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BONNIE KAHAKUI
ADMINISTRATOR

PROCUREMENT POLICY
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PROCUREMENT POLICY BOARD

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Procurement Policy Board

Minutes of Meeting

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

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

Virtual Meeting Using Interactive Conference Technology – Zoom

Members Present: Rick Heltzel
Lance Inouye
Lisa Maruyama
Keith Regan

Deputy Attorney General: Stella Kam

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

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

Department of Accounting and General Services: Jolie Yee

University of Hawaii: Sarah Allen

City & County of Honolulu: Paula Youngling

Guests: David Ha
J. Masatsugu

I. Call to Order, Public Notice

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:32 a.m. held on Zoom and in-person at the physical location. The meeting was recorded.

II. Roll Call, Quorum

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

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

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

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

IV. Public Testimony

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

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

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

Written testimony: None
Oral testimony: None

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

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

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

- House Bill 1297 – This bid protest bill that sets a time limit for submitting bid protests. Makes the 75-day limit for issuing a written decision on protests apply to any contract awarded by competitive sealed bid or competitive sealed proposal. Places a \$1.5 million cap on protests and removes language – Amended. SPO supports this bill.
- House Bill 1414 – Allows agencies to select a bidder who is not the lowest responsible and responsive bidder, if the head of the procuring agency determines that the award is most beneficial. Amended. The SPO opposes this bill and states that an agency can utilize the Request for Proposal method of procurement, which is based on evaluation, not the price.
- Senate Bill 382 – Prohibits a procurement officer from disclosing a competing offeror's proposal or evaluation score, except the summary of scores, during a debriefing requested by a non-selected offeror. The SPO supports this bill
- Senate Bill 1057 – Clarifies that bid incentives given to bidders who work, who work on constructions and are given, who are parties to apprenticeship program is based on apprenticeable trades utilized, rather than employed, to construct the public works. The SPO supports that language.
- Senate Bill 1543 – Requires each purchasing agency to provide justification for hiring external consultants – Amended. The SPO provided comments on this bill.

There were no questions from the public.

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

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

Written testimony: None

Oral testimony: None

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

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

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

She also noted that Board deferred action on HAR 3-122-9 until the final outcome of Senate Bill 328 and House Bill 988 during the 2025 Legislative session.

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

- §3-122-16.03 Public notice.

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

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

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

After discussion, the members concurred.

2. Subchapter 4.5 – Source Selection for Federal Grants

- §3-122-16.30 Purpose.

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

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

After discussion, the members concurred with the amendment.

3. Subchapter 5 – Competitive Sealed Bidding

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

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

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

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

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

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

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

4. Subchapter 5 – Competitive Sealed Bidding

- §3-122-34 – Low tie bids

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

The members concurred with the amendment.

5. Subchapter 5 – Competitive Sealed Proposals

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

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

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

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

After discussion, the members concurred with these amendments.

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

VII. Announcements

Chair Maruyama announced planned meetings of the Procurement Policy Board:

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

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

VIII. Adjournment

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

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

Respectfully submitted,

Lisa Maruyama, Chair
Procurement Policy Board