



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

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

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PROCUREMENT POLICY BOARD
RICHARD HELTZEL
LANCE INOUE
LISA MARUYAMA
KEITH REGAN

Procurement Policy Board Meeting
Friday, April 24, 2026, 1:00 p.m. (HST)
Virtual and Physical Location

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

Join via Teleconference

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

<https://teams.microsoft.com/meet/241687865941548?p=RlqK9xXrelUz7778gy>

If prompted, enter:

- Meeting ID: 241 687 865 941 548
- Passcode: oq95iN99

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

Dial in by Phone

- [+1 808-829-4853,752692551#](tel:+18088294853752692551) United States, Honolulu
- [Find a local number](#)
- Phone conference ID: 752 692 551#

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, April 22, 2026. If a response is received after that date, we will try to obtain the auxiliary aid/service or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request, this notice is available in alternate formats such as large print or electronic copy.

**Procurement Policy Board Meeting
 Agenda
 Friday, April 24, 2026, 1:00 p.m. (HST)**

- I. **Call to Order, Public Notice**
- II. **Roll Call, Quorum**
- III. **Review and Approval of [December 2, 2025, Meeting Minutes](#)**
- IV. **Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- V. **Administrator’s Report on 2026 Legislation Related to Procurement (for information only; no decision-making)**
 The State Procurement Office provides a list of procurement-related legislation that are advancing in the 2026 Legislative session. Those bills are as follows:

PROCUREMENT AND PROCUREMENT-RELATED BILLS (Advancing as of 4/17/26)	
Bill Number	Title and Description
GM773	Procurement Policy Board. Submitting for consideration and confirmation to the Procurement Policy Board, Gubernatorial Nominee, PAULA YOUNGLING, for a term to expire 06-30-2030.
SB2928 SD1 HD1	RELATING TO PROCUREMENT. Establishes the Small Business Procurement Program and Small Business Procurement Coordinator position permanently in the State Procurement Office. (HD1)
HB1297 HD1 SD1	RELATING TO PROCUREMENT. Sets a time limit for submitting bid protests. Makes the seventy-five-day limit for issuing a written decision on protests apply to any contract awarded by competitive sealed bid or competitive sealed proposal. Caps the protest bond amount. (SD1)
SB2075 SD1 HD2	RELATING TO PUBLIC PROCUREMENT. Requires purchasing agencies to apply a five per cent flat rate local preference in evaluating bids or proposals from qualified Hawaii bidders or offerors who submit a timely preference certification. Establishes criteria for a bid or proposal to qualify for a local preference. Establishes requirements for the qualification and certification of Hawaii bidders and offerors and consequences for failure to maintain qualification. Requires the Procurement Policy Board to adopt rules. (HD2)

PROCUREMENT AND PROCUREMENT-RELATED BILLS (Advancing as of 4/17/26)	
Bill Number	Title and Description
<u>HB1519 HD1 SD3</u>	RELATING TO CAMPAIGN CONTRIBUTIONS. Requires disclosure of the names of compensated officers of state and county contractors and grantees. Prohibits the compensated officers of certain state and county contractors and grantees from making, promising, or soliciting certain campaign contributions for the duration of the contract or grant. (SD3)
<u>SB2530 SD2 HD1</u>	RELATING TO CAMPAIGN CONTRIBUTIONS. Requires disclosure of the names of compensated officers, and their immediate family members, of state contractors with contracts exceeding the small purchase threshold established under the Hawaii Public Procurement Code and grantees with grants exceeding \$250,000. Prohibits the compensated officers of state contractors, and their immediate family members, from making, promising, or soliciting certain campaign contributions for the duration of the contract exceeding the small purchase threshold. Prohibits state grantees, including compensated officers and their immediate family members, from making, promising, or soliciting certain contributions for the duration of the grant exceeding \$250,000. (HD1)
<u>SB2601 SD2 HD1</u>	RELATING TO PROCUREMENT. Amends criminal penalties under the Hawaii Public Procurement Code by providing that a person who intentionally violates the code is subject to prosecution for a misdemeanor in cases of egregious violations of the Code. Ensures that awarded contracts are supported by sufficient appropriations by requiring a contract amount that exceeds fifteen per cent of the amount of the appropriation or balance of an appropriation to be approved by the Chief Procurement Officer to become binding. Establishes positions within the State Procurement Office. Appropriates funds. (HD1)
<u>SB2246 SD1 HD2</u>	RELATING TO FINANCIAL DISCLOSURES. Expands the scope of persons who are subject to public financial disclosure requirements. Makes technical, conforming amendments to disclosure provisions applicable to legislators. (HD2)
<u>HB1155 HD1 SD2</u>	RELATING TO PROCUREMENT. Prohibits all governmental bodies and public employees from procuring services for project management through non-governmental third-party contracts, except for certain procurements of independent verification and validation contracts for information technology services. Temporarily authorizes, until 6/30/2027, outside contractors who prepared specifications and work statements in the development of a Department of Transportation solicitation to bid on those projects if certain requirements are satisfied. (SD2)

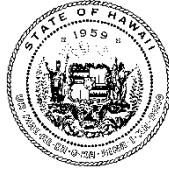
PROCUREMENT AND PROCUREMENT-RELATED BILLS (Advancing as of 4/17/26)	
Bill Number	Title and Description
<u>SB2929 SD1 HD2</u>	RELATING TO PUBLIC NOTICE. Authorizes government agencies to satisfy public notice requirements by electronic posting on official state or county websites or electronic calendars, while preserving traditional publication as an option. Directs the Office of Enterprise Technology Services, in consultation with the Access Hawaii Committee, to adopt rules governing the implementation of electronic notice before the electronic notice authorization takes legal effect. (HD2)
<u>HB1663 HD2 SD1</u>	RELATING TO REIMBURSEMENT OF PUBLIC OFFICERS AND EMPLOYEES. Requires the State or a county to reimburse an officer or employee for work-related travel costs that the officer or employee loaned to the State or a county within thirty calendar days of submitting an approved statement of completed travel. Requires the State or a county to pay interest on a loan not reimbursed within thirty calendar days until the loan is fully reimbursed. Obligates an officer or employee to request a complete refund from the travel vendor for travel not taken for good cause. Entitles an officer or employee to reimbursement from the State or a county when a travel vendor offers a partial refund or no refund. (SD1)
<u>SB3332 SD1 HD1</u>	RELATING TO STATE-FUNDED TRAVEL.Requires reports on travel taken by certain state agencies and for the reports to be submitted to the money committees of the Legislature. Sunsets 6/30/2028. Effective 7/1/3000. (HD1)

VI. Announcements

1. Acknowledgement and Appreciation for Chair Lisa Maruyama
2. Next Meeting: Members will be polled on their availability for the next meeting.

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

VII. Adjournment



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

BONNIE KAHAKUI
ADMINISTRATOR

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

Procurement Policy Board

Minutes of Meeting

Date/Time: Tuesday, December 2, 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

Excused: Keith Regan

Deputy Attorney General: Candace Park

State Procurement Office: Bonnie Kahakui, Administrator
Dayna Omiya, Assistant Administrator
Ruth Baker
Jacob Chang
Matthew Chow
Stacey Kauleinamoku-Murakami
Chan Lee

Kelli Nekomoto
Carey Ann Sasaki
Keari Shibuya
Romanee Woutila
Pauline Yang
Alan Yeh

City & County of Honolulu: Paula Youngling, Purchasing Administrator
Kelsi Imamura

Guests: Reid G.
Jeff Masatsugu

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 2:09 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. Review and Approval of [October 7, 2025, Meeting Minutes](#)

Motion to approve the October 7, 2025, minutes was made by Member Inouye and seconded by Member Heltzel. No discussion. The minutes were approved by unanimous vote.

IV. Public Testimony

Chair Maruyama announced that public testimony will be taken on all items as those items occur during the meeting, and that remote testifiers will be given the option of being on-camera.

V. 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 \(Proposed 12/02/25\)](#)

Purchasing Specialist Carey Ann Sasaki presented the proposed amendments, which are to implement Hawaii Revised Statutes Chapter 103D, as well as the rationale for the amendments.

1. Subchapter 6 – Competitive Sealed Proposals

○ **§3-122-21 – Preparing a competitive sealed bid.**

The proposed amendment to 3-122-21 (5) is 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,” which is defined, instead of “vendor.”

The members had no questions or objections.

○ **§3-122-45.01 – Evaluation committee.**

The members reviewed and discussed the following proposed amendments: requiring all evaluation committee members to sign an attestation confirming no conflicts of interest; clarifying disclosure limitations; and strengthening enforcement of non-disclosure agreements by changing the language from “may” to “shall” to ensure confidentiality.

The Board also discussed the use of the term “governmental body” in proposed subsection (b)(5)(B) and whether it should encompass non-governmental subject matter experts (SMEs). Administrator Bonnie Kahakui and City & County of Honolulu Purchasing Administrator Paula Youngling confirmed that SME involvement must follow a formal, documented process.

A recommendation was made to table the issue until Comptroller Keith Regan is present to participate in the discussion and to allow Deputy Attorney General Candace Park time to review

and provide input at the next meeting. The Chair advised that the Board wrap up discussion on this matter and will call for a vote at the next meeting.

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

The Board reviewed the proposed amendments, which were for clarity, consistency, and style. These revisions also incorporated 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.

The Board had no objections to the proposed amendment.

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

The Board reviewed proposed amendments that aligned terminology with statutory language, specifically replacing “cost” with “price” to reflect usage in Hawaii Revised Statutes 103D-303. Subsection (d)(1) was revised to clarify that the proposal with the lowest price receives the highest rating for the price factor. Subsection (e) was added to include “past performance” as an evaluation factor in accordance with Act 188, Session Laws of Hawaii 2021.

There were no question. The Board had no objections to the proposed amendment.

○ **§3-122-52.5 –Clarifications with offerors after Receipt of Proposals.** (New section)

This new subsection was introduced to formalize the process for clarifications with offerors prior to establishing the priority list, required all written clarifications to be documented in the procurement file, improving accuracy without compromising fairness or altering proposals. Added price/cost elements.

There were no questions. The Board had no objections to the proposed amendment.

○ **§3-122-53 – Discussions with offerors.**

The Board reviewed proposed amendments, including revisions to subsection (a)(1) to clarify that proposals are to classified based on criteria outlined in the solicitation; subsection (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; and subsection (d)(1) by removing the requirement for oral clarifications to be reduced to writing by the offeror, as any formal written clarification must be submitted as a best and final offer.

Board members also discussed subsection (a)(3) regarding the priority list. Concerns were raised about the phrase “at least three,” with comparisons to design-build rules that limit the list to no more than three. It was clarified that the rule allows flexibility depending on the number of acceptable proposals and that provisions exist for situations with fewer than three.

The Board had no objections to the proposed amendment.

In the interest of time, the Board agreed to conclude its review of the proposed amendments with §3-122-53 and will resume with §3-122-61.05 at the next scheduled meeting.

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

A. Introduction of Assistant Administrator:

Administrator Kahakui introduced Dayna Omiya as the newly appointed Assistant Administrator of the State Procurement Office.

B. Next Meeting: Members will be polled on their availability for the next meeting.

Procurement Policy Board 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 Heltzel and seconded by Member Inouye. The meeting was adjourned by unanimous approval at 3:57 p.m.

Respectfully Submitted

Lisa Maruyama, Chair
Procurement Policy Board

DRAFT

ATTACHMENT

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]~~ all subsequent changes thereto shall be placed in the contract file.

(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) The contract administrator shall serve as a member of the committee;
- (4) The contract administrator or a designee shall serve as chairperson, and the procurement officer or a designee shall serve as advisor~~[-"]~~;
- (5) All evaluation committee members and advisors 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; and
 - (D) The procurement officer shall require participants to sign a non-disclosure agreement prior to reviewing any information; and
- (6) All evaluation committee members shall not engage in conduct that:
- (A) Favors one offeror over another;
 - (B) Reveals an offeror's technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise an offeror's intellectual property to another offeror; or
 - (C) Reveals the names of individuals providing reference information about an offeror's past performance." [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)]~~ 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~~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. Material, except source notes, to be repealed is bracketed. New material is underscored.

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

9. 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