working days prior to the deadline for receipt and opening of the priced offers." [Eff and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-302) (Imp: HRS §103D-302)

**14. §3-122-61.08, Hawaii Administrative Rules,
is amended to read as follows:**

"§3-122-61.08 Phase two. (a) Upon completion of phase one, the procurement officer shall:

- (1) [~~If priced bids were required to be submitted in phase one, open~~] Open the priced bids from bidders whose unpriced

technical proposals were found to be acceptable;

- (2) If priced bids have not been submitted, invite each acceptable bidder to submit a priced bid; or
- (3) If technical discussions have been held, or if material modifications to the procurement item, project, or procedure have been made after the original submission of priced bids, [return the sealed priced bids to the bidders] and provide [them] bidders reasonable opportunity to submit a modified priced bid that is clearly identified as amended.
- ~~[(3) If priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.]~~

(b) Phase two shall be conducted as any other competitive sealed bid procurement except as specifically set forth in this section and no public notice need be given to phase two, submission of priced bids, because the notice was previously given." [Eff and comp 03/21/08; am and comp]
(Auth: HRS §§103D-202, 103D-302) (Imp: HRS §103D-302)

15. §3-122-63, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-63 General provisions. (a) Procurement of [Professional] professional services shall be in accordance with section 103D-304, HRS. The use of this method is limited to professions as defined in section 103D-104, HRS.

(b) After the contract is awarded, the following information shall be open to public inspection, including but not limited to the contract, the list of qualified persons, the ~~[screening]~~ selection committee's criteria for selection established under section 103D-304(d), HRS, and the statements of qualifications and related information submitted by the qualified persons, except those portions for which a written request for confidentiality has been made

subject to section 3-122-58.

(c) Amendment to a professional services contract shall require prior approval of the head of the purchasing agency when the increase is at least \$25,000 and ten per cent or more of the initial contract price." [Eff 12/15/95; comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

16. §3-122-67, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-67 Small purchases of professional services. [~~Small purchases~~]Purchases of professional services that are within the small purchase dollar threshold, except [small purchase of] design professional services furnished by licensees under chapter 464, HRS, may be conducted pursuant to section 103D-304[~~(j)~~](k), HRS, or subchapter 8, Small purchases." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §§103D-304, 103D-305)

17. §3-122-69, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-69 Review and selection committees. (a) Persons who serve on the review or selection committee[~~who are not employees of a governmental body~~] shall:

- (1) Have sufficient knowledge to serve on the review or selection committee;
- (2) Serve without compensation, unless justified and determined in writing by the head of the purchasing agency that compensation is justified; and
- (3) Sign an [~~affidavit~~] attestation:
 - (A) Attesting to having no personal, business, or any other relationship that will influence their decision in

- the review or selection process;
- (B) Agreeing not to disclose any information on the review or selection process; ~~and~~
- (C) Agreeing that their names will become public information upon award of the contract~~[-]~~; and
- (D) The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior to reviewing any information.

(b) ~~[Deputy directors]~~ Directors, deputy directors, or equivalent appointed positions shall not serve on review or selection committees." [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

18. §3-122-70, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-70 Debriefing. (a) The purpose of a debriefing is to inform providers of professional services of the basis for non-selection.

- (1) A written request for a debriefing shall be made within three working days after the posting of the award of the contract;
- (2) Debriefing shall be held by the procurement officer or designee, to the maximum extent practicable, within seven working days; provided the procurement officer or designee may determine whether or not to conduct individual or combined debriefings.

(b) A protest by the requestor ~~[submitted]~~ pursuant to section 103D-701, HRS, following a debriefing shall be ~~[filed]~~ submitted in writing within five working days, as specified in section 103D-304(k), HRS." [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

19. §3-122-74, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-74 General provisions. (a) Small purchases shall be subject to section 103D-305, HRS, and do not require public notice or public bid openings.

(b) Small purchase contracts for professional services may be procured pursuant to this subchapter or section 103D-304(j), HRS; provided that small purchase of design professional services furnished by licensees under chapter 464, HRS, shall be procured in accordance with section 103D-304, HRS.

(c) Unless otherwise exempt, purchasing agencies delegated small purchase authority shall comply with state procurement office price or vendor lists, price schedules, or other chief procurement officer lists and schedules, where applicable.

(d) Purchases shall not be parceled by dividing the purchase of same, like, or related items of goods, services, or construction into several purchases of smaller quantities, so as to evade the statutory competitive bidding requirements. For additional details, refer to chapter 3-131.

(e) Preferences pursuant to part X, chapter 103D, HRS, shall not apply to small purchases.

(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

20. §3-122-75, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-75 Goods, services, and construction.

(a) Based on specifications and with adequate and reasonable competition:

- (1) No less than three quotes shall be solicited for expenditures of \$5,000 to less than

- (2) \$15,000; and
- (3) No less than three written quotes shall be obtained for expenditures of \$15,000 to less than ~~[\$25,000; and]~~ \$50,000.

~~[(3) For the period up to and including June 30, 2007, no less than three written quotes shall be obtained for expenditures of \$25,000 to less than \$50,000.]~~

(b) Only vendors that supply the goods, services, or construction required, shall be solicited and considered to meet the minimum quotation requirements.

(c) Considering the criteria, including but not limited to quality, warranty, and delivery; award shall be made to the ~~[lowest responsive,]~~ responsible offeror with the lowest price and responsive, technically acceptable offer.

(d) When award to the lowest responsive, responsible offeror is not practicable, award shall be made to the offeror whose quotation provides the best value to the State. Best value is a cost benefit trade off as defined in section 3-122-1, HAR. Written determination for the selection shall be placed in the procurement file.

(e) Award shall be posted within seven days of notice of award.

~~[(e)]~~ (f) When the minimum quotations are not obtained, for reasons such as insufficient sources, written justification shall be placed in the procurement file.

~~[(f)]~~ (g) Expenditures with an estimated total cost that are less than \$5,000 shall be by procedures established by each chief procurement officer.

~~[(g)]~~ (h) Chief procurement officers may be more restrictive in their jurisdiction's small purchase procedures, e.g., requiring written quotes at lower dollar limits." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp]

(Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

21. §3-122-77, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-77 Procurement file and disclosure of information. All quotations received shall be documented and placed in a procurement file. Pursuant to section 3-122-9.01, a purchasing agency is not required to publicly disclose quotation information received from vendors until the purchase order is issued, ~~[or]~~ the purchasing card order is placed~~[-]~~, or when contract award is made, whichever comes sooner." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

22. §3-122-78, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-78 Electronic procurement. (a) ~~[Effective July 1, 2007, small]~~ Small purchase procurements of ~~[\$25,000]~~ \$50,000 to less than ~~[\$50,000]~~ the small purchase threshold shall be made through an electronic procurement system.

(b) This section shall not apply to procurements subject to sections 103D-306 and 103D-307, HRS.

(c) The electronic procurement system shall include at a minimum, the functionality of notifying registered vendors of the procurement opportunity and the electronic receipt of offers.

(d) If no responsive, responsible quotes, or reasonable prices are received through an electronic procurement solicitation, the head of the purchasing agency or designee may determine that it is neither practicable, nor advantageous to the State to issue a new solicitation.

- (1) When making this determination, consideration shall be given to whether the specifications can be revised, time constraints, and competition in the marketplace;
- (2) In the event of this determination, an

alternative procurement method may be selected to include, but not limited to, direct negotiations; and

- (3) Documentation of the alternative procurement determination shall be made part of the procurement file.

(e) Procurements of goods, services, or construction of [~~\$25,000~~]\$50,000 to less than [~~\$50,000~~] the small purchase threshold, which cannot be purchased through an electronic procurement system may be conducted pursuant to sections 103D-302, 103D-303, and 103D-304, HRS.

(f) The chief procurement officer may determine what goods, services, or construction, less than \$25,000 will be made through an electronic procurement system." [Eff and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-305) (Imp: HRS §103D-305)

23. §3-122-81, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-81 General provisions. (a) Sole source procurement shall be in accordance with section 103D-306, HRS, with the exception of sole source procurement subject to section 103D-305, HRS.

(b) A sole source purchase may be made when only one source is available [~~for a purchase~~], unless the expenditure is expressly exempt from public bidding by law or rule. (c) Justification for a sole source purchase must establish that the good, service, or construction has a unique feature, characteristic, or capability essential to the agency to accomplish its work and is available from only one supplier or source.

Examples are:

- (1) Proprietary item;
- (2) Compatibility to existing equipment; or
- (3) Public utility repair or construction that can only be provided by the utility company.

(d) The contract period for a sole source procurement shall not exceed one year, unless approval is granted for a multi-term contract pursuant to section 3-122-149.

(e) Approval for sole source procurement may be granted by the chief procurement officer when there is a requirement for a good or service in limited quantity for test or evaluation purpose.

(f) The following are not justifications for sole source procurements:

- (1) An item is referred to by an exact brand, but there are other brands that qualify as "equals";
- (2) An item is unique, but is available from more than one supplier, is called a "restrictive" purchase subject to bidding;
- (3) The fact that a person or organization is or has been furnishing services to a purchasing agency does not, by itself, render the person or organization the only source for the type of service required;
- (4) The potential loss of funds at the end of a fiscal year.

(g) The procurement officer ~~[should]~~ shall conduct negotiations with the sole source vendor to determine the factors as cost, quality, terms, and delivery are found fair and reasonable in the market. Negotiations shall be documented in the procurement file.

(h) Cost or pricing data requirements shall be as specified in section 103D-312, HRS, and subchapter 15.

(i) ~~[A purchase order shall be issued or a certification that funds are]~~ Funds must be available for the amount of the purchase ~~[shall be obtained for a sole source purchase,]~~ pursuant to section 103D-309, HRS, and subchapter 12.

(j) Pursuant to section 103D-306(c), HRS, the procurement policy board shall maintain a list,

entitled "Procurements Approved for Sole Source" that may be procured without obtaining a sole source approval, pursuant to section 3-122-82. The chief procurement officer may request reports from the heads of purchasing agencies on sole source procurements.

(k) The list of sole source procurements shall be reviewed by the procurement policy board biennially and issued by procurement directive. Purchasing agencies shall cite on the purchase order or on the contract the sole source authority as "Approved for Sole Source Procurement pursuant to Section 3-122-81, (cite sole source number from attached list), Hawaii Administrative Rules." [Eff 12/15/95; am and comp 11/17/97; am 7/6/99; am and comp 03/21/08; am and comp] (Auth: HRS §§103D-202, 103D-306, 103D-312) (Imp: HRS §§103D-306, 103D-309, 103D-312)

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

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

26. 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 October 7, 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