



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

Minutes of Meeting

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

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

Virtual Meeting Using Interactive Conference Technology – Zoom

Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama
Keith Regan

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

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

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

Guests: Tim Lyons
Ryan Sakuda

I. Call to Order, Public Notice

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

II. Roll Call, Quorum

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

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

III. Public Testimony

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

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

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

V. Report on State Procurement Office Initiatives

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Written testimony: None
Oral testimony: None

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

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

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

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

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

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

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

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

VIII. Announcements

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

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

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

B. Next Meeting

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

There were no additional announcements.

VIII. Adjournment

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

Respectfully submitted,

Lisa Maruyama
Chair, Procurement Policy Board