



JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

BONNIE KAHAKUI
ADMINISTRATOR

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

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4701

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

PROCUREMENT POLICY
BOARD
RICHARD HELTZEL
LANCE INOUE
LISA MARUYAMA
KEITH REGAN

Procurement Policy Board Meeting
Monday, December 2, 2024, 1:30 pm – 4:00 pm HST
Virtual and Physical Location

Virtual Meeting Using Interactive Conference Technology - Zoom

Join Zoom Meeting

<https://zoom.us/j/92007550185?pwd=dRcpZkp7DR1HaJyx1b8qHk9X1h1iaX.1>

Meeting ID: 920 0755 0185

Passcode: qNJ91k

One tap mobile

+16694449171,,92007550185#,,,,*011131# US

+16699006833,,92007550185#,,,,*011131# US (San Jose)

Dial by your location

• +1 669 444 9171 US

• +1 669 900 6833 US (San Jose)

• +1 719 359 4580 US

• +1 253 205 0468 US

• +1 253 215 8782 US (Tacoma)

• +1 346 248 7799 US (Houston)

• +1 929 436 2866 US (New York)

• +1 301 715 8592 US (Washington DC)

• +1 305 224 1968 US

• +1 309 205 3325 US

• +1 312 626 6799 US (Chicago)

• +1 360 209 5623 US

• +1 386 347 5053 US

• +1 507 473 4847 US

• +1 564 217 2000 US

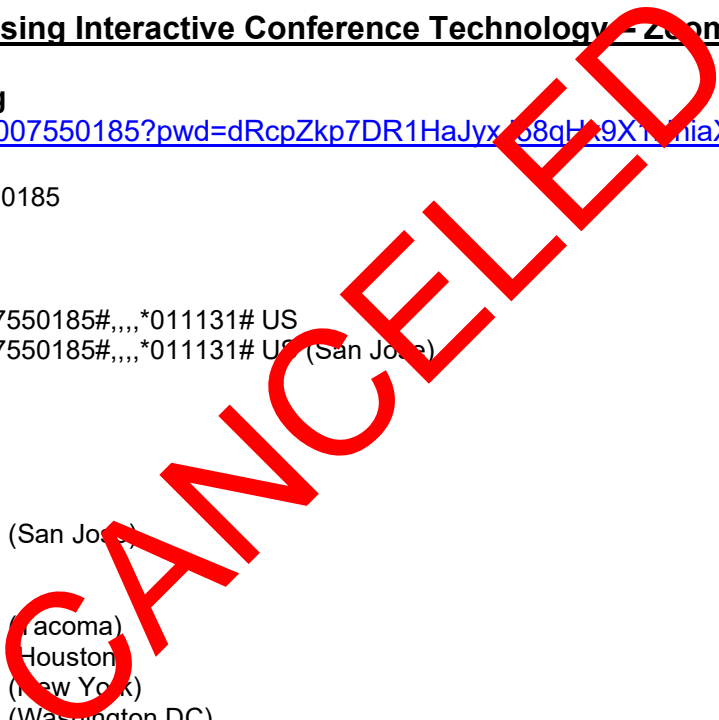
• +1 646 931 3860 US

• +1 689 278 1000 US

Meeting ID: 920 0755 0185

Passcode: 011131

Find your local number: <https://zoom.us/u/awRQ2iY8V>



Physical Location

Kalanimoku Building, 1151 Punchbowl Street, Room 410, Honolulu, is available to the public and is guaranteed to be connected to the remote virtual meeting.

Pursuant to Hawai'i Revised Statutes section 92.3.7, the Procurement Policy Board will meet remotely using interactive conference technology. The public may either attend the meeting in person, at the physical location noted above, or participate remotely by using the Zoom meeting information noted on page 1 of this agenda. If participating remotely, please mute your phone/device, except while testifying.

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 unsuccessful within said 30 minutes, all board members, members of the public, staff and other interested individuals shall log on again to the Zoom link on this notice, whereby audio communication will be established for all participants and the meeting will continue. If reconvening the meeting is not possible because audio and visual communication cannot be re-established, the meeting will be terminated.

Contact for Meeting Information/Written Testimony

To request email notification of meetings, email procurement.policy.board@hawaii.gov.

We request that testimony be submitted no later than 72 hours prior to the meeting to ensure time for review by Board members. Testimony received after that time will still be considered by the board but might not be distributed to board members until the start of the meeting. Written testimony may be submitted by one of the methods listed below:

- By email to: procurement.policy.board@hawaii.gov
- By United States Postal Service to: 1151 Punchbowl Street, Room 416, Honolulu, HI 96813
- By facsimile to: (808) 587-4703

Written testimony will only be accepted for the items listed on the meeting agenda. Written public testimony submitted to the Procurement Policy Board will be treated as public record and any information contained therein may be available for public inspection and copying.

Please include the word "Testimony" and the subject matter following the address line.

Copies of the Board Packet will be available on-line for review at <https://spo.hawaii.gov/procurement-policy-board/procurement-policy-board-meeting-agenda-minutes/>. An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

If you need an auxiliary aid/service or other accommodation due to a disability, please contact Ruth Baker at (808) 587-4701 or at ruth.a.baker@hawaii.gov as soon as possible, preferably by 4:30 p.m. HST, November 27, 2024. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate formats.

Procurement Policy Board Meeting
Agenda
Monday, December 2, 2024, 1:30 p.m. – 4:00 p.m.

- I. **Call to Order, Public Notice**
- II. **Roll Call, Quorum**
- III. **Review and Approval of [June 27, 2024, Meeting Minutes](#)**
- IV. **Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- V. **Election of Board Officers, pursuant to [Hawaii Revised Statutes §103D-201\(e\)](#)**
 - A. Chair
 - B. Vice-Chair
 - C. Secretary
- VI. **Report on SPOCon Training Event**
- VII. **State Procurement Office 2025 Legislative Proposals**
 - A. **Relating to Procurement – Procurement Automation Special Fund**

Legislation adds a new section to part II of Chapter 103D, Hawaii Revised Statutes, to establish a State Procurement Automation System Special Fund, and provides the public with clarity regarding chief procurement officers through a housekeeping amendment to section 103D-203, Hawaii Revised Statutes.
 - B. **Relating to Procurement – Disclosure**

Legislation amends section 103D-303(h), Hawaii Revised Statutes, to provide clear guidance to purchasing agencies on what shall not be disclosed at a debriefing in order to maintain integrity and confidentiality in a manner that ensures a fair procurement process.
- VIII. **Overview of Proposed Amendments to Hawaii Administrative Rules Chapter 3-122**
- IX. **Update on the State Contractor Past Performance Database**
- X. **Announcements**
- XI. **Adjournment**

If you need an auxiliary aid/service or other accommodation due to a disability, please contact Ruth Baker at (808) 587-4701 or at ruth.a.baker@hawaii.gov as soon as possible, preferably by 4:30 p.m. HST, November 27, 2024. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate formats.



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

BONNIE KAHAKUI
ADMINISTRATOR

STATE OF HAWAI'I | KA MOKU'ĀINA O HAWAI'I
PROCUREMENT POLICY BOARD

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4701

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

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

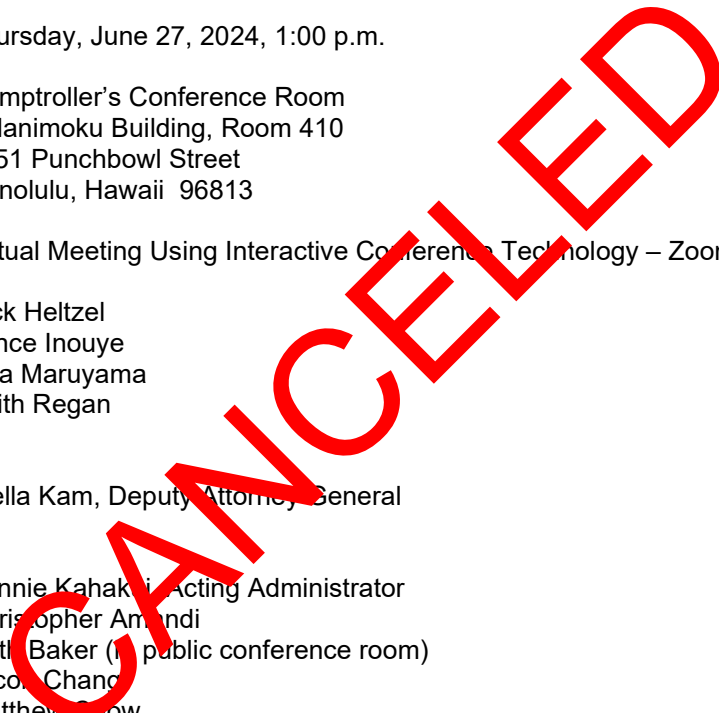
Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama
Keith Regan

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

State Procurement
Office Staff: Bonnie Kahakui, Acting Administrator
Christopher Amundi
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 2550](#) 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 HARR Section 3-122 has not been updated for a while and proposed to address that in small increments.

Purchasing Specialist Casey 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 § 91D-201b\(3\)](#)

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

PART II. PROCUREMENT ORGANIZATION

§103D-201 Creation and membership of the procurement policy board. (a) There is hereby created an autonomous state procurement policy board. The policy board shall be assigned, for administrative purposes only, to the department of accounting and general services.

(b) The policy board shall consist of five members. Notwithstanding the limitations of section 78-4, the members of the board shall include:

- (1) The comptroller;
- (2) Two members appointed by the governor; provided that one member shall have five years of high-level construction procurement experience and one member shall have five years of high-level county procurement experience;
- (3) One member appointed by the president of the senate; provided that the member shall have five years of general procurement experience; and
- (4) One member appointed by the speaker of the house of representatives; provided that the member shall have five years of general procurement experience.

Each appointed member shall have demonstrated sufficient business or professional experience to discharge the functions of the policy board. Except as provided in this section, the policy board members shall be subject to the requirements of section 26-34. No member of the policy board shall act concurrently as a chief procurement officer. The members of the policy board shall devote such time to their duties as may be necessary for the proper discharge thereof.

(c) The policy board shall be assisted by employees of the department of accounting and general services, which shall provide at least one full-time support staff and funding necessary to support the policy board.

(d) Members of the policy board shall be reimbursed for any expenses, including travel expenses, reasonably incurred in the performance of their duties.

(e) The chairperson of the policy board shall be elected annually by a majority of its members from among all of its members; provided that the state comptroller shall not be eligible to serve as the chairperson. [L Sp 1993, c 8, pt of §2; am L 1997, c 190, §4 and c 352, §4; am L 1999, c 149, §13; am L 2002, c 148, §7; am L 2022, c 173, §2]

VII. Report on State Procurement Office 2025 Legislative Proposals

A. Relating to Procurement – Procurement Automation Special Fund

This proposed legislation 1) adds a new section to part II of Chapter 103D, Hawaii Revised Statutes, to establish a State Procurement Automation System Special Fund, and 2) provides the public with clarity regarding chief procurement officers through a housekeeping amendment to section 103D-203, Hawaii Revised Statutes.

- 1) Fees and revenues collected from the procurement automation system will be placed under the control of the State of Hawaii rather than being held in trust by a vendor.

In 2022, the Legislature authorized the procurement automation system and authorized the State Procurement Office to implement a transaction fee on vendors beginning in fiscal year 2021-2022 to pay for the administration of a procurement automation system. However, the Legislature did not authorize a procurement automation special fund into which to deposit the transaction fees collected. Until a special fund is established, the vendor contractor to implement the procurement automation system collects the fees and holds the funds in trust for the State. The establishment of a special fund would ensure that these fees are deposited into a special fund that will be administered by the State Procurement Office.

- 2) Section 302A-1702, HRS, under Act 72, Session Laws of Hawaii 2020, created the School Facilities Authority and mandated that its Executive Director serve as its chief procurement officer. This housekeeping amendment adds the School Facilities Authority Executive Director to the list of chief procurement officers in section 103D-203(a), HRS.

B. Relating to Procurement – Disclosure

This proposed legislation amends section 103D-303(h), Hawaii Revised Statutes, to provide clear guidance to purchasing agencies on what shall not be disclosed at a debriefing in order to maintain integrity.

While maintaining confidentiality in procurement is a requirement included in section 103D-101, HRS, the addition of wording to section 103D-303, Competitive sealed proposals, will provide clear guidance to both purchasing agencies and vendors on what shall not be disclosed at a debriefing.

VIII. Overview of Proposed Amendments to Hawaii Administrative Rules Chapter 3-122

Page 1

This list is an overview of proposed HAR amendments to be reviewed by the Procurement Policy Board. Justification and other details will be presented and explained to the Board.

The proposed amendments to **Hawaii Administrative Rules (HAR), Chapter 3-122 Source Selection and Contract Formation, subchapters 2 to 4.5** are as follows:

Subchapter 2 General Provisions

1. In **§ 3-122-3 Extension of time on contracts, Subsection (4) (b)** is amended by adding “and provided the prices are fair and reasonable. If a contract extension with the contractor cannot be done, alternative procurement with another party may be done, conditioned that it will be up to one hundred eighty calendar days and that prices are fair and reasonable.”
2. Language in **§ 3-122-9** updates references to modern technology. Other amendments are non-substantial for clarity, consistency, and style.
3. In **§ 3-122-9 (d)**, “the complete original offer, with” is removed because this should not be mandated if electronically submitted offers with electronic signatures are accepted.
4. In **§ 3-122-9.01 Disclosure of information, subsection (a) (1)** is amended to 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.

Subchapter 3 Specifications

1. **§ 3-122-12, Duties of the administrator, subsection(b) (1) (A)** is amended by removing reference to revoked Presidential Executive Order No. 12873 dated October 20, 1993.
2. **§§ 3-122-12 (b) (2) and (3)** are amended by changing the word “shall” to the word “may” to allow the administrator of the state procurement office more flexibility for specifications.
3. **§ 3-122-13, Development of Specifications, subsection(b) (3)** is amended by requiring procurement officer approval for use of restrictive specifications in small purchases procurement to be documented in the procurement file.
4. **§ 3-122-13 (d)** is deleted due to the changes made to §§ 3-122-12 (b) (2) and (3), require CPO to develop specification from “shall” to “may.”

Subchapter 4, Methods of Source Selection and General Guidance

1. Amendments were made throughout **§3-122-16** for clarity, consistency, and style.
2. **§3-122-16, Methods of source selection**, is being amended to add missing source selection methods: “Subchapter 5 – Competitive Sealed Bidding and Subchapter 6.5 – Multi-Step Competitive Sealed Bidding” and to delete “by competitive sealed bidding pursuant to subchapters 5 and 6.5, except as provided in” to align with the statute change made to HRS §103D-301, via ACT 239, SLH 2013 that added Section 103D-302 Competitive Sealed Bids as a method of source selection.

VIII. Overview of Proposed Amendments to Hawaii Administrative Rules Chapter 3-122

Page 2

3. **§3-122-16.05, Pre-bid or pre-proposal conference, subsection (b)** is being amended to be removed 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.
4. **§3-122-16.05(f)** is amended to provide clarity and consistency and will now be read as (e) to state: “A summary of the conference, including questions and answers, in addition to any changes to the solicitation, may be issued by addendum before the deadline for receipt of offers.”
5. **§3-122-16.06** is being amended to **remove subsections (c) and (d)** because leaving in these two subsections would lead to confusion and ambiguity on the distribution requirements of an addendum.
6. **§3-122-16.07, Pre-opening modification or withdrawal of offer** is being amended for clarity, consistency, and style to reflect that an offeror’s modification may be submitted electronically.
7. **§3-122-16.08, Late offer, late withdrawal and late modification, subsection (a)** is being amended to state, “Any offer, withdrawal and modification submitted manually or digitally after the established due date, shall not be accepted, except when received before contract award and would have been timely but for the action or inaction of personnel, supported by a written determination by the head of the purchasing agency, within the procuring agency.”

Subchapter 4.5, Source Selection for Federal Grants

1. **§3-122-16.30 Purpose** and **3-122-16.31, Except; request for interest**, are both being amended for clarity, consistency, and style.
2. **§3-122-16.31(a)** is amended to read as follows: “Request for federal grants” as used in this subchapter means all documents utilized for soliciting goods, services, or construction under a federal grant, when applying or after receipt of grant. “Interest” is not a committed word and the amendment will ensure the purchasing agency does its due diligence and stays with the contractor named in the grant.