



JOSH GREEN, M.D.
GOVERNOR
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STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
PROCUREMENT POLICY BOARD

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

Procurement Policy Board Meeting
Tuesday, December 2, 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_YjhiOTM5NGltNzhjYS00MWUwLWE3ZDgtNmI4N2U4NmQwYTFi%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: 212 007 884 742 6
- Passcode: Dt9o3Nv6

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

Dial in by Phone

- [+1 808-829-4853](tel:+18088294853), [841440896#](tel:+1841440896), United States, Honolulu (Toll charges apply)
- Phone Conference ID: 841 440 896#

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. Members of the public who submit written testimony close to or after the start of the meeting run the risk that the members will not receive it in time to consider it.

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

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.

The Board Packet is available for review

- at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, or
- on-line 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, November 28, 2025. If a response is received after November 28, 2025, we will try to obtain the auxiliary aid/service or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request, this notice is available in alternate formats such as large print or electronic copy.

**Procurement Policy Board Meeting
Agenda
Tuesday, December 2, 2025, 2:00 p.m. (HST)**

- I. **Call to Order, Public Notice**
- II. **Roll Call, Quorum**
- III. **Review and Approval of [October 7, 2025, Meeting Minutes](#)**
- IV. **Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- V. **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/2025/11/RAM-HAR-3-122-Subchapters-6-to-9_am_Proposed-120225.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 \(Proposed 12/02/25\)](#)

1. Subchapter 5 – Competitive Sealed Bidding

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

(5) The bid form shall be signed by an authorized agent of the bidder and may be submitted with a digital or original signature;[.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 Board reviewed and approved HAR §3-122-21(5) at its March 28, 2025, meeting. At its meeting on October 7, 2025, a request was made to revisit and discuss using the term “bidder” instead of “vendor.”

2. Subchapter 6 – Competitive Sealed Proposals

- §3-122-45.01 – Evaluation committee.
Add (b) for style and grammar to transition to language about the evaluation committee. Delete (C), which addresses signing of an “affidavit” and add new subsection (3) to require that all evaluation members sign an attestation to reflect that members are attesting to having no personal business, or any other relations that will influence their decisions. The subsections under (3) were reformatted. Add new subsection (4) to provide guidance on the conduct of the evaluation committee members.
- §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 criteria and add that the proposal shall be signed by an authorized agent of the offeror and may be submitted with a digital or original signature. This clarifies that electronic signatures are accepted.
- §3-122-52 – Evaluation of proposals.
Amend (d) to replace “cost” with “price”. Also amend (d)(1) to now state: “The proposal with the lowest price shall receive the highest available rating for the price factor;” Add “evaluation factor” after “price” in (d)(2). Also 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 between the purchasing agency and the offerors before priority listing and requiring all written clarifications to be documented in the procurement file, improving accuracy without compromising fairness or altering proposals.
- §3-122-53 – Discussions with offerors.
Amend (a)(1) to clarify that proposals are classified based on criteria outlined in the solicitation. Also amend (b)(2) to reflect that the procurement officer shall keep a record of the discussions, as well as the date, time, place, purpose of the meeting, and attendees.

3. 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.

4. Subchapter 7 – Procurement of Professional Services

- §3-122-63 – General provisions.
 - Amend (a) for clarity by adding “Procurement of,” and adding “The use of this method is limited to professions as defined in section 103D-104, HRS.”
 - Amend (b) by replacing “screening” with “selection” for clarity, consistency, and style to align with Hawaii Revised Statutes 103D-304’s reference to a “selection committee” vs. a “screening committee.”
- §3-122-67 – Small purchases of professional services.
 - Amend for clarity by adding language that clarifies purchases of professional services “that are within the small purchase dollar threshold,” except design professional services under Hawaii Revised Statutes chapter 464, may be conducted under Hawaii Revised Statutes 103D-304(k) or subchapter 8, Small purchases.
 - 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 to align with amendments made via Act 188, Session of Laws Hawaii 2023.

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 Hawaii Administrative Rules subchapter 8, Small purchases.

- §3-122-69 – Review and selection committees.
 - Amend (a) by deleting “who are not employees of a governmental body” to clarify that persons who serve on the review and/or selection committee should have sufficient knowledge and serve without compensation.
 - Amend (a)(3) for clarity, consistency, and style by replacing the word “affidavit” with “attestation” to reflect that evaluation, review, and selection committee members are attesting to having no personal business, or any other relations that will influence their decisions.
 - Amend (a)(3)(B) by striking out “and” to add to (a)(3)(C) with a semi-colon as a grammatical change.
 - Add new subsection (a)(3)(D) as a best practice, which says, “The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior

to reviewing any information.” This amendment also aligns with the Board’s approved amendment to 3-122-1, Definitions, which added the new definition of “Non-Disclosure Agreement (NDA).”

- Amend (b) by adding “Directors” to the list of appointed positions, which already includes deputy directors, that shall not serve on review or selection committees.
- §3-122-70 – Debriefing.
 - Amend subsection (b) for clarity by deleting “submitted” and replacing “filed” with “submitted in writing.” This clarifies the protest requirement for documentation and due process.
 - Also subsection (b)’s reference to section 103D-304, Hawaii Revised Statutes, has been updated from “(k)” to “(l)” to reflect the correct subsection to align with amendments made via Act 188, Session of Laws Hawaii 2023.

5. Subchapter 8 – Small Purchases

- §3-122-74 – General provisions.

Subsection (b) is amended by updating reference from “j” to “k” to align with the statute change made to HRS §103D-304, via Act 188, Session Laws of Hawaii 2023 that added new subsection (i) to HRS 103D-304. Add new subsection (f) “Single Offeror” language to state: “(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file.” The addition of (f) is for clarity, consistency, and style to match the competitive sealed bidding and competitive sealed proposals “single bidder/offeror” verbiage in Hawaii Administrative Rules sections 3-122-35(a)(1) and 3-122-59(a)(1)(A).

- §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) in its entirety because it is no longer applicable.
 - Amend (c) by deleting “lowest responsive” and adding “with the lowest price and responsive, technically acceptable offer” to remind buyers that the State Procurement Office determined that technically acceptable offer is part of responsiveness.
 - Amend (d) by adding clarifying language: “Best value is a cost benefit trade off as defined in section 3-122-1, HAR” for clarity and consistency as a reminder to agencies of the definition of “best value” in Hawaii Administrative Rules 3-122-1, Definitions.
 - Add new subsection (e) to state: “Award shall be posted within seven days of notice of award” to remind agencies that small purchase awards of \$2,500 and above are required to be posted within seven calendar days 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 publicly to align with proposed changes to 3-122-9.01(a)(1), Hawaii Administrative Rules, Disclosure of information.

This amendment will allow agencies to disclose information sooner rather than later as the pricing or information submitted electronically may be available immediately after the deadline for receipt of quotes. **Proposed amendments to be deferred until outcomes of Senate Bill 382 and House Bill 988 (carryover bills to 2026 Legislative Session).**

- §3-122-78 – Electronic procurement
 - Amend (a) by deleting “Effective July 1, 2007, small” to eliminate the specific effective date and amending the small purchase threshold from “\$25,000 to less than \$50,000” to “\$50,000 to less than 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.

These amendments align with Act 262, Session Laws of Hawaii 2025, which increases the minimum amount for small purchase procurements that are subject to an electronic procurement system, from \$25,000 to \$50,000.

6. Subchapter 9 – Sole Source Procurement

- §3-122-81 – General provisions.
 - Amend (b) for clarity, consistency, and style by deleting “for a purchase” to align with 103D-306, Hawaii Revised Statutes, Sole source procurement, which states, “...there is only one source for the required good, service, or construction...”
 - 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 in the procurement file.
 - Amend (i) for clarity, consistency, and style to delete “A purchase order shall be issued or a certification that funds are” and “shall be obtained for a sole source purchase” to be replaced to state: “Funds must be available for the amount of the purchase, pursuant to section 103D-309, Hawaii Revised Statutes, and subchapter 12.” These changes simplify the language and makes it clear that the availability of funds is a prerequisite for the purchase and that the certification of funds and issuing a purchase order are one and the same.
 - Add missing subsection (k) to final paragraph of 3-122-81, HAR, for clarity, consistency, and style.

VI. Announcements

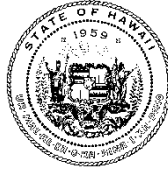
1. Introduction of Assistant Administrator Dayna Omiya
2. Next Meeting: Members will be polled on their availability for a meeting in January 2026.

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

VII. Adjournment

Minutes

October 7, 2025, Meeting



JOSH GREEN, M.D.
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**PROCUREMENT POLICY
BOARD**
RICHARD HELTZEL
LANCE INOUE
LISA MARUYAMA
KEITH REGAN

Procurement Policy Board

Minutes of Meeting

Date/Time: Tuesday, October 7, 2025, 2:00 p.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: Candace Park

State Procurement Office: Bonnie Kahakui, Administrator
Ruth Baker
Matthew Chow
Shane Duyvejonck
Stacey Kauleinamoku-Murakami
Jittima Laurita

Chan Lee
Kelli Nekomoto
Carey Ann Sasaki
Keari Shibuya

Guests: Sarah Allen, University of Hawaii
Steven Melendrez, Dept. of Budget & Finance, Employees' Retirement System
Stephanie Letro
Tim Lyons
Jeff Masatsugu
Ryan Sakuda
Cameron Takamura

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 2:04 p.m. The meeting was held on Microsoft Teams and in-person at the physical location. The meeting was recorded.

II. Roll Call, Quorum

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

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](#).

A stray non-substantive note was deleted from page 4 of the minutes.

d. [April 11, 2025](#). Grammar was corrected on page 3 of the minutes. For House Bill 1297, the phrase was corrected to read “The SPO supports the bill.”

The minutes for the October 7, 2025, meeting note that the proposed amendments to §3-122-21(5), Hawaii Administrative Rules, will be added to the agenda for the next meeting for discussion by the Board. This item was discussed at the March 28, 2025, meeting, but the Board wishes to revisit this.

IV. **Review and Approval of [July 10, 2025, Meeting Minutes](#)**

Motion to approve the July 10, 2025, minutes was made by Member Inouye and seconded by Member Heltzel. The minutes were approved by unanimous vote.

V. **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.

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

No oral or written testimony was received at the time.

The board packet included a [chart](#) with proposed amendments to Hawaii Administrative Rules Chapter 3-122, Subchapters 6, 6.5, 7, 8, and 9. It was also announced that the proposed amendments were made available for public viewing in person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, or online through the SPO website at <https://spo.hawaii.gov>, under [Procurement Policy Board > Proposed Amendments to Hawaii Administrative Rules Chapter 3-122 > 3-122 \(Proposed 10/07/25\)](#)

Purchasing Specialist Carey Ann Sasaki presented the proposed amendments and rationale for the amendments.

1. **Subchapter 6 – Competitive Sealed Proposals**

○ §3-122-41 – Purpose.

Removed the phrase “when it is determined that competitive sealed bidding is neither practicable nor advantageous to the State.”

The amendment aligns with §103D-301, Hawaii Revised Statutes, and Hawaii Administrative Rules section 3-122-16 - Methods of Source Selection, which no longer requires such a determination to use competitive sealed proposal method of procurement.

The members had no questions or objections.

○ §3-122-43 – Procurement Planning. (formerly “When competitive sealed bidding is not practical or advantageous”).

Replaced entire section now titled “Procurement Planning,” and replaced subsections with optional planning elements: “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.”

The amendment aligns with amendment to §103D-301 - Methods of source selection, Hawaii Revised Statutes and 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.

After discussion, the members agreed to repeal the section in its entirety due to changes in §103D-301, Hawaii Revised Statutes.

- §3-122-45 – Determinations.

Repealed the section due to changes in §103D-301, Hawaii Revised Statutes, which now includes the competitive sealed bids method of procurement as an optional method of procurement.

The Board had no questions or objections.

- §3-122-45.01 – Evaluation committee.

Reformatted subsections for clarity, consistency, and style. Added that evaluation committee members “are encourage to” participate in the development of the solicitation, required that evaluation committee members sign affidavits, and that the procurement officer may require participants to sign a non-disclosure agreement prior to reviewing any information to enhance transparency and integrity.

After discussion, the Board agreed to strike the proposed language pertaining to evaluation committee members participating in the development of the solicitation.

- §3-122-46 – Preparing a request for proposals.

The proposed amendments for this section was for clarity, consistency, and style. The revisions incorporated past performance as an evaluation factor, allowed a digital or original signatures on a submitted proposal, and removed outdated language about pricing submission methods.

The Board tabled this and requested the SPO staff to look at the rewording to clarify the past performance evaluation criteria and to address the concerns of Member Inouye for the proposed language in new subsection (9). The SPO staff will again look at this section and propose amendments.

- §3-122-51 – Receipt and registration of proposals.

The amendments clarified procedures for electronic submissions and added language to exempt electronic proposals from being opened in the presence of two or more state officials.” This ensures secure, auditable handling of proposals.

The Board had no questions or objections.

- §3-122-52 – Evaluation of proposals.

Amended subsection (d) to replace “When applicable, cost” with “Price”. Also amended (d)(1) to now state: “The proposal with the lowest price shall receive the highest available rating for the price factor;” Added “evaluation factor” after “price” in (d)(2). Also added (e): “Past performance shall be an evaluation factor.” The amendments align with Act 188, Session Laws of Hawaii 2021. The Board requested clarification on the use of “shall” vs. “may” and how “past

performance” fits with other best value factors. SPO staff are to revise and recommend updated language at the next meeting.

- §3-122-52.5 – Clarifications with offerors after Receipt of Proposals. (New section)
Added a new section to allow limited clarifications before establishing the priority listing, improving accuracy without compromising fairness or altering proposals.

The Board provided feedback that all clarifications must be documented in writing, and that clarifications should not alter proposals. SPO staff are to revise language to ensure clarity.

- §3-122-53 – Discussions with offerors.
Amended to clarify that proposals are classified based on criteria outlined in the solicitation, require documentation of discussions (such as date, time, place, purpose of meetings, and attendees), removed original subsection (d)(1) requiring oral clarifications to be reduced to writing, amended original subsection (d)(2) to now be (d)(1) and added new subsection (d)(2) outlining limits on discussions.

The Board agreed to move new proposed language on “Limits on discussions” to §3-122-45.01 and requested the SPO to further refine the language.

- §3-122-60 – Debriefing.
Deleted the phrase “of the contract” for style.

The Board had no questions or objections.

The revised Ramseyered Hawaii Administrative Rules, Chapter 3-122, as amended by the Board during this meeting, are hereby attached to these minutes as “[Attachment A](#)” for reference.

VI. 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.

VII. Adjournment

The motion to adjourn was made by Member Regan and seconded by Member Inouye. The meeting was adjourned with unanimous approval at 3:58 p.m.

Respectfully Submitted

Lisa Maruyama, Chair
Procurement Policy Board

ATTACHMENT A

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 shall be prepared for competitive sealed proposals and 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; R] 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]~~ The document identifying ~~[any]~~ all committee members and any subsequent changes ~~[thereto]~~, approved by the procurement officer, 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)]~~ (A) Attesting to having no personal, business, or any other relationship that will influence their decision in the evaluation process;
- ~~[(ii)]~~ (B) Agreeing not to disclose any information on the evaluation process to other than an employee of a governmental body; and
- ~~[(iii)]~~ (C) Agreeing that their names will become public information upon award of the contract;

(D) 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]~~price shall receive the highest available rating for the price factor;
- (2) The points allocated to higher-priced proposals must be equal to the lowest proposal price multiplied by the maximum points available for price evaluation factor, 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 purchasing agency and offerors prior to priority listing. Clarifications may occur with or without further discussions as defined in 3-122-53. All written clarifications shall be documented in the procurement file.

(b) Agencies may give offerors the opportunity to clarify certain aspects of proposals (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 criteria 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)]~~ (A) Favors one offeror over another;

~~[(ii)]~~ (B) 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)]~~ (C) 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. Material, except source notes, to be repealed is bracketed. New material is underscored.

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

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

I certify that the forgoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on **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

Proposed
Hawaii Administrative Rules 3-122
(12/02/25)

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

Interim
Hawaii Administrative Rules

December 2, 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. §3-122-21, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-21 Preparing a competitive sealed bid. The invitation for bids shall be used to initiate a competitive sealed bid procurement and shall include:

- (1) Instructions and information to bidders concerning the bid submission requirements, including:
 - (A) The ~~[time and]~~ date and time set for receipt of bids;
 - (B) The address of the office to which bids are to be delivered or if bid submittal is required through an electronic procurement system;
 - (C) The maximum time for bid acceptance by the procurement officer issuing the bid; ~~[and]~~
 - (D) Any other special information, such as any requirement of intention to bid, if required, or the ~~[time,~~ date, time, and location of the pre-bid conference~~[-]~~; and

- (E) ~~[The bid opening shall be held at the time, date]~~The date, time, [date,]and location of the ~~[receipt of bids]~~opening of bids;
- (2) The purchase description, [or] plans, if applicable, specifications, evaluation factors, delivery and/or performance schedule, and inspection and acceptance requirements~~[as are not included in the purchase description];~~
- (3) The contract terms and conditions, including but not limited to the following, as applicable:
 - (A) Requirements pursuant to section 103D-310(c), HRS;
 - (B) Warranty requirement;
 - (C) Bonding or other security requirements pursuant to subchapter 24;
 - (D) Contract extension provisions;
 - (E) Statement that bid samples descriptive literature should not be submitted unless expressly requested and that, regardless of any attempt by a bidder to condition the bid, unsolicited bid samples or descriptive literature which are submitted at the bidder's risk will not be examined or tested, and will not be deemed to vary any of the provisions of the invitation for bids;
- (4) A bid form which shall include space for, but not limited to, the following:
 - (A) Bid price;
 - (B) Brand name and model number and packaging for goods;
 - (C) Information on applicable preferences;
- (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 bidder and may be submitted with a digital or original signature;

- (6) Documents by reference, provided that the invitation for bids specifies where the documents can be obtained;
- (7) A statement that bidders shall designate those portions of their offer that contain trade secrets or other proprietary data that are to remain confidential, subject to section 3-122-30(c) and (d); and that the material designated as confidential shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid;
- (8) For construction projects, instructions to the bidder that the bidder shall include in its offer information on joint contractor or subcontractor pursuant to section 103D-302(b), HRS. Construction bids that do not comply with this requirement may be accepted pursuant to section 103D-302(b), HRS. The terms, requirements, and conditions of an invitation for bids, including the specifications appended or incorporated by reference therein, may be amended only by a written addendum issued by the procurement officer, pursuant to section 3-122-16.06." [Eff 12/15/95; am and comp 11/17/97; am and comp] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-310)

2. §3-122-45.01, Hawaii Administrative Rules, is amended to read as follows:

"§3-122-45.01 Evaluation committee. (a) 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) If an evaluation committee is selected,

(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 attestation:

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

~~[(ii)]~~ (B) Agreeing not to disclose any information on the evaluation process to other than an employee

- of a governmental body; and
- ~~[(iii)]~~ (C) Agreeing that their names will become public information upon award of the contract;
- (D) The procurement officer may require participants to sign a non-disclosure agreement prior to reviewing any information;
- (4) All evaluation committee members shall not engage in conduct that:
 - ~~[(i)]~~ (A) Favors one offeror over another;
 - ~~[(ii)]~~ (B) 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)]~~ (C) Reveals the names of individuals providing reference information about an offeror's past performance.
- ~~[(3)]~~ (5) The contract administrator shall serve as a member of the committee;
- ~~[(4)]~~ (6) 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)

3. §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)]~~ (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 past performance pursuant to subchapter 13.5 and 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;
- ~~[(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 offeror 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)

4. §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~~ price shall receive the highest available rating [allocated to cost] for the price factor. Each proposal that has a higher [cost] price factor than the lowest must have a lower rating for [cost] price;

- (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)

5. 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 purchasing agency and offerors prior to priority listing. Clarifications may occur with or without further discussions as defined in 3-122-53. All written clarifications shall be documented in the procurement file.

(b) Agencies may give offerors the opportunity to clarify certain aspects of proposals (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 and validated in writing by the offeror.

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

6. §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 criteria 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)]~~ 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.

(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)

7. §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)

8. §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)

9. §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)

10. §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)

11. §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)

12. §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)

13. §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)

14. §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)~~](1), HRS." [Eff and comp 03/21/08; am and comp] (Auth: HRS §103D-202) (Imp: HRS §103D-304)

15. §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)]~~ (k), 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)

16. §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 \$15,000; and
- (2) 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)

17. §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]~~,
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)

18. §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)

19. §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)

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

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

22. 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 December 2, 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

Hawaii Administrative Rules Chart

[Status of Proposed Amendments to HAR 3-122](#)

12/2/2025

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
1 – Definitions	3-122-1 - <u>Definitions</u> . <u>For reference:</u> 3-122-33 3-122-115.01 - Contractor past performance database.	3-122-1 - Add definitions "Recent" and "Relevant" Act 188, SLH 2021, revised HRS §103D-104, by adding a definition to be appropriately inserted and to read as follows: "Past Performance" means "available recent and relevant performance of a contractor, including positive, negative, or lack of previous experience, on contracts that shall be considered in a responsibility determination within the relevance of the current solicitation, including the considerations of section 103D-702(b)." Therefore, definitions of "Recent" and "Relevant" from the definition of "Past Performance" were added to the new HAR Chapter 13.5 for clarity, as both these terms are related to past performance, and Invitation for Bid, Request for Bid, and Sole Source procurements.	12/04/23	12/04/23	Reviewed/Voted to approve 12/4/23	12/04/23
2 – General Provisions	3-122-3 - <u>Extension of time on contracts</u> .	3-122-3 (4)(b) - Add "and provided the prices are fair and fair and reasonable."	01/31/25	01/31/25	Discussed/Voted to approve 01/31/25	01/31/25
2 – General Provisions	3-122-9 - <u>Use of electronic communication</u> . (revised title)	3-122-9 – Change title and amend (a), (b), (c), and (d) Change title from "Use of facsimile machines, electronic mail, or electronic procurement systems" to "Use of electronic communication". Amend subsections (a), (b), (c), and (d): (a) - Replace legacy verbiage of "facsimile machine, electronic mail, or electronic procurement systems" with "electronic communication and add "and contract documents" as documents transmitted by vendors via electronic communication. (b) - Replace legacy verbiage of "facsimile machine, electronic mail, or electronic procurement systems" with "electronic communication". (c) - Replace legacy verbiage of "via facsimile machine, electronic mail, or electronic procurement systems" with "electronically". Replace "invitation for bids or requests for proposals" with "solicitation". (c)(2) - Add "(H) Any other requirement in the solicitation". (d) - Remove "complete original offer" as electronically submitted offers with electronic signatures are accepted. Replace legacy verbiage of "facsimile machine, electronic mail, or electronic procurement systems" with "electronic communication."	01/31/25	01/31/25	Discussed/Voted to approve 01/31/25	01/31/25

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12/2/2025

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
2 – General Provisions	3-122-9 - <u>Use of electronic communication</u> . (revised title)	3-122-9 (c)(2)(E) - Add "including pages" and remove "an original" Justification: This clarifies that electronically submitted offers do not have to have an original signature because electronic signatures are acceptable. This also clarifies that all pages of the offer, including pages with a signature, should be submitted. 3-122-9 (c)(2)(F) - Revised by removing the extra "and" to correct the grammar and sentence structure. NOTE: 3-122-9 (c)(2)(E) and 3-122-9(c)(2)(F) were inadvertently left off the 1/31/25 agenda.	02/14/25	02/14/25	Reviewed/Concurred 02/14/25	
2 – General Provisions	3-122-9.01 - <u>Disclosure of information</u> .	3-122-9.01 (a) and (b) - Amend 2/28/25: SPO requested the PPB defer 3-122-9.01 pending outcome of SB382 and HB988 during the 2025 Legislative Session. 3-122-9.01 (a)(1) - Replace "The purchase order is issued or the purchasing card order is placed" with "After the time and date set for receipt for quotes". Justification: This is to allow agencies to disclose information sooner rather than later. Explanation: 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) - Amend 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".	1/31/25 2/14/25 2/28/25, 07/10/25	2/14/2025, 07/10/25	Deferred 2/14/25 pending outcome of SB382 and HB988. While both bills did not pass out of 2025 Legislative Session, they will carry over to 2026. Discussed/Voted to approve 07/10/25	
3 – Specifications	3-122-12 – <u>Duties of the administrator</u> .	3-122-12 (b)(1)(A), (b)(2), and (b)(3) - Amend 3-122-12 (b)(1)(A) - Amend by removing reference to Presidential Executive Order No. 12873 dated October 20, 1993, because this presidential executive order was revoked in 1998. 3-122-12 (b)(2) and (b)(3) - Amend for clarity, consistency, and style to allow the administrator of the state procurement more flexibility for specifications.	01/31/25	01/31/25	Discussed/Voted to approve 01/31/25	01/31/25

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12/2/2025

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
3 – Specifications	3-122-13 – <u>Development of specifications.</u>	3-122-13 (b)(3) - Amend that procurement officer approval is required for use of restrictive specifications in small purchase procurements to be documented in the procurement file. Definition of "procurement officer" is in HAR 3-120. Definition of "chief procurement officer" is in HRS 103D-205; all chief procurement officers are listed in HRS 103D-203.	01/31/25	01/31/25	Discussed/Voted to approve 01/31/25	01/31/25
4 – Methods of Source Selection and General Guidance	3-122-16 - <u>Methods of source selection.</u>	3-122-16 – Amend "Methods of source selection" Add missing source selection methods: "Subchapter 5 – Competitive Sealed Bidding" and "Subchapter 6.5 – Multi-Step Competitive Sealed Bidding" as amended by Act 239, Session Laws of Hawaii 2013.	1/31/25 2/14/25 07/10/25	2/14/25, 07/10/25	Reviewed/Concurred 07/10/25	
4 – Methods of Source Selection and General Guidance	3-122-16.03 - <u>Public notice.</u>	3-122-16.03 (b)(2), (b)(3), and (b)(4) (b)(2) - Remove "and a phone number or e-mail address where interested parties may request a copy" (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. (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" to clarify that pre-offer conferences are optional.	1/31/25 2/14/25 2/28/25	02/28/25	Discussed/Concurred 02/28/25	
4 – Methods of Source Selection and General Guidance	3-122-16.03 - <u>Public notice.</u>	§3-122-16.03 (b)(7) NOTES: 2/28/25 Minutes: The minutes will note a correction to 2/14/25 minutes: 3-122-16.03 (b)(7) is revised to read "A copy of the solicitation shall be made available electronically and/or may be picked up at the respective issuing office." 2/28/25 Agenda: Item is revised to read: §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." ***** §3-122-16.03 (b)(7) - Add new subsection (b)(7). 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." Justification: This is to reflect that most agencies make their solicitations available online	1/31/25 2/14/25 2/28/25	2/14/25 2/28/25	Reviewed 2/14/25, 2/28/25. Concurred 02/28/25	

Status of Proposed Amendments to HAR 3-122

12/2/2025

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
4 – Methods of Source Selection and General Guidance	3-122-16.03 - <u>Public notice.</u>	<p>3-122-16.03 (c) - Add "include the requested professional class or category and shall".</p> <p>The original proposal was to add "include the requested professional class or category and shall" to 3-122-16 to mandate that offerors include this information in their submissions for professional services. Justification: This clarification was intended to benefit both the agencies and contractors by ensuring clear identification of services provided by engineers, architects, surveyors, and landscape artists.</p> <p>3/28/25 Minutes: 3-122-16.03(c) will not be amended because the Deputy Attorney General opined that "class" and "category" are not defined in the Hawaii Revised Statutes. This is in response to the PPB Chair's request at the 2/28/25 meeting; 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.</p>	2/28/25 3/28/25	2/28/25 3/28/25	<p>Reviewed/Discussed 2/28/25, 3/28/25</p> <p>Will not be amended 03/28/25</p>	N/A
4 – Methods of Source Selection and General Guidance	3-122-16.03 - <u>Public notice.</u>	<p>3-122-16.03 (d)(1) - remove "or provider"</p> <p>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.</p>	02/28/25	02/28/25	Discussed/Concurred 02/28/25	
4 – Methods of Source Selection and General Guidance	3-122-16.03 - <u>Public notice.</u>	<p>3-122-16.03 (d)(2)(B) - Replace "electronic mail, or facsimile transmission" with "or electronically. Amend for clarity, consistency, and style to reflect that the notice may be sent by mail or electronically to persons on any applicable mailing list, if any.</p>	02/28/25	02/28/25	Discussed/Concurred 02/28/25	
4 – Methods of Source Selection and General Guidance	3-122-16.05 - <u>Pre-bid or pre-proposal conference.</u>	<p>3-122-16.05 (a), (b), and (f)</p> <p>(a) - Amend for clarity, consistency, and style to reflect that pre-offer conferences are optional.</p> <p>(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.</p> <p>(f) becomes (e) - Add "including questions and answers" - 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.</p> <p>Note: Referenced HB1297, page 6, but HB1297 died during the 2025 Legislative Session.</p>	02/28/25	02/28/25	Discussed/Concurred 02/28/25	

Status of Proposed Amendments to HAR 3-122

12/2/2025

Subchapter	Subsection	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action	Date PPB Voted to Approved
4 – Methods of Source Selection and General Guidance	3-122-16.05 - <u>Pre-bid or pre-proposal conference.</u>	3-122-16.05 [(e)] (b) [(e)](b) delete "to all prospective offerors"	07/10/25	07/10/25	Reviewed/Concurred 07/10/25	
4 – Methods of Source Selection and General Guidance	3-122-16.06 - <u>Amendment and clarification to solicitation.</u>	3-122-16.06 (d) and (e) After discussion, PPB concurred to keep subsection (c) as is, and revise (d) to read as follows: (d)Addenda shall be issued to all prospective offerors [known to have received a solicitation, or if issued after the deadline for submission of notice of intention to offer, to those persons who have submitted such notice]. (e) and (f) are not renumbered. (e)(1) Add "electronic means" to allow electronic communications.	1/31/25 2/28/25	02/28/25	Reviewed/Concurred 02/28/25	
4 – Methods of Source Selection and General Guidance	3-122-16.07 - <u>Pre-opening modification or withdrawal of offer.</u>	3-122-16.07 Amended for clarity, consistency, and style to reflect that an offeror's modification may be submitted electronically.	01/31/25 02/28/25	02/28/25	Reviewed/Concurred 02/28/25	
4 – Methods of Source Selection and General Guidance	3-122-16.08 - <u>Late offer, late withdrawal, and late modification.</u>	§3-122-16.08 (a) and (b) - Amend for clarity (a) and (b) for clarity, consistency, and style to remove hard to read language that results in confusion.. (a) The amendment requires written documentation for the reason late offer, withdrawal or modification is accepted by the head of the purchasing agency. (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, HRS.	02/28/25	02/28/25	Reviewed/Concurred 02/28/25	

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4.5 – Source Selection for Federal Grants	3-122-16.30 - <u>Purpose.</u>	<p>3-122-16.30 (a) and (b) - Replace "providers" with "contractors" for clarity, consistency, and style to reflect that providers selected for federal grants are contractors.</p> <p>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 §103F104. (Discussed 2/28/25).</p> <p>(b) - Remove the phrase "the appropriate source selection methods in" and simply reference the whole section 3-122-16, which lists all the methods of source selection. Explanation: 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.</p> <p>2/28/25: The Board commented that leaving the phrase "the appropriate source selection methods in" would be helpful and provide clarity, and asked that the SPO confer with 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.</p> <p>3/28/25 Meeting: It was stated that the Deputy Attorney General opined that removing that phrase does not affect, reduce, or limit the methods of source selection used.</p> <p>Thus, (b) will read: (b) The selection of contractors for federal grants shall be in accordance with section 3-122-16.</p>	02/28/25 03/28/25	03/28/25	Reviewed/Concurred 3/28/25	
4.5 – Source Selection for Federal Grants	3-122-16.31 - <u>Exception; request for interest for federal grants.</u>	<p>3-122-16.31 (b), (d)(4), (d)(8), (e), (f).</p> <p>(a) - Add the phrase "when applying or after receipt of a grant." Explanation: The amendment to §3-122-16.31(a) 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. Some grant applications require that a contractor is named, while others allow for a change of a contractor. A purchasing agency is to conduct a procurement method as specified by §3-122-16 before it can name a contractor in a federal grant application.</p> <p>The "request for interest for federal grants" is an option for applying for a grant and can be used either during the application process or after receiving a grant if the purchasing agency does not have time to do a full procurement.</p> <p>(b) 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 §103F104. (Discussed 2/28/25).</p>	2/28/25,	2/28/25	Reviewed and concurred 2/28/25.	
4.5 – Source Selection for Federal Grants	3-122-16.31 - <u>Exception; request for interest for federal grants.</u>	3-122-16.31 (d)(2) - remove "or clients" for clarity.	07/10/25	07/10/25	Reviewed/Concurred 07/10/25	

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5 - Competitive Sealed Bidding	3-122-21 - <u>Preparing a competitive sealed bid.</u>	<p>3-122-21 (1), (2), and (5) - Amend</p> <p>(1)(A) - reference "date," then "time" for style, then use that same style for consistency throughout Subchapter 5.</p> <p>(1)(C) - Remove "and" from subsection (1)(C) and add it to subsection (1)(D) for grammar.</p> <p>(1)(D) - reference "date," then "time"</p> <p>(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".</p> <p>3-122-21(2) - Amend subsection (2) by deleting "as are not included in the purchase description. This will now read "The purchase description, plans, if applicable, specifications, evaluation factors, delivery and/or performance schedule, and inspection and acceptance requirements."</p> <p>3-122-21 (5) - Amend subsection (5) to revise the language to "The bid form shall be signed by an authorized agent of the bidder and may be submitted with a digital or original signature;" to clarify that electronic signatures are accepted.</p>	3/28/2025 12/02/2025	3/28/2025 12/02/2025	<p>Reviewed/Concurred 3/28/25</p> <p>On 10/07/25, PPB requested to look at the word "vendor" in 3-122-21(5). Added to 12/02/25 agenda</p>	
5 - Competitive Sealed Bidding	3-122-33 - <u>Bid evaluation and award.</u>	<p>3-122-33 - Add "(4) Bidder's past performance, if available."</p> <p>The revision to HAR §3-122-33 is to conform with HRS §103D-302(f), Competitive Sealed Bidding, as amended by Act 188, SLH 2021. The amendment adds the language, "bidder's past performance, if available."</p>	12/04/23	12/04/23	Voted to approve 12/4/23	12/04/23
5 - Competitive Sealed Bidding	3-122-34 - <u>Low tie bids.</u>	3-122-34 (b)(2) - Amend to correct misspelled word. Replace "contacts" with "contracts".	03/28/25	03/28/25	Reviewed/Concurred 3/28/25	
5 - Competitive Sealed Bidding	3-122-35 - <u>Waiver to competitive sealed bid process.</u>	3-122-35 (c) - Amend 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.	03/28/25	03/28/25	Reviewed/Concurred 3/28/25	07/10/25
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	10/07/25	Reviewed/Concurred 10/07/25	
6 - Competitive Sealed Proposals	3-122-42 - Repealed	N/A	N/A	N/A		

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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	10/07/25	Reviewed/Concurred 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	10/07/25	Reviewed/Concurred 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. Delete (C), which addresses signing of an "affidavit" and add new subsection (3) to require that all evaluation members sign an attestation to reflect that members are attesting to having no personal business, or any other relations that will influence their decisions. The subsections under (3) were reformatted. Add new subsection (4) to provide guidance on the conduct of the evaluation committee members.	4/11/25, 10/07/25, 12/02/25	10/07/25	Reviewed/Concurred 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 incorporate past performance as part of the evaluation, changes "competitiveness" to "price competitiveness" for clarity, 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, 12/02/25	10/07/25	Requested clarification	
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	10/07/25	Reviewed/Concurred 10/07/25	
6 - Competitive Sealed Proposals	3-122-52 - Evaluation of proposals	Amend (d) to replace "cost" with "price". Also amend (d)(1) to now state: "The proposal with the lowest price shall receive the highest available rating for the price factor;" Add "evaluation factor" after "price" in (d)(2). Also add "(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, 12/02/25	10/07/25	Requested clarification	

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6 - Competitive Sealed Proposals	NEW 3-122-52.5 - Clarifications with offerors after receipt of proposals	Add a new subsection to allow limited clarifications between the purchasing agency and the offerors before priority listing and requiring all written clarifications to be documented in the procurement file, improving accuracy without compromising fairness or altering proposals.	4/11/25, 10/07/25, 12/02/25	10/07/25	Requested clarification	
6 - Competitive Sealed Proposals	3-122-53 -Discussions with offerors	Amend (a)(1) to clarify that proposals are classified based on criteria outlined in the solicitation. Also amend (b)(2) to reflect that the procurement officer shall keep a record of the discussions, as well as the date, time, place, purpose of the meeting, and attendees. Note that "limits on discussions" was added to 3-122-45.01.	4/11/25, 10/07/25, 12/02/25	10/07/25	Requested refinement	
6 - Competitive Sealed Proposals	3-122-60 - Debriefing	Revise (b) for style by deleting "of the contract".	10/07/25	10/07/25	Reviewed/Concurred 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, 12/02/25			
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.	10/7/2025, 12/02/25			
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, 12/02/25			
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 - (a)(3) becomes (a)(2). <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, 12/02/25			
7 - Procurement of Professional Services	3-122-63 - General provisions	<input type="checkbox"/> Amend (a) for clarity by adding "Procurement of," and adding "The use of this method is limited to professions as defined in section 103D-104, HRS." <input type="checkbox"/> Amend (b) by replacing "screening" with "selection" for clarity, consistency, and style to align with Hawaii Revised Statutes 103D-304's reference to a "selection committee" vs. a "screening committee."	10/07/25, 12/02/25			

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7 - Procurement of Professional Services	3-122-67- Small purchases of professional services	<p><input type="checkbox"/> Amend for clarity by adding language that clarifies purchases of professional services “that are within the small purchase dollar threshold,” except design professional services under Hawaii Revised Statutes chapter 464, may be conducted under Hawaii Revised Statutes 103D-304(k) or subchapter 8, Small purchases.</p> <p><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.</p> <p><input type="checkbox"/> The reference to section 103D-304, Hawaii Revised Statutes, has been updated from “(j)” to “(k)” to reflect the correct subsection to align with amendments made via Act 188, Session of Laws Hawaii 2023.</p> <p>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 Hawaii Administrative Rules subchapter 8, Small purchases.</p>	10/07/25, 12/02/25			
7 - Procurement of Professional Services	3-122-66	REPEALED IN 2016	N/A	N/A		
7 - Procurement of Professional Services	3-122-69 - Review and selection committees.	<p><input type="checkbox"/> Amend (a) by deleting “who are not employees of a governmental body” to clarify that persons who serve on the review and/or selection committee should have sufficient knowledge and serve without compensation.</p> <p><input type="checkbox"/> Amend (a)(3) for clarity, consistency, and style by replacing the word “affidavit” with “attestation” to reflect that evaluation, review, and selection committee members are attesting to having no personal business, or any other relations that will influence their decisions.</p> <p><input type="checkbox"/> Amend (a)(3)(B) by striking out “and” to add to (a)(3)(C) with a semi-colon as a grammatical change.</p> <p><input type="checkbox"/> Add new subsection (a)(3)(D) as a best practice, which says, “The procurement officer may require participants to sign a non-disclosure agreement (NDA) prior to reviewing any information.” This amendment also aligns with the Board’s approved amendment to 3-122-1, Definitions, which added the new definition of “Non-Disclosure Agreement (NDA).”</p> <p><input type="checkbox"/> Amend (b) by adding “Directors” to the list of appointed positions, which already includes deputy directors, that shall not serve on review or selection committees.</p>	10/07/25, 12/02/25			
7 - Procurement of Professional Services	3-122-70 - Debriefing.	<p><input type="checkbox"/> Amend subsection (b) for clarity by deleting “submitted” and replacing “filed” with “submitted in writing.” This clarifies the protest requirement for documentation and due process.</p> <p><input type="checkbox"/> Also subsection (b)’s reference to section 103D-304, Hawaii Revised Statutes, has been updated from “(k)” to “(l)” to reflect the correct subsection to align with amendments made via Act 188, Session of Laws Hawaii 2023.</p>	10/07/25, 12/02/25			

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8 - Small Purchases	3-122-74 - General provisions.	<p><input type="checkbox"/> Subsection (b)'s reference to section 103D-304, Hawaii Revised Statutes, has been updated from "(k)" to "(l)" to reflect the correct subsection to align with amendments made via Act 188, Session of Laws Hawaii 2023, that added new subsection (i) to HRS 103D-304.</p> <p><input type="checkbox"/> Add new subsection (f) "Single Offeror" language to state: "(f) Single Offeror purchases shall be analyzed for fair and reasonableness and documented in the procurement file." The addition of (f) is for clarity, consistency, and style to match the competitive sealed bidding and competitive sealed proposals "single bidder/offeror" verbiage in Hawaii Administrative Rules sections 3-122-35(a)(1) and 3-122-59(a)(1)(A).</p>	10/07/25, 12/02/25			
8 - Small Purchases	3-122-75 - Goods, services and construction	<p><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.</p> <p><input type="checkbox"/> Delete (a)(3) in its entirety because it is no longer applicable.</p> <p><input type="checkbox"/> Amend (c) by deleting "lowest responsive" and adding "with the lowest price and responsive, technically acceptable offer" to remind buyers that the State Procurement Office determined that technically acceptable offer is part of responsiveness.</p> <p><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" for clarity and consistency as a reminder to agencies of the definition of "best value" in Hawaii Administrative Rules 3-122-1, Definitions.</p> <p><input type="checkbox"/> Add new subsection (e) to state: "Award shall be posted within seven days of notice of award" to remind agencies that small purchase awards of \$2,500 and above are required to be posted within seven calendar days of award.</p> <p><input type="checkbox"/> The remaining points "(e)," "(f)", and "(g)" are re-lettered to accommodate the addition of a new point "(e)."</p>	10/07/25, 12/02/25			
8 - Small Purchases	3-122-77 - Procurement file and disclosure of information	<p>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 publicly to align with proposed changes to 3-122-9.01(a)(1), Hawaii Administrative Rules, Disclosure of information.</p> <p>This amendment will allow agencies to disclose information sooner rather than later as the pricing or information submitted electronically may be available immediately after the deadline for receipt of quotes. Proposed amendments to be deferred until outcomes of Senate Bill 382 and House Bill 988 (carryover bills to 2026 Legislative Session).</p>	10/07/25, 12/02/25			

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8 - Small Purchases	3-122-78 - Electronic procurement	<p><input type="checkbox"/> Amend (a) by deleting "Effective July 1, 2007, small" to eliminate the specific effective date and amending the small purchase threshold from "\$25,000 to less than \$50,000" to "\$50,000 to less than the small purchase threshold."</p> <p><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.</p> <p>These amendments align with Act 262, Session Laws of Hawaii 2025, which increases the minimum amount for small purchase procurements that are subject to an electronic procurement system, from \$25,000 to \$50,000.</p>	10/07/25, 12/02/25			
9 - Sole Source Procurement	3-122-81 - General provisions	<p><input type="checkbox"/> Amend (b) for clarity, consistency, and style by deleting "for a purchase" to align with 103D-306, Hawaii Revised Statutes, Sole source procurement, which states, "...there is only one source for the required good, service, or construction...."</p> <p><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 in the procurement file.</p> <p><input type="checkbox"/> Amend (i) for clarity, consistency, and style to delete "A purchase order shall be issued or a certification that funds are" and "shall be obtained for a sole source purchase" to be replaced to state: "Funds must be available for the amount of the purchase, pursuant to section 103D-309, Hawaii Revised Statutes, and subchapter 12." These changes simplify the language and makes it clear that the availability of funds is a prerequisite for the purchase and that the certification of funds and issuing a purchase order are one and the same.</p> <p><input type="checkbox"/> Add missing subsection (k) to final paragraph of 3-122-81, HAR, for clarity, consistency, and style.</p>	10/07/25, 12/02/25			