



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**  
**Thursday, July 10, 2025, 9:30 a.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\\_NmJiY2YwZWYtNTJiZi00ZTNiLTkNGUtMTAxNjE5M2ZjMzNi%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](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NmJiY2YwZWYtNTJiZi00ZTNiLTkNGUtMTAxNjE5M2ZjMzNi%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: 222 683 379 720 7
- Passcode: tk3j9rZ

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

**Dial in by Phone**

- [+1 808-829-4853](tel:+18088294853), United States, Honolulu (Toll charges apply)
- Phone Conference ID: 785 273 002#

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](mailto: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](mailto: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

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.

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 [ruth.a.baker@hawaii.gov](mailto:ruth.a.baker@hawaii.gov) as soon as possible, preferably by 2:30 p.m. HST, July 8, 2025. If a response is received after July 8, 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**  
**Thursday, July 10, 2025, 9:30 a.m. (HST)**

- I. **Call to Order, Public Notice**
- II. **Roll Call, Quorum**
- III. **Review and Approval of Meeting Minutes of the Procurement Policy Board**
  - a. Meeting Date: [February 28, 2025](#)
  - b. Meeting Date: [March 28, 2025](#)
  - c. Meeting Date: [April 11, 2025](#)
- IV. **Public Testimony – Public testimony will be taken on all items as those items occur during the meeting**
- V. **Administrator’s Report on 2025 Legislation Related to Procurement (For Information Only)**  
 The State Procurement Office provides a list of 2025 legislation related to procurement. The status indicated is as of July 2, 2025.

Bill Number and Status	Title and Description
<u>House Bill No. 987, House Draft 1,</u> <u>Senate Draft 1, Conference Draft 1</u>  <u>Act 206, Session Laws of Hawaii 2025</u>	RELATING TO PROCUREMENT. Establishes a Procurement Automation System Special Fund to be administered by the State Procurement Office. Adds the Executive Director of the School Facilities Authority as the Chief Procurement Officer for the School Facilities Authority in the Hawai'i Public Procurement Code. (CD1)
<u>Senate Bill No. 383,</u> <u>Senate Draft 2, House Draft 1,</u> <u>Conference Draft 1</u>  <u>Act 262, Session Laws of Hawaii 2025</u>	RELATING TO SMALL PURCHASES. Increases the minimum amount for purchases constituting small purchase procurements that are subject to an electronic system, from \$25,000 to \$50,000. Requires a report to the Legislature. (CD1)
<u>House Bill No. 412, House Draft 1,</u> <u>Senate Draft 2</u>  <u>Act 063, Session Laws of Hawaii 2025</u>	RELATING TO LOBBYING. Establishes certain presumptions regarding lobbying on behalf of private clients. Makes certain contracts voidable when entered into in violation of the state lobbying law under certain conditions. Expands the definition of "lobbying" in the state lobbying law to include certain communications with certain government officials regarding procurement decisions. Effective 1/1/2027. (SD2)  Note: The bill states that the attorney general, in consultation with the head of the purchasing agency impacted, shall have the authority to enforce the new section in Chapter 97, HRS.

Bill Number and Status	Title and Description
<u>Senate Bill No. 1651, Senate Draft 1, House Draft 1, Conference Draft 1.</u>  <u>Act 169, Session Laws of Hawaii 2025</u>	RELATING TO PUBLIC MEETINGS. Requires board packets to be posted two full business days before a public meeting. Requires boards to provide notice to persons requesting notification of meetings at the time the board packet is made available for public inspection. (SD1)
<u>House Bill 300, House Draft 1, Senate Draft 1, Conference Draft 1</u>  <u>Act 250, Session Laws of Hawaii 2025</u>	RELATING TO THE STATE BUDGET. Appropriates funds for the operating and capital improvement budget of the Executive Branch for fiscal years 2025-2026 and 2026-2027. (CD1)  Note: This includes an appropriation for the Small Business Coordinator position for Fiscal Years 2026 and 2027. Coordinator will propose administrative rules for the Procurement Policy Board's consideration.

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

The proposed rules summarized below are included in this agenda packet for review by the Procurement Policy Board because either discussion did not conclude or the proposed amendment was inadvertently omitted from a previous agenda. The proposed rules may also be viewed in person at 1151 Punchbowl Street, Room 416, Honolulu, HI 96813, and at <https://spo.hawaii.gov> as provided in section 91-2.6, Hawaii Revised Statutes.

### 1. Subchapter 2 – General Provisions

- §3-122-9.01 – Disclosure of information. Amend subsections (a) and (b).
- a. Replace “The purchase order is issued or the purchasing card order is placed” with “After the time and date set for receipt for quotes” in subsection (a)(1).
- b. Amend for clarity, consistence, and style and replace “posting of the award pursuant to section 3-122-57 (a)” with “contract execution” in subsection (b).

Note: On February 14, 2025, the Board discussed §3-122-9.01 and deferred decision pending the outcome of Senate Bill 382 and House Bill 988 during the 2025 Legislative Session.

### 2. Subchapter 4 – Methods of Source Selection and General Guidance

- §3-122-16 – Methods of source selection. – Addition of missing source selection methods: “Subchapter 5 – Competitive Sealed Bidding” and “Subchapter 6.5 – Multi-Step Competitive Sealed Bidding”

Note: On February 14, 2025, the Board started to discuss §3-122-16. The discussion and meeting ended before the Board took action.

- §3-122-16.05 – Pre-bid or pre-proposal conference – Amend subsection (c) by deleting “to all prospective offerors” for clarity, consistency, and style.

Note: On February 28, 2025, the Board reviewed and discussed §3-122-16.05 (a), (b), and (f), but the proposed amendment for (c), which became (b), was inadvertently left off the agenda.

**3. Subchapter 4.5 – Source Selection for Federal Grants**

- §3-122-16.31 – Exception; request for interest for federal grants. – Amend (d)(2) by deleting “or clients” for clarity.

Note: On February 28, 2025, the Board reviewed 3-122-16.31. This proposed amendment was inadvertently left off that agenda.

**VII. Formal 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 2, 3, 4, 4.5, and 5. The dates that the Board reviewed and discussed the amendments are noted in the attached chart.

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/2025/07/RAM-HAR-3-122-Subchapters-2-to-5\\_am\\_PPB-071025.pdf](https://spo.hawaii.gov/wp-content/uploads/2025/07/RAM-HAR-3-122-Subchapters-2-to-5_am_PPB-071025.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 \(Proposed 07/10/25\)](#)

**1. Subchapter 2 – General Provisions**

- §3-122-9 – Use of electronic communication. - Amend (c):
  - a. §3-122-9 (c)(2)(E) – Add “including pages” and remove “an original” as electronically submitted offers with electronic signatures are accepted. (Board reviewed/concurred 2/14/2025.)
  - b. §3-122-9 (c)(2)(F) – Revise by removing the extra “and” to correct grammar and the sentence structure. (Board reviewed/concurred 2/14/2025.)

**2. Subchapter 4 – Methods of Source Selection and General Guidance**

- §3-122-16.03 – Public notice. – Amend (b) and (d):
  - a. §3-122-16.03 (b)(2) - Remove “and a phone number or e-mail address where interested parties may request a copy.” (Board reviewed/concurred y Board 2/28/2025.)
  - b. §3-122-16.03 (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. (Board reviewed/concurred 2/28/2025.)
  - c. §3-122-16.03 (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.” (Board reviewed/concurred 2/28/2025.)

- d. §3-122-16.03 (b)(7) – Add 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.” This is to reflect that most agencies make their solicitations available online. (Board reviewed/concurred 2/28/2025.)
  - e. §3-122-16.03 (d)(1) - Remove “or provider.” 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. (Board reviewed/concurred 2/28/2025.)
  - f. §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. (Board reviewed/concurred d 2/28/2025.)
- §3-122-16.05 – Pre-bid or pre-proposal conference. – Amend subsections (a), (b), and (f).
    - a. §3-122-16.05 (a) - Amend for clarity, consistency, and style to reflect that pre-offer conferences are optional. (Board reviewed/concurred 2/28/2025.)
    - b. §3-122-16.05 (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.* (Board reviewed/concurred 2/28/2025.)
    - c. §3-122-16.05 (f) – Add “including questions and answers” to subsection (f), which will now be read as subsection (e). 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. (Board reviewed/concurred 2/28/2025.)
  - §3-122-16.06 – Amendment and clarification to solicitation. Amend (d) and (e).
    - a. §3-122-16.06 (d) – Revise to read “Addenda shall be issued to all prospective offerors.” (Reviewed/Concurred by Board 2/28/2025.)
    - b. §3-122-16.06 (e) – Add “or electronic means” to allow electronic communications. (Board reviewed/concurred 2/28/2025.)
  - §3-122-16.07 – Pre-opening modification or withdrawal of offer. - Amend for clarity, consistency, and style to reflect that an offeror’s modification may be submitted electronically. (Board reviewed/concurred 2/28/2025.)
  - §3-122-16.08 – Late offer, late withdrawal, and late modification. – Amend subsections (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. (Board reviewed/concurred 2/28/2025.)
  - 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, Hawaii Revised Statutes. (Board reviewed/concurred 2/28/2025.)
- 4. **Subchapter 4.5 – Source Selection for Federal Grants**
  - o §3-122-16.30 – Purpose. Amend (a) and (b):
    - a. §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. “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. (Board reviewed/concurred 3/28/25.)
    - b. §3-122-16.30 (b) – Remove “the appropriate source selection methods” to reference the whole section 3-122-16 for clarity in subsection (b), thus will read: “(b) The selection of contractors for federal grants shall be in accordance with section 3-122-16.” Section 3-122-16 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. Deputy Attorney General opined that removing the phrase “the appropriate source selection methods” does not affect, reduce, or limit the methods of source selection used. (Board reviewed/concurred 3/28/25.)
  - o §3-122-16.31 – Exception; request for interest for federal grants. – Amend (b), (d), (e), and (f):
    - a. §3-122-16.31 (a) – Add “when applying or after receipt of a grant”. This amendment 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. (Board reviewed/concurred 3/28/25..)
    - b. §3-122-16.31 (b), (d)(4), (d)(8), (e), and (f) - Replace “providers” with “contractors” for clarity, consistency, and style to reflect that providers selected for federal grants are contractors. “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. (Board reviewed/concurred 3/28/25.)
- 5. **Subchapter 5 – Competitive Sealed Bidding**
  - o §3-122-21 - Preparing a competitive sealed bid. - Amend subsections (1), (2), and (5):
    - a. §3-122-21 (1)(A) and (1)(D), – Reference “date” then “time” for style and consistency. (Board reviewed/concurred 3/28/25.)
    - b. §3-122-21 (1)(C) and (1)(D) - Remove “and” from subsection (1)(C) and add it to subsection (1)(D) for grammar. (Board reviewed/concurred 3/28/25.)

- c. §3-122-21 (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;”. (Board reviewed/concurred 3/28/25.)
  - d. §3-122-21 (2) - Amend by deleting “or” and “as are not included in the purchase description” and adding “and” for clarity as “the purchase description, specifications, evaluation factors, delivery and/or performance schedule, and inspection and acceptance requirements” should all be included in the invitation for bids. (Board reviewed/concurred 3/28/25.)
  - e. §3-122-21 (5) - Amend by revising the language to “The bid form shall be signed by an authorized agent of the vendor and may be submitted with a digital or original signature;” to clarify that electronic signatures are accepted. (Board reviewed/concurred 3/28/25.)
- §3-122-34 (b)(2) – Low tie bids. – Amend subsection (b)(2) to replace “contacts” with “contracts”. (Board reviewed/concurred 3/28/25.)
  - §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. (Board reviewed/concurred 3/28/25.)

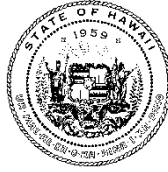
#### **VIII. Announcements**

Next Meeting: Members will be polled on their availability for a meeting in August.

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

#### **IX. Adjournment**





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

BONNIE KAHAKUI  
ADMINISTRATOR

PROCUREMENT POLICY  
BOARD  
RICHARD HELTZEL  
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## **Procurement Policy Board**

### **Minutes of Meeting**

Date/Time: Friday, February 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

Members Excused: Keith Regan

Deputy Attorney General  
Excused: Stella Kam

State Procurement Office: Bonnie Kahakui, Administrator  
Christopher Amandi  
Ruth Baker (in public location)  
Jacob Chang  
Matthew Chow  
Fai Goya  
Stacey Kauleinamoku-Murakami  
Jittima Laurita

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

University of Hawaii: Sarah Allen

City & County of Honolulu: Paula Youngling

Guests: Tim Lyons  
Pane Meatoga III

#### **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 14 Meeting**

The minutes of the February 14, 2025, were reviewed and corrected for clarity. Member Inouye requested a correction to the minutes under Agenda Item VI. Review and Possible Approval of Proposed Amendments to Hawaii Administrative Rules Chapter 3-122 – Source Selection and Contract Formation > 2. Subchapter 4 – Methods of Source Selection and General Guidance, §3-122-16.03 – Public notice – Amend subsections (b), (c), and (d). The correction is in the recommended language for “(b)(7)” for clarity (underlined for emphasis) on page 8 of the minutes:

Recommendation: 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.”

Member Rick Heltzel made a motion to approve the corrected minutes and Member Lance Inouye seconded the motion. The members voted to approve the minutes as corrected.

Chair Maruyama requested that any corrections made to meeting minutes be documented in the subsequent minutes for the record.

## **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 provided an update on the status of various bills:

- House Bill 381 – Increases small purchase threshold – Amended
- Senate Bill 382 – Clarifies disclosure of competing offerors’ proposals – Amended
- House Bill 1155 – Exempts from the Hawai’i Public Procurement Code contracts by government bodies to procure certain construction projects – Amended
- House Bill 1297 – Places a cap on protests and removes language – Amended
- 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
- Senate Bill 383 – Increases the small purchase threshold – Amended

- Senate Bill 1057 - Clarifies bid incentive given to bidders for public works construction projects who utilize apprenticeable trades – Amended
- Senate Bill 1255 – Amends the Uniform Information Practices Act to require agencies to disclose information – Deferred
- Senate Bill 1543 – Requires each purchasing agency to provide justification for hiring external consultants – Amended

Administrator Kahakui presented an update on Senate Bill 1175, which added information to the Past Performance Database. She reported that unless this bill comes out of the Senate Ways and Means Committee the First Decking deadline of February 28, 2025, the bill dies; there is no companion 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. The proposed rules are included in the board packet and may also be viewed online and in person at the State Procurement Office, located at 1151 Punchbowl Street, Room 416.

Written testimony: None

Oral testimony: None

Chair Maruyama turned the floor over to the SPO Staff.

Carey Ann Sasaki, Purchasing Specialist of the Policy and Compliance Section of the State Procurement Office, explained that the proposed amendments to HAR Chapter 3-122, parts of subchapter 2 and subchapters 4 and 4.5 are related to and will implement the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes (HRS). The purpose of the Code is to promote economy, efficiency, effectiveness, and consistency in all procurements by the State and several counties. She reiterated that the proposed rule amendments are available and may be viewed in person and online.

### **1. Subchapter 2 – General Provisions**

#### **§3-122-9 – Use of electronic communication.**

Purchasing Specialist Sasaki noted that on February 14, 2025, the Procurement Policy Board discussed and concurred with the proposed amendments to HAR §3-122-9 (c)(2)(E) and §3-122-9 (c)(2)(F).

#### **§3-122-9.01 – Disclosure of information.**

She requested that the Board defer discussion on HAR §3-122-9.01 regarding disclosure of information until after the end of the legislation session, as the 2025 Legislature is considering Senate Bill 382 and House Bill 988, which would authorize the disclosure of proposals and selection committee names public only after contract execution; it would be prudent to wait for the outcome of these measures. She reported that Deputy Attorney General Stella Kam conferred with a Deputy Corporation Counsel with the City & County of Honolulu, and learned that it is the City's practice to make the proposals available upon award, and that the City was unaware that the State makes the proposals and selection committee names public only after contract execution.

Member Lance Inouye asked that the Deputy Attorney General provide clarification regarding disclosure in Hawaii Administrative Rules subsections §3-122-58, §3-122-60, and §3-122-63(b). Purchasing and Contracts Administrator Paula Youngling, of the City & County of Honolulu's Department of Budget and Fiscal Services Division of Purchasing, said she also conferred with the Deputy Corporation Counsel about the City's interpretation of those rules, and that the City also concurs deferring discussion on §3-122-9.01.

The SPO presented the following proposed amendments.

## **2. Subchapter 4 – Methods of Source Selection and General Guidance**

Purchasing Specialist Stacey Kauleinamoku-Murakami explained the proposed amendments to Subchapter 4 – Methods of Source Selection and General Guidance.

### §3-122-16.03 – Public notice.

She noted that the proposed amendment to §3-122-16.03(b)(7), as corrected in the meeting minutes for February 14, 2025, must also be corrected for the February 28, 2025, Agenda Item VI.2.a. (page 11 of the agenda), and read as follows:

- §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."

She stated that on February 14, 2025, the Board concurred with this language.

Purchasing Specialist Kauleinamoku-Murakami continued to explain the following proposed amendments.

- §3-122-16.03 – Public Notice
  - a. Proposed addition of "include the requested professional class or category and shall" to subsection (c) .

(c) Public notice for professional services pursuant to section 103D-304, HRS, and subchapter 7 shall include the requested professional class or category and shall invite persons to submit statements of qualifications that [may include but not be limited to] includes:

Justification: This amendment mandates that offerors are required to include the relevant professional class or category in their submissions for professional services. This clarification benefits both the agencies and contractors by ensuring clear identification of services provided by engineers, architects, surveyors, and landscape artists.

Member Inouye asked if "professional class or category" is defined in statute. Purchasing Specialist Kauleinamoku-Murakami referenced that Procurement Circular 2014-16, Amendment 1, lists the types of professional services that must use the professional services method of procurement. Administrator Kahakui added that "professional services" is defined in §103D-104 - Definitions, HRS, which references the United States Office of Personnel Management's Qualifications Standards Handbook. She explained that the amendment seeks to align the definition with the HRS and Handbook, and noted that the SPO generally does not point the rules to procurement circulars, which are subject to change, but can reference §103D-104, HRS.

For Action: Although the members concur with the amendment after discussion, 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.

Purchasing Specialist Kauleinamoku-Murakami continued to explain the following proposed amendments.

- b. Remove “or provider” in subsection (d)(1).

(d) The public notice under subsections (b) and (c) shall be publicized as follows:

(1) At a minimum, statewide and countywide public notices shall be publicized on a purchasing agency ~~[or provider]~~ internet site;

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.

- c. Revise (d)(2)(B) for clarity and consistency that a notice may be sent by mail or electronically to persons on any applicable mailing list by the state agency.

(B) Notice by mail~~[, electronic mail, or facsimile transmission]~~ or electronically to persons on any applicable bidders mailing list, if any; and

The Board concurs with the proposed amendments to subsections 3-122-16.03(d)(1) and (d)(2)(B).

- o §3-122-16.05 – Pre-bid or pre-proposal conference – Amend subsections (a), (b), and (f).

- a. The proposal is to delete the entire subsection (b):

~~[(b) If conference attendance is mandatory for submission of an offer, the requirement:—  
(1) Shall be stated in the public notice issued pursuant to section 3-122-16.03; and  
(2) Prominently in the solicitation or if the decision to hold a mandatory pre-bid or pre-proposal conference is made after the issuance of the solicitation, the mandatory requirement shall be announced in an addendum.]~~

Explanation: Subsection (b) 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. In this case, the DCCA hearing officer

reasoned that regardless of a bidder's non-attendance at a site visit, submitting a bid after being given the opportunity to visit the job site signifies the bidders' commitment to performing the work at a stated price. The bidder assumes the risk of an unforeseen cost increases due to observable site conditions. The ruling determined that failure to attend a pre-bid conference does not constitute a valid basis for non-responsiveness.

- b. As a result of deleting subsection (b), subsection (a)(1) is amended for clarity, consistency, and style to reflect that attendance at pre-offer conferences are optional. This subsection will read:

(1) An agency may hold a pre-bid or pre-proposal conference ~~[and require or not require attendance by all prospective bidders as a condition for submitting an offer for solicitations that have special or unusual requirements, e.g., requiring physical inspection]~~.

(2) For construction, including design-build projects, pursuant to section 103D-303.5, HRS, an agency ~~[shall]~~ may hold a pre-bid or pre-proposal conference and invite all interested parties to attend.

Explanation: Purchasing Specialist Kauleinamoku-Murakami referenced §103D-303.5 - Pre-bid conference, Hawaii Revised Statutes, which states that the Procurement Policy Board shall adopt rules to effectuate this section. She also noted that the DCCA OAH ruling referenced *Starcom Builders, Inc. V. Board of Water Supply*; PCH-2003-18 (October 18, 2003).

The members discussed the disadvantage faced by companies that do not attend a mandatory meeting and thus did not have the privilege to learn about the risks involved in a project, and that the purchasing agency should be given the flexibility to decide whether a pre-bid conference is mandatory.

Purchasing and Contracts Administrator Youngling offered the perspective of the City & County of Honolulu, citing case law *Starcom Builders, Inc. V. Board of Water Supply*, and noted that purchasing agencies, especially those handling design and construction, prefer to make pre-bid conferences mandatory to avoid potential bid protests if a bid is not awarded to the low bidder based on non-attendance.

Member Heltzel suggested that the SPO survey the agencies on making pre bid meetings mandatory and explore the feasibility of introducing legislation.

- c. Add "including questions and answers" to subsection (f), which will now be read as subsection (e).

Explanation: 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.

Administrator Kahakui noted that the Legislature is considering House Bill 1297, which states that a protest based on the content of the solicitation must be submitted in writing at least 24 hours prior to the date and time set for the receipt of offers. She advocated for the deletion of "known to have received a solicitation," as it is difficult to determine whether prospective offers have received that information.

After discussion, the members concurred that subsection (e) be revised as follows:

~~[(f)]~~ (e) A summary of the conference, including questions and answers, in addition to any changes to the solicitation, shall be issued by addendum [and shall be supplied sufficiently] before the deadline for receipt of offers to allow consideration of the summary results and changes to all ~~[those]~~ prospective offerors ~~[known to have received a solicitation]~~.

The Board concurred with the amendments to §3-122-16.05: Deletion of subsection (b); and amendments to (a) and (e) [note that (e) is previously (f)].

- §3-122-16.06 – Amendment and clarification to solicitation – Delete subsections (c) and (d) in their entirety so there is no confusion and ambiguity on the distribution requirements of an addendum. This clarifies that it is the offeror's responsibility to read the addendum. Also, revise subsection (a) so it references the correct subsection and add "or electronic means" to new subsection (c)(1), previously subsection (e)(1).

After discussion, the Board concurred to keep subsection (c) as is and revise (d), which will read as follows:

(c) Addenda may require that offerors acknowledge receipt of the addendum issued.

(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]~~.

With the aforementioned amendment, the next subsection will remain as (e)(1). Purchasing Specialist Kauleinamoku-Murakami explained that the proposed amendment will align with the changes made to HAR Section 3-122-9 - Use of electronic communication, on February 14, 2025.

After discussion, the Board concurred on the following language for (e)(1):

(e) Addenda for:

(1) Amendments shall be ~~[distributed]~~ published within a reasonable time to allow prospective offerors to consider them in preparing their offers; however, if the time and date set for receipt of bids will not permit adequate time for preparation, the time shall be

increased to the extent possible in the addendum or, if necessary, ~~[by facsimile or telephone]~~ electronically and confirmed in the addendum;

- §3-122-16.07 – Pre-opening modification or withdrawal of offer - Amend for clarity, consistency, and style to reflect that an offeror's modification may be submitted electronically.

§3-122-16.07 Pre-opening modification or withdrawal of offer. (a) ~~[Bids or proposals]~~ Offers submitted pursuant to subchapters 5, 6, and 6.5 may be modified or withdrawn prior to the established due date by submitting the following ~~[documents]~~:

(1) ~~[Modification]~~ For modification of ~~[bids or proposals]~~ the offer:

- (A) A written notice accompanying the ~~[actual]~~ offeror's modification received in the office designated in the solicitation, stating that a modification to the ~~[bid or proposal]~~ offer is submitted; or
- (B) ~~[A facsimile or]~~ An electronic notice accompanying the ~~[actual]~~ offeror's modification submitted ~~[either by facsimile machine, electronic mail, or an electronic procurement system]~~ electronically pursuant to section 3-122-9 to the office designated in the solicitation; provided if other than through an electronic system, offeror submits the actual written notice and modification within two working days of receipt of the facsimile or the electronic transmittal.

After provided the explanation, the Board had no objection to the amendments to §3-122-16.07.

- §3-122-16.08 – Late offer, late withdrawal, and late modification – Amend for clarity.

Explanation: The amendment requires written documentation for the reason late offer, withdrawal or modification is accepted by the head of the purchasing agency. 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.

The Board concurred that 3-122-16.08(a) and (b) be amended as discussed and read as follows:

§3-122-16.08 Late offer, late withdrawal, and late modification. (a) Any ~~[notice of withdrawal, notice of modification of a bid or proposal with the actual modification, or any bid or proposal is late when received at the place designated for receipt and opening]~~



~~of an offer after the established due date, additionally defined in section 3-122-16.06(a),] offer, withdrawal and modification submitted by hand delivery, mail, or electronically 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 the purchasing agency's personnel, and supported by a written determination by the head of the purchasing agency [within the procurement activity].~~

(b) ~~A late bid or proposal or late modification will not be considered for award and shall be returned to the offeror unopened as soon as practicable, accompanied by a letter from the [procurement activity] purchasing agency stating the reason for its return.~~

### 3. Subchapter 4.5 – Source Selection for Federal Grants

- §3-122-16.30 - Purpose and §3-122-16.31 – Exception; request for interest – 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 in §103F-104.

- §3-122-16.30 – Purpose – Remove from subsection (b) the phrase “the appropriate source selection methods in” and simply reference section 3-122-16, which lists all the methods of source selection.

Explanation: As discussed at the February 14, 2025, Board 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.

For Action: As requested by the Board, the SPO will confer with the 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, as she recommended that amendment.

The Board concurred that §3-122-16.30 be amended as discussed and read as follows:

§3-122-16.30 Purpose. (a) The purpose of this subchapter is to provide rules for the selection of [~~providers~~]contractors for federal grants.

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

- §3-122-16.31 – Exception; request for interest for federal grants. – Add the phrase “when applying or after receipt of a grant” to (a).

Explanation: The amendment aims to ensure the purchasing agency exercises due diligence and retains the contractor named in the in the federal grant, rather than switching to a different one. While some grant applications require that a specific contractor be named, other applications allow for changes. Before naming a contractors on a federal grant application, the purchasing agency must follow a procurement method outlined in §3-122-16, HAR. The "request for interest for federal grants" is one procurement option that may be used either during the application process or after the grant is awarded if the purchasing agency does not have time to do a full procurement.

The Board concurred with the following amendment to §3-122-16.31:

§3-122-16.31 Exception; request for interest for federal grants. (a) "Request for interest" as used in this subchapter means all documents utilized for soliciting interest in providing goods, services, or construction under a federal grant, when applying for a grant or after receipt of a grant.

(b) Where time or economic situations preclude the use of other source selection methods in section 3-122-16, purchasing agencies may, with the approval of the head of purchasing agency, issue a request for interest to select a [~~provider or providers~~] contractor(s) for a federal grant.

## **VII. Announcements**

### **1. Introduction of Small Business Procurement Coordinator**

Administrator Kahakui introduced Keari Shibuya as the State Procurement Office's Small Business Procurement Coordinator, who will be drafting rules on the Small Business Initiative for consideration by the Board.

### **2. Next meetings**

Chair Maruyama announced planned meetings of the Procurement Policy Board:

- Friday, March 28, 2025, 9:30 a.m.
- 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 schedule will be assessed and is subject to change. 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.

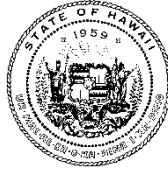
## **VIII. Adjournment**

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

Since there was no additional new business, Member Heltzel moved to adjourn the meeting and Member Inouye seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 11:59 a.m.

Respectfully submitted,

Lisa Maruyama, Chair  
Procurement Policy Board



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

BONNIE KAHAKUI  
ADMINISTRATOR

PROCUREMENT POLICY  
BOARD  
RICHARD HELTZEL  
LANCE INOUE  
LISA MARUYAMA  
KEITH REGAN

**STATE OF HAWAII | KA MOKU'ĀINA O HAWAII**  
**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**

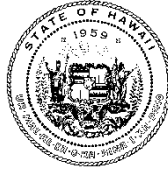
The Chair asked the public if they have any questions, and there were none.

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





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

BONNIE KAHAKUI  
ADMINISTRATOR

PROCUREMENT POLICY  
BOARD  
RICHARD HELTZEL  
LANCE INOUE  
LISA MARUYAMA  
KEITH REGAN

**STATE OF HAWAII | KA MOKU'ĀINA O HAWAII**  
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**Procurement Policy Board**

**Minutes of Meeting**

Date/Time: Friday, April 11, 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  
Jacob Chang  
Matthew Chow  
Fai Goya

Chan Lee (in public location)  
Kelli Nekomoto  
Carey Ann Sasaki  
Keari Shibuya  
Donn Tsuruda-Kashiwabara

Guests: Tim Lyons  
Ryan Sakuda

**I. Call to Order, Public Notice**

Chair Lisa Maruyama called the Procurement Policy Board (PPB) meeting to order at 9:38 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**

**a. Meeting Date: February 28, 2025**

**b. Meeting Date: March 28, 2025**

The minutes of the February 28, 2025, and March 28, 2025, meetings have been deferred.

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.

- 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. The SPO still opposes the increase.
- House Bill 371 – Relating to Campaign Contributions, 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.
- House Bill 412 – Requires that the Department of the Attorney General consults with the head of the purchasing agency impacted before any action is taken.
- House Bill 987 – This is the State Procurement Office's bill, which asks for the establishment of an eProcurement system special fund.

- House Bill 988 – Prohibits a procuring agency from disclosing a competing offeror's proposal during a debriefing. Disclosure is allowed after the contract has been executed. SPO supports this bill.
- Senate Bill 382 – This bill is similar to House Bill 988. The 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 is an innovative procurement process that will address specifically Department of Transportation's needs for federal funding. The SPO provided comments on this bill for a pilot program. Member Heltzel expressed his concern about this bill.
- House Bill 1297 – This bid protest bill that sets a 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. The supports this bill.
- Senate Bill 1651 – This affects public meetings and adds requirements for public disclosure. The SPO is tracking 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**

Agenda Item VI was deferred.

**VII. Announcements**

Chair Maruyama announced planned meetings of the Procurement Policy Board:

- Friday, May 16, 2025, 9:30 a.m.
- Friday, June 6, 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**

Since there was no additional new business, Member Regan moved to adjourn the meeting and Member Heltzel seconded the motion. All members voted to adjourn the meeting. The meeting adjourned at 10:31 a.m.

Respectfully submitted,

Lisa Maruyama, Chair  
Procurement Policy Board

### Status of Proposed Amendments to HAR 3-122 as of July 2, 2025

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>2 – General Provisions</b>	3-122-3 - <u>Extension of time on contracts.</u>	122-2	3-122-3 (4)(b) - Add "and provided the prices are fair and fair and reasonable."	01/31/25	01/31/25	<b>Discussed/Voted to approve 01/31/25</b>
<b>2 – General Provisions</b>	3-122-9 - <u>Use of electronic communication.</u> (revised title)	122-2 to 122-3	<p>3-122-9 – Change title and amend (a), (b), (c), and (d)</p> <p>Change title from "Use of facsimile machines, electronic mail, or electronic procurement systems" to "Use of electronic communication".</p> <p>Amend subsections (a), (b), (c), and (d):</p> <p>(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.</p> <p>(b) - Replace legacy verbiage of "facsimile machine, electronic mail, or electronic procurement systems" with "electronic communication".</p> <p>(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".</p> <p>(c)(2) - Add "(H) Any other requirement in the solicitation".</p> <p>(d) - Remove "complete original offer" as electronically submitted offers with electronic signatures are accepted.</p> <p>Justification: Replace legacy verbiage of "facsimile machine, electronic mail, or electronic</p>	01/31/25	01/31/25	<b>Discussed/Voted to approve 01/31/25</b>
<b>2 – General Provisions</b>	3-122-9 - <u>Use of electronic communication.</u> (revised title)	122-3	<p>3-122-9 (c)(2)(E) - Add "including pages" and remove "an original"</p> <p>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.</p> <p>3-122-9 (c)(2)(F) - Revised by removing the extra "and" to correct the grammar and sentence structure.</p>	02/14/25	02/14/25	Reviewed/Concurred 02/14/25

## Status of Proposed Amendments to HAR 3-122 as of July 2, 2025

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>2 – General Provisions</b>	3-122-9.01 - <u>Disclosure of information.</u>	122-4	<p>3-122-9.01 (a) and (b) - Amend</p> <p>2/28/25: SPO requested the PPB defer 3-122-9.01 pending outcome of SB382 and HB988 during the 2025 Legislative Session.</p> <p>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.</p> <p>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".</p>	1/31/25 2/14/25 2/28/25	02/14/25	<p>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.</p> <p>Added to 7/10/25 Procurement Policy Board Agenda for discussion and possible approval.</p> <p>Agenda Item VI. 1.</p>
<b>3 – Specifications</b>	3-122-12 – <u>Duties of the administrator.</u>	122-4 to 122-5	<p>3-122-12 (b)(1)(A), (b)(2), and (b)(3) - Amend</p> <p>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.</p> <p>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.</p>	01/31/25	01/31/25	<b>Discussed/Voted to approve 01/31/25</b>
<b>3 – Specifications</b>	3-122-13 – <u>Development of specifications.</u>	122-6 to 122-7	<p>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.</p> <p>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.</p>	01/31/25	01/31/25	<b>Discussed/Voted to approve 01/31/25</b>

**Status of Proposed Amendments to HAR 3-122 as of July 2, 2025**

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16 - <u>Methods of source selection.</u>	122-8	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	02/14/25	Reviewed 02/14/25 (meeting ended due to interest of time before PPB took action)  Added to 7/10/25 Procurement Policy Board Agenda for discussion and possible approval.  Agenda Item VI. 2.
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.03 - <u>Public notice.</u>	122-9	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
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.03 - <u>Public notice.</u>	122-10	§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 as of July 2, 2025

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.03 - <u>Public notice.</u>	122-10	<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> <p><b>The original language reads: "(c) Public notice for professional services pursuant to section 103D-304, HRS, and subchapter 7 shall invite persons to submit statements of qualifications that may include but not be limited to:"</b></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>
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.03 - <u>Public notice.</u>	122-10	<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
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.03 - <u>Public notice.</u>	122-11	<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

### Status of Proposed Amendments to HAR 3-122 as of July 2, 2025

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.05 - <u>Pre-bid or pre-proposal conference.</u>	122-11 to 122-12	<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 <i>Greenleaf Distribution Services, Inc. v. City and County of Honolulu</i>; 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
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.05 - <u>Pre-bid or pre-proposal conference.</u>	122-12	<p>3-122-16.05 [(e)] (b)</p> <p>[(e)](b) delete "to all prospective offerors"</p>			<p>Added to 7/10/25 Procurement Policy Board Agenda for discussion and possible approval. This was inadvertently left off an agenda.</p> <p>Agenda Item VI. 2.</p>
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.06 - <u>Amendment and clarification to solicitation.</u>	122-13 to 122-14	<p>3-122-16.06 (d) and (e)</p> <p>After discussion, PPB concurred to keep subsection (c) as is, and revise (d) to read as follows:</p> <p>(d) Addenda shall be issued to all prospective offerors [ <del>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.</del> ]</p> <p>(e) and (f) are not renumbered.</p> <p>(e)(1) Add "electronic means" to allow electronic communications.</p>	1/31/25 2/28/25	02/28/25	Reviewed/Concurred 02/28/25



### Status of Proposed Amendments to HAR 3-122 as of July 2, 2025

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.07 - <u>Pre-opening modification or withdrawal of offer.</u>	122-14 to 122-15	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
<b>4 – Methods of Source Selection and General Guidance</b>	3-122-16.08 - <u>Late offer, late withdrawal, and late modification.</u>	122-15 to 122-16	§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
<b>4.5 – Source Selection for Federal Grants</b>	3-122-16.30 - <u>Purpose.</u>	122-16	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.  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).  (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.  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.  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.  Thus, (b) will read: (b) The selection of contractors for federal grants shall be in accordance with section 3-122-16.	02/28/25 03/28/25	03/28/25	Reviewed/Concurred 3/28/25

**Status of Proposed Amendments to HAR 3-122 as of July 2, 2025**

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>4.5 – Source Selection for Federal Grants</b>	3-122-16.31 - <u>Exception: request for interest for federal grants.</u>	122-17	<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.</p>	02/28/25	02/28/25	Reviewed and concurred 2/28/25
<b>4.5 – Source Selection for Federal Grants</b>	3-122-16.31 - <u>Exception: request for interest for federal grants.</u>	122-17	3-122-16.31 (d)(2) - remove "or clients" for clarity.			<p>Added to 7/10/25 Procurement Policy Board Agenda for discussion and possible approval.</p> <p>Agenda Item VI. 3.</p> <p>This was inadvertently left off 2/28/25 agenda during review of HARs.</p>

**Status of Proposed Amendments to HAR 3-122 as of July 2, 2025**

Subchapter	Subsection	Page w/ Amend.	Description of Proposed Amendment	Date(s) Listed on PPB Agenda	Date(s) Discussed	PPB Action and Date Voted to Approve
<b>5 - Competitive Sealed Bidding</b>	3-122-21 - <u>Preparing a competitive sealed bid.</u>	122-18 to 122-20	<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 "or" and "as are not included in the purchase description" and adding "and" for clarity as "the purchase description, specifications, evaluation factors, delivery and/or performance schedule, and inspection and acceptance requirements" should all be included in the invitation for bids.</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 vendor and may be submitted with a digital or original signature;" to clarify that electronic signatures are accepted.</p>	03/28/25	03/28/25	Reviewed/Concurred 3/28/25
<b>5 - Competitive Sealed Bidding</b>	3-122-34 - <u>Low tie bids.</u>	122-21	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

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

Interim  
Hawaii Administrative Rules

July 10, 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. §3-122-3, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-3 Extension of time on contracts. (a)  
If a contract has exhausted its provision for extension(s) of time of performance, or if the contract does not include a provision for extension(s) of time of performance, the contract may be extended upon approval of the chief procurement officer, provided:

- (1) The period of each extension is for one hundred eighty calendar days or less;
- (2) The procurement officer makes a written determination that it is not practical to award another contract at the time of the expiration of the contract for reasons to include but not be limited to the following:
  - (A) A new contract cannot be executed by the time the contract expires; or
  - (B) The need for the good or service is short term;
- (3) All parties agree to the extension of time of performance; and
- (4) The price(s) or conditions of the contract remain the same as the original contract, or

as amended per the contract; or if not the same or as amended, they are fair and reasonable.

(b) If paragraph (2) of subsection (a) is met, but paragraph (3) or (4) of subsection (a) or both are not met and the procurement officer determines in writing that the need for the good or service continues, provided subchapters 8, 9, and 10 do not apply, the chief procurement officer, may upon request in writing, approve an alternative procurement method, including but not limited to direct negotiations with a party other than the contractor, subject to the maximum one hundred eighty calendar day contract period, and provided the prices are fair and reasonable.

(c) This section shall not apply to adjustments in performance time under chapter 3-125." [Eff 12/15/95; am and comp 11/17/97; comp 03/21/2008; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-202)

**2. §3-122-9, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-9 Use of [facsimile machines, electronic mail, or electronic procurement systems] electronic communication. (a) Copies of documents transmitted by vendors via [facsimile machine, electronic mail, or an electronic procurement system] electronic communication may include the notice of intent to offer; the offer with required documentation for evaluation purposes; and modifications or withdrawal of offers and contract documents, pursuant to subsections (b) and (c).

(b) Notices of intent to submit an offer and modifications or withdrawal of an offer may be submitted [by facsimile machine, electronic mail, or an electronic procurement system] electronically pursuant to sections 3-122-111 and 3-122-16.07, respectively.

(c) An offer transmitted [~~via facsimile machine, electronic mail, or through an electronic procurement system~~] electronically shall be acceptable only when specifically allowed in the [~~invitation for bids or request for proposals~~] solicitation, provided:

- (1) The [~~facsimile or the~~] electronically submitted offer is received at the designated office by the time and date set for receipt of offers; and
- (2) The [~~facsimile or the~~] electronically submitted offer contains:
  - (A) The identification number of the [~~invitation for bids or request for proposals~~] solicitation;
  - (B) The item;
  - (C) The quantity;
  - (D) The price for the offer;
  - (E) All pages of the offer, including pages requiring [an original] a signature;
  - (F) The bid bond, if required; [~~and~~]
  - (G) A signed statement that the offeror agrees to all the terms, conditions, and provisions of the [~~invitation for bids or request for proposals~~] solicitation; and
  - (H) Any other requirement in the solicitation.

(d) Unless otherwise specified in the solicitation, if the [~~facsimile or~~] electronically submitted offer is the lowest responsive bid, or is the proposal determined in writing to provide the best value to the State, the offeror must submit the [~~complete original offer, with the~~] original bid bond, if required, so that it is received within five working days from the notification of intent to award. If the offeror fails to comply with this requirement, the procurement officer has the option to reject the [~~facsimile or~~] electronically submitted offer." [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp 03/21/08; am and comp ]  
 (Auth: HRS §§103D-202, 103D-302, 103D-303, 103D-310)  
 (Imp: HRS §§103D-302, 103D-303, 103D-310)

**3. §3-122-9.01, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-9.01 Disclosure of information. (a) A purchasing agency is not required to disclose information identifying the number or the names of organizations or persons that obtained a solicitation, attended a pre-offeror's conference, or submitted a notice of intent to offer; or an offer until:

- (1) ~~[The purchase order is issued or the purchasing card order is placed]~~ After the time and date set for receipt for quotes, in the case of a small purchase request for quotations pursuant to subchapter 8;
- (2) After the time and date set for receipt of priced bids, in the case of invitation for bids pursuant to subchapters 5 and 6.5; and
- (3) The posting of the award in the case of a request for proposals pursuant to subchapter 6.

(b) A purchasing agency shall not disclose the ~~[name]~~names of ~~[members of an]~~the evaluation committee members established by section 3-122-45.01 prior to the ~~[posting of the award pursuant to section 3-122-57(a)]~~contract execution for multi-step bids and competitive sealed proposals.

(c) In the case of procurement of professional services, a purchasing agency is not required to disclose the information specified in section 3-122-63(b) until after the contract is awarded." [Eff and comp 11/17/97; am and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-202)

**4. §3-122-12, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-12 Duties of the administrator. (a) The administrator of the state procurement office shall serve as the central procurement officer to coordinate, guide, and distribute specifications used by purchasing agencies, including specifications on

recycled products and the guidelines for purchasing energy-efficient vehicles. This effort will allow for the use of standard specifications by purchasing agencies on purchases for common or general use items or standard commercial products or energy-efficient vehicles.

(b) The administrator of the state procurement office shall review and establish purchase specifications to guide state and county purchasing agencies in the procurement of recycled products.

(1) The specifications shall:

- (A) Be consistent with applicable current federal specification standards on recycled products [~~incorporated in Presidential Executive Orders No. 12873, dated October 20, 1993, and any subsequent amendments to that order~~];
- (B) Include minimum standards of recovered material and post-consumer content; and
- (C) Ensure, to the maximum extent economically feasible, the purchase of materials which may be recycled or reused when discarded and avoid the purchase of products deemed environmentally harmful.

(2) The administrator [~~shall~~] may periodically review its specifications to determine whether discrimination against procured goods with recycled content exists and [~~shall~~] may revise these specifications to eliminate any discrimination.

(3) Purchase specifications [~~shall~~] may include, but not be limited to, office paper, printed material, paper products, paper, glass-by-products, plastic products, mulch and soil amendments, tires, batteries, oil, paving materials and base, subbase, and pervious backfill materials. Paving materials to be considered [~~shall~~] may include, but are not limited to, asphalt, tires, crushed concrete for base, subbase, and paving materials. The standards and specifications shall



provide for the use of recycled materials and shall not reduce the quality standards for any product or construction.

(c) Pursuant to section 103D-412, HRS, the procurement policy for all agencies purchasing or leasing motor vehicles shall be to obtain energy-efficient vehicles in accordance with the guidelines established by the department of business, economic development and tourism." [Eff 12/15/95; comp 11/17/97; am and comp 03/21/08; am and comp ] Auth: HRS §§103D-202, 103D-401) (Imp: HRS §§103D-401, 103D-412)

**5. §3-122-13, Hawaii Administrative Rules, is amended to read as follows:**

- "§3-122-13 Development of specifications. (a) A specification should provide for the following:
- (1) Identify minimum requirements;
  - (2) Allow for competition;
  - (3) List reproducible test methods to be used in testing for compliance with specifications; and
  - (4) Provide for an equitable award at the best value.
- (b) Types of specifications include the following, and may be used in combination when developing the specification:
- (1) Design specification sets the requirements for the product, detailing the characteristics that the item must possess, how the item is to be manufactured;
  - (2) Performance specifications describes the capabilities that the product must meet, use of test or criteria are developed to measure the item's ability to perform as required;
  - (3) Brand name specification commonly referred to as restrictive specifications, may be used upon approval of the chief procurement officer after the purchasing agency makes a written determination that only the

identified brand name item will satisfy the State's needs, and it is not practicable to use a less restrictive specification, provided that procurements pursuant to section 103D-305, HRS, ~~[do not require]~~require approval by the procurement officer and shall be placed in the procurement file;

- (4) Brand name or equal specification cites one or more brand names, model numbers, or other designations that identify the specific products as having the characteristics of the item desired; and
- (5) Qualified or pre-approved products list is a list of goods, services, or construction items, which, prior to the opening of the competitive solicitation, are examined, tested, and determined to meet the applicable specification requirements.

(c) To the extent practicable, the State may procure standard commercial products using accepted commercial specifications. Specifications shall emphasize functional or performance criteria. Design or other detailed physical descriptions may be used when necessary to meet the needs of the State. Specifications shall not discriminate against the use of recycled materials; and when purchasing or leasing motor vehicles; specifications shall be developed in compliance with section 103D-412, HRS, as follows:

- (1) Agencies are directed to the acquisition of motor vehicle guidelines established by the department of business, economic development and tourism. When acquiring new vehicles, agencies shall determine its motor vehicle fleet as defined by these guidelines; and
- (2) Motor vehicle fleets determined to be outside of the "covered fleet" definition, shall obtain energy-efficient vehicles in order to increase energy efficiency and use of renewable energy resources pursuant to section 103D-412(b), HRS, and further defined in the guidelines established by the

department of business, economic development and tourism.

(d) The using agency shall submit advice and assistance in the development of specifications or plans pursuant to a request from the purchasing officer.

(e) A contractor paid for services to develop or prepare specifications or work statements shall be precluded from submitting an offer or receiving a contract for that particular solicitation.

f) Specifications prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the State's needs and shall not be unduly restrictive. [Eff 12/15/95; am and comp 11/17/97; am and comp 03/21/08; am and comp ] (Auth: HRS §§103D-202, 103D-401, 103D-402) (Imp: HRS §§103D-401, 103D-404, 103D-405, 103D-406, 103D-412)

**6. §3-122-16, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16 Methods of source selection. Unless authorized by law, all contracts shall be awarded by ~~[competitive sealed bidding pursuant to subchapters 5 and 6.5, except as provided in]~~ the following methods:

- (1) Subchapter 4.5 - Source selection for federal grants;
- (2) Subchapter 5 - Competitive Sealed Bidding;
- ~~[(2)]~~ (3) Subchapter 6 - Competitive sealed proposals;
- (4) Subchapter 6.5 - Multi-step Competitive Sealed Bidding;
- ~~[(3)]~~ (5) Subchapter 7 - Professional services procurement;
- ~~[(4)]~~ (6) Subchapter 8 - Small purchases;
- ~~[(5)]~~ (7) Subchapter 9 - Sole source procurements; and
- ~~[(6)]~~ (8) Subchapter 10 - Emergency procurements." [Eff 12/15/95; comp 11/17/97;

am and comp 03/21/08; am and comp  
 ] (Auth: HRS §103D-202) (Imp: HRS §103D-301)

**7. §3-122-16.03, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.03 Public notice. (a) Public notice of the solicitation pursuant to subchapter 4.5, 5, 6, 6.5, or 7 shall be made for the purpose of securing competition.

(b) The public notice of the solicitation pursuant to subchapters 4.5, 5, 6, and 6.5 shall include the following information:

- (1) A brief description of the good, service, or construction desired; or for solicitations seeking providers for federal grant contracts, the title of the grant application or funding source and a brief description of the services being sought;
- (2) Where and when the solicitation will be available~~[and a phone number or e-mail address where interested parties may request a copy]~~;
- (3) ~~[How long the solicitation will be available, i.e., the]~~The deadline for the responses to the solicitation;
- (4) Other appropriate information, e.g., ~~[a notice of intention to offer pursuant to section 3-122-111 or]~~ contact information, the time, date, and location of the pre-bid or pre-proposal conference, if any;
- (5) For request for interest pursuant to section 3-122-16.31, a statement that the purpose of the request is to select a provider or providers for federal grants; and
- (6) For a multi-step invitation for bids pursuant to subchapter 6.5, a general statement that the bid is multi-step and the due date(s) of the unpriced technical offer and priced offer.

(7) A copy of the solicitation ~~[shall]~~ may be made available ~~[for public inspection and pick up]~~ electronically and may be picked up at the respective issuing office [of the procurement officer issuing the solicitation].

       (c) Public notice for professional services pursuant to section 103D-304, HRS, and subchapter 7 shall ~~include the requested professional class or category and shall include the requested professional class or category and shall~~ invite persons to submit statements of qualifications that ~~[may include but not be limited to]~~ may include but not be limited to includes:

- (1) The name of the firm or person, the principal place of business, and location of all of its offices;
- (2) The age of the firm and its average number of employees over the past years;
- (3) The education, training, and qualifications of key members of the firm;
- (4) The names and phone numbers of up to five clients who may be contacted, including at least two for whom services were rendered during the preceding year; and
- (5) Any promotional or descriptive literature which the firm desires to submit.

Firms or persons may amend statements of qualifications at any time by filing a new statement and shall immediately inform the head of the purchasing agency of any change in their submission that would disqualify the firm or person from being considered for a contract award.

(d) The public notice under subsections (b) and (c) shall be publicized as follows:

- (1) At a minimum, statewide and countywide public notices shall be publicized on a purchasing agency ~~[or provider]~~ internet site;
- (2) Optionally, and in addition to paragraph (1), the following may be used:
  - (A) Newspaper publication:
    - (i) For statewide publication, a daily

- or weekly publication of statewide circulation; or separate daily or weekly publications whose combined circulation is statewide;
- (ii) For countywide publication, a daily or weekly publication in the pertinent county;
- (B) Notice by mail[, ~~electronic mail, or facsimile transmission~~] or electronically to persons on any applicable bidders mailing list, if any; and
- (C) Any other method the procurement officer deems effective for publicizing the solicitation." [Eff and comp 03/21/08; am and comp ]  
(Auth: HRS §§103D-202, 103D-302, 103D-303, 103D-304) (Imp: HRS §§103D-302, 103D-303, 103D-304)

**8. §3-122-16.05, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.05 Pre-bid or pre-proposal conference. (a) The purpose of a pre-bid or pre-proposal conference is to explain the procurement requirements and allow potential offerors to ask questions.

- (1) An agency may hold a pre-bid or pre-proposal conference [~~and require or not require attendance by all prospective bidders as a condition for submitting an offer for solicitations that have special or unusual requirements, e.g., requiring physical inspection~~].
- (2) For construction, including design-build projects, pursuant to section 103D-303.5, HRS, an agency [~~shall~~] may hold a pre-bid or pre-proposal conference and invite all interested parties to attend.
- ~~[(b) If conference attendance is mandatory for~~

~~submission of an offer, the requirement:~~

- ~~—— (1) Shall be stated in the public notice issued pursuant to section 3-122-16.03; and~~
- ~~—— (2) Prominently in the solicitation or if the decision to hold a mandatory pre-bid or pre-proposal conference is made after the issuance of the solicitation, the mandatory requirement shall be announced in an addendum.]~~

~~[(e)]~~ (b) A pre-bid or pre-proposal conference shall be announced ~~[to all prospective offerors]~~ in the public notice issued pursuant to section 3-122-16.03 and in the solicitation, or if the decision to hold a pre-bid or pre-proposal conference is made after the issuance of the solicitation, the conference shall be announced in an addendum.

~~[(d)]~~ (c) The conference should be held long enough after the solicitation has been issued to allow offerors to become familiar with the solicitation, but sufficiently before the deadline for receipt of offers to allow consideration of the conference results in preparing their offers.

~~[(e)]~~ (d) Unless a change is made by written addendum as provided in section 3-122-16.06, nothing stated at the pre-bid or pre-proposal conference shall change the solicitation.

~~[(f)]~~ (e) A summary of the conference, including questions and answers, in addition to any changes to the solicitation, shall be issued by addendum and shall be supplied sufficiently before the deadline for receipt of offers to allow consideration of the summary results and changes to all ~~[those]~~ prospective offerors ~~[known to have received a solicitation]."~~

[Eff and comp 03/21/08; am and  
comp ] (Auth: HRS §§103D-202, 103D-303.5) (Imp: HRS §§103D-302, 103D-303.5)

**9. §3-122-16.06, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.06 Amendment and clarification to

solicitation. (a) An addendum shall be issued for amendments and clarifications to a solicitation prior to submission of offers, except as provided in subsection ~~[(f)]~~ (d).

- (1) Amendments include any material changes to the solicitation as in quantity, purchase descriptions, delivery schedules, scope of work, and opening dates. The addendum shall reference the portions of the solicitation it amends and detail the amendments;
- (2) Clarifications include pre-bid or pre-proposal communications other than amendments.
- (b) Addenda shall be used to:
  - (1) Correct minor defects or ambiguities;
  - (2) Furnish to other offerors information given to one offeror if the information will assist the other offerors in submitting offers or if the lack of the information would prejudice the other offerors; and
  - (3) Provide any other information or clarification to the solicitation that will result in fair competition.

~~[(c) Addenda may require that offerors acknowledge receipt of the addendum issued.]~~ (c) Addenda may require that offerors acknowledge receipt of the addendum issued.

~~[(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.]~~ (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)]~~ (e) Addenda for

- (1) Amendments shall be ~~[distributed]~~ published within a reasonable time to allow prospective offerors to consider them in preparing their offers; however, if the time and date set for receipt of bids will not



permit adequate time for preparation, the time shall be increased to the extent possible in the addendum or, if necessary, by facsimile or telephone or electronic means and confirmed in the addendum;

- (2) Clarifications may be issued any time up to the scheduled deadline for receipt of offers.

~~[(f)]~~ ~~(d)~~ (f) After submission of proposals, amendments may be made by addenda for solicitations pursuant to subchapters 6 and 6.5, subject to sections 3-122-53(d) and (e) and 3-122-54(b).” [Eff and comp

03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

**10. §3-122-16.07, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.07 Pre-opening modification or withdrawal of offer. (a) ~~[Bids or proposals]~~ Offers submitted pursuant to subchapters 5, 6, and 6.5 may be modified or withdrawn prior to the established due date by submitting the following [documents]:

- (1) ~~[Modification]~~ For modification of [bids or proposals] the offer:

- (A) A written notice accompanying the ~~[actual]~~ offeror's modification received in the office designated in the solicitation, stating that a modification to the ~~[bid or proposal]~~ offer is submitted; or
- (B) ~~[A facsimile or]~~ An electronic notice accompanying the ~~[actual]~~ offeror's modification submitted ~~[either by facsimile machine, electronic mail, or an electronic procurement system]~~ electronically pursuant to section 3-122-9 to the office designated in the solicitation; provided if other than

through an electronic system, offeror submits the actual written notice and modification within two working days of receipt of the facsimile or the electronic transmittal.

(2) Withdrawal of bids or proposals:

- (A) A written notice received in the office designated in the solicitation; or
- (B) A notice ~~[by facsimile machine or other electronic]~~ submitted ~~[electronically]~~ electronically ~~[method]~~ pursuant to section 3-122-9~~[, to the office designated in the solicitation]~~.

For the purposes of this section and section 3-122-16.08, the established due date for proposals pursuant to subchapter 6 or 6.5 is either the time and date announced for receipt of proposals or as amended ~~[receipt of modifications to proposals]~~, if any; or if discussions have begun, it is the time and date by which best and final offers must be submitted, provided that only priority listed offerors may submit best and final offers.

(b) The documents shall be made a part of the ~~[appropriate]~~ procurement file." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

**11. §3-122-16.08, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.08 Late offer, late withdrawal, and late modification. (a) Any [notice of withdrawal, notice of modification of a bid or proposal with the actual modification, or any bid or proposal is late when received at the place designated for receipt and opening of an offer after the established due date, additionally defined in section 3-122-16.06(a),] offer, withdrawal and modification submitted by hand delivery, mail, or electronically 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, and supported by a written determination by the head of the purchasing agency ~~[within the procurement activity]~~.

(b) A late bid or proposal or late modification will not be considered for award and shall be returned to the offeror unopened as soon as practicable, accompanied by a letter from the ~~[procurement activity]~~ purchasing agency stating the reason for its return.

(c) A late withdrawal request except as provided for in section 3-122-31, shall be responded to with a statement of the reason for non-acceptance of the withdrawal.

(d) Records of each late offer, late modification, or late withdrawal and any related correspondence shall be made a part of the appropriate procurement file, except for the late offer or late modification itself which shall be disposed of in accordance with subsection (b)." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §§103D-302, 103D-303)

**12. §3-122-16.30, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.30 Purpose. (a) The purpose of this subchapter is to provide rules for the selection of ~~[providers]~~ contractors for federal grants.

(b) The selection of ~~[providers]~~ contractors for federal grants shall be in accordance with ~~[the appropriate source selection methods in]~~ section 3-122-16." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-301)

**13. §3-122-16.31, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-16.31 Exception; request for interest for federal grants. (a) "Request for interest" as

used in this subchapter means all documents utilized for soliciting interest in providing goods, services, or construction under a federal grant, when applying or after receipt of a grant.

(b) Where time or economic situations preclude the use of other source selection methods in section 3-122-16, purchasing agencies may, with the approval of the head of purchasing agency, issue a request for interest to select a [~~provider or providers~~] contractor(s) for a federal grant.

(c) A public notice shall be publicized pursuant to section 3-122-16.03(d) and shall include but not be limited to the information in section 3-122-16.03(b).

(d) The request for interest may include but not be limited to the following:

- (1) Identification and purpose of the federal funding;
- (2) The target population [~~or clients~~] to be served;
- (3) A description of the good, service, or construction;
- (4) The evaluation criteria and their relative weights for selecting a [~~provider or providers~~] contractor(s);
- (5) The format, if any, and procedure for submitting responses to the request;
- (6) The deadline for submittal of written responses to the request which shall be a minimum of five working days from the date of public notice;
- (7) A statement that the purchasing agency reserves the right to incorporate or not incorporate in the State's application for federal grants any recommendations presented in response to the request; and
- (8) A statement that neither the purchasing agency nor the interested [~~provider~~] contractor has any obligation under the request.

(e) The selection of a [~~provider or providers~~] contractor(s) shall be based on the criteria established in the request for interest.

(f) A notice of the selected [~~provider or providers~~]contractor(s) shall be posted to a state governmental website [~~or~~]and all respondents shall be notified in writing.

(g) Nothing in this section shall be construed to disqualify a purchasing agency from receiving federal funds." [Eff and comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-202)

**14. §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 date and time [~~and date~~]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, and location of the pre-bid conference; and[-]
  - (E) The bid opening shall be held at the]The date, time, [date, -]and [location-]location of the opening of bids [receipt of bids];
- (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]~~;
- (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; and
  - (E) Statement that bid samples or 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; and
  - (C) Information on applicable preferences;
- (5) The bid form shall be signed by an authorized agent of the vendor 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);]~~

- (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)

**15. §3-122-34, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-34 Low tie bids. (a) Low tie bids are bids from responsive, responsible bidders that are identical in price and which meet all the requirements and criteria set forth in the invitation for bids.

(b) At the discretion of the procurement

officer, award shall be made in any permissible manner that will resolve tie bids, including but not limited to:

- (1) Award the contract to a business providing goods produced or manufactured in this State or to a business that otherwise maintains a place of business in this State; and
- (2) Award the contract to the bidder offering a low tie bid who received the previous award, and continue to award succeeding ~~[contracts]~~ contracts to the same bidder so long as all low bids are identical.

(c) If no permissible method will be effective in resolving tie bids and a written determination is made so stating, award may be made by drawing lots.

(d) Records shall be made of all invitations for bids on which tie bids are received showing at least the following information and shall be made a part of the procurement file:

- (1) The identification number of the invitation for bids;
- (2) The good, service, or construction item; and
- (3) A listing of all the bidders and the prices submitted." [Eff 12/15/95; comp 11/17/97; comp 03/21/08; am and comp ]  
(Auth: HRS §103D-202) (Imp: HRS §103D-302)

**16. §3-122-35, Hawaii Administrative Rules, is amended to read as follows:**

"§3-122-35 Waiver to competitive sealed bid process. (a) If for a given invitation for bids, including multi-step bidding, there is only one responsive, responsible bidder:

- (1) An award may be made to the single bidder, provided:
  - (A) The procurement officer determines in writing that the price submitted is fair and reasonable, and that either:



- (i) Other prospective bidders had reasonable opportunity to respond; or
    - (ii) There is not adequate time for resolicitation; or
  - (B) The bid exceeds available funds as certified by the appropriate fiscal officer and the price is negotiated pursuant to section 103D-302(h), HRS;
- (2) The bid may be rejected pursuant to subchapter 11 and new bids or offers may be solicited if the conditions in paragraph (1) are not met;
- (3) The proposed procurement may be canceled; or
- (4) An alternative procurement method may be conducted to include but not be limited to direct negotiations with the sole bidder first, and then with any contractor or vendor should negotiations with the sole bidder fail, provided the procurement officer determines in writing that the need for the good, service, or construction continues, but that the price of the one bid is not fair and reasonable and either that:
  - (A) There is no time for resolicitation; or
  - (B) Resolicitation would likely be futile.
- (b) If for a given invitation for bids, including multi-step bidding, there are no bids received or there are no responsive, responsible bidders, the procurement officer 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:
    - (A) Time constraints;
    - (B) Competition in the marketplace; and
    - (C) Whether the additional potential cost of preparing, soliciting, and evaluating competitive sealed bids is expected to

exceed the benefits normally associated with the solicitations;

- (2) In the event of this determination, an alternative procurement method may be selected to include, but not be limited to, direct negotiations.
- (c) The procurement officer shall be responsible to ensure that proper [Documentation] documentation of the alternative procurement method selected is in the contract file, and shall include:
  - (1) [State the reasons]Reasons for selection and length of contract period;
  - (2) A determination that the price is fair and reasonable; and
  - (~~2~~) (3) [Receive prior]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].~~ " [Eff 12/15/95; am and comp 11/17/97; comp 03/21/08; am and comp ] (Auth: HRS §103D-202) (Imp: HRS §103D-302)

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

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

19. 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 July 10, 2025, by the Procurement Policy Board and filed with the Office of the Lieutenant Governor.

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LISA MARUYAMA  
Chairperson  
Procurement Policy Board

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KEITH REGAN  
State Comptroller

APPROVED AS TO FORM:

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Deputy Attorney General