

PROCUREMENT POLICY BOARD MEETING

January 17, 2008

1:00 pm

Conference Room 410

1151 Punchbowl Street

Honolulu, Hawaii 96813

A M E N D E D

Members Present

Gregory King, Chair
Russ Saito, Secretary
Leslie Chinen, member
Darryl Bardusch, member
Keith Matsumoto, member
Daryle Ann Ho, member

Excused

Pamela Torres, member

Others

Aaron Fujioka, State Procurement Office
Ruth Yamaguchi, State Procurement Office
Justin Fo, State Procurement Office
Colin Tanaka, State Procurement Office
Pat Ohara, Office of the Attorney General
Nathan Higashida, Grainger Industrial
Kevin Vegas, Grainger Industrial
Paul Kinney, Glad's
Terry Thomason, Alston Hunt Floyd & Ing

Agenda Item I - Call to Order

Chair Greg King called the meeting to order at 1:02 p.m.

Agenda Item II - Minutes

Mr. Darryl Bardusch made a motion, seconded by Mr. Keith Matsumoto, to approve the minutes of the December 20, 2007 meeting.

The motion was unanimously carried.

At this time Mr. Matsumoto made a motion, seconded by Ms. Daryle Ann Ho to amend the agenda to add an executive session pursuant to HRS § 92-5(a)(4) to consult with the Board's attorney on issues pertaining to the Board's powers, duties and liabilities. Mr. Matsumoto, Mr. Les Leslie (2-21-08) Chinen, Ms. Ho and Mr. King voted in favor of the motion. The motion passed.

Mr. Matsumoto made a motion, seconded by Ms. Ho to go into executive session. The motion was unanimously carried.

The Board went into executive session pursuant to HRS §92-5(a)(4) to consult with the Board's attorney at 1:05 pm.

Chair King called the meeting back to order at 1:24 pm and explained that the executive session was to consult with counsel on guests' representation before the board. The board will be requesting that attendees who wish to speak identify themselves and state on whose behalf they are speaking.

Agenda Item III

Mr. Aaron Fujioka explained to the board that the proposal submitted changes the title of chapter 131, from Procurement Violations to Compliance and adds sections on ethics and administrative fines. Mr. Fujioka also submitted an amendment to the proposed rules addressing when the Chief Procurement Officer commits a violation, but stated that it does not address the situation when the Administrator of the State Procurement Office commits a violation and would welcome suggestions from the board. The board concurred that alleged violations by the executive branch's chief procurement officer, who is also the Administrator should be directed to the DCCA, Office of Administrative Hearings and its process for review.

Mr. Saito felt the section 3-131-1.02(c) is weak compared to the public employee section in section 3-131-1.02(a). In the discussion that followed, the board agreed that the items under section 3-131-1.02(a) should be applicable to any person, and not just to public employees. Also the board stated there should be a cross-reference to the cause for debarment in this section and the debarment section.

Mr. Bardusch made a motion, seconded by Mr. Matsumoto, to table this item until the State Procurement Office can do a redraft, incorporating the board's concerns and revisions. The motion was unanimously carried.

Agenda Item IV

Mr. Fujioka reported to the board that SPO is providing comments and recommendations on the interim rules for the board's consideration. It is organized in 4 parts: 1) general comments; 2) chronology of events; 3) proposed revisions; and 4) identified areas that need further clarification.

At this time Mr. Bardusch made a motion, seconded by Ms. Ho to go out of order to take up Agenda Item V. The motion was unanimously carried.

Agenda Item V

Mr. Saito had concerns on whether the board is allowed to compile the interim rules that were approved in January 2007 and the interim rules that supplemented the January 2007 rules in December 2007, to form a new set of interim rules and start a new 18-month period. Mr. Matsumoto had concerns about the implementation of the rules because the emerging industries, etc., have not been identified by the SBUC as stated in §3-124-73.1.

Mr. Saito made a motion, seconded by Mr. Bardusch to adopt the proposed compilation of the January 2007 interim rules and the December 2007 interim rules (which amended HAR Chapter 3-124 including §3-124-73.1), as one document pending confirmation by the Attorney General's Office that it does comprise a new set of interim rules. The motion was unanimously carried.

Mr. Matsumoto made a motion seconded by Mr. Bardusch to have SPO follow up with the SBUC on the Council's recommendation to the policy board for its approval of the identification of targeted areas of emerging industries, geographic areas within the state, and under-utilized workforce resources where government purchases from small businesses would promote the purposes of HRS §103D-906. The motion was unanimously carried.

Continuation of Agenda Item IV

Mr. Bardusch and Mr. Saito felt that the bullet points set forth in SPO's memo were not applicable except for possibly the first bullet point, which proposed moving the small business preference rules from chapter 3-124, Preference to chapter 3-127, Small Business Assistance.

Mr. Matsumoto made a motion, seconded by Mr. Bardusch to place on the next meeting agenda on whether to keep the small business rules in 3-124 or move them to 3-127. The motion was unanimously carried.

Agenda Item VI

Mr. Fujioka stated that the next board meeting is tentatively scheduled for Thursday, February 21, 2008. Mr. Chinen said he is not available.

As a proviso, Mr. Saito made a motion, seconded by Mr. Bardusch to place on the next meeting agenda the compiled (January 2007) and new supplemental section (December 2007) of HAR Chapter 3-124 if there is a negative outcome from the Attorney General's Office. The motion was unanimously carried.

Agenda Item VII

Mr. Saito made a motion, seconded by Mr. Bardusch, to adjourn the meeting. The motion was unanimously carried. The meeting was adjourned at 2:57 p.m.

Respectfully submitted,

3/7/08
Date


RUSS K. SAITO, Secretary
Procurement Policy Board

Attachment: January 17, 2008 Agenda

PROCUREMENT POLICY BOARD

1151 Punchbowl Street
Conference Room 410
Honolulu, Hawaii 96813

Regular Meeting
January 17, 2008
1:00 pm

AGENDA

- I. Call to Order.
- II. Approval of Minutes – Meeting of December 20, 2007.
- III. Proposed rules on Act 142/2007 on Administrative Fines.
- IV. SPO memo dated December 20, 2007 on Comments and Recommendations to HAR Chapter 127, Small Business Preference Rules.
- V. Compiled and amended HAR Chapter 3-124, Subchapter 9 (Interim).

Amends HAR Chapter 3-124, Subchapter 9 to add new §3-124-73.1
Implementation of Small Business Preference by Heads of Purchasing
Agencies, previously submitted by Member Russ Saito.

- VI. Announcements.
- VII. Adjournment.

Individuals may present testimony on matters on the Procurement Policy Board's agenda when the agenda item is being discussed by the Board. Individuals intending to testify should contact the State Procurement Office at (808) 587-4700 at least 48 hours before the scheduled meeting. Written testimonies will be accepted through e-mail at procurement.policy.board@hawaii.gov or faxed to (808) 587-4703 until 1:00 pm, January 15, 2008. Testimonies received after the January 15, 2008 deadline will be forwarded to the board after the January 17, 2008 meeting. Individuals submitting written testimony at the meeting and would like the written testimony distributed to the board at this meeting, are requested to provide 12 copies.

Individuals requiring special assistance or services may call (808) 587-4700 by 1:00 p.m., January 14, 2008 to discuss accommodation arrangements.